

# **Typology of disputes in front of the ABF**

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# Typology of disputes in front of the ABF

## ✓ Scope of the ABF's jurisdiction

- “Disputes”: the ABF's authority extends to disputes between consumers and financial intermediaries concerning banking and financial transactions and services as well as payment services
- “Not only disputes”:
  - even prefects have the authority to submit a complaint to the ABF (concerning the granting of credit by financial intermediaries) at the request of the customer and after having obtained a brief from the financial intermediary involved
  - in these cases, the complaint does not consist in the ascertainment of customer's rights, but concerns the fairness in the relations between the intermediary and the customer

# Typology of disputes in front of the ABF

- ✓ Principles established by the ABF Panels with regard to the three most important (qualitatively and quantitatively) groups of disputes:
  - Early termination of loans:
    - demand for repayment of part of the costs incurred by the borrower
    - primacy of mandatory rules over the parties' agreement
    - interpretation against the supplier of unclear contract terms
    - the effects on the costs pertaining to linked contracts
    - application of the pro-rata method, unless otherwise agreed by the parties
    - ordinary courts' case law confirming ABF decisions

# Typology of disputes in front of the ABF

- ✓ Principles established by the ABF Panels with regard to the three most important (qualitatively and quantitatively) groups of disputes:
  - Payment services:
    - the ascertainment of gross negligence under the precautionary principle (implementation of security systems; precise and consistent presumptions; duties concerning the safekeeping of the pin code)
    - ordinary courts' case law confirming ABF decisions

# Typology of disputes in front of the ABF

- ✓ Principles established by the ABF Panels with regard to the three most important (qualitatively and quantitatively) groups of disputes:
  - Usury from a civil law perspective:
    - supervening usury (the disapplication of the exceeding interest rate; the issue has been referred to the Unified Sections of the Supreme Court)
    - penalty interests
    - ordinary courts' case law confirming ABF decisions

***Thank you for the attention***