



BANCA D'ITALIA
EUROSISTEMA

The Banking and Financial Ombudsman Annual Report Abridged Version





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FOREWORD

This Report gives an account of the activity undertaken by the Banking and Financial Ombudsman (Arbitro Bancario Finanziario, ABF) in 2014. The ABF is an out-of-court settlement scheme for banks and financial intermediaries and their customers, and is regulated by Article 128-*bis* of the Consolidated Law on Banking (Legislative Decree No. 385/1993).

The Report is divided into seven sections.

Section 1 describes the role of the Banking and Financial Ombudsman and how the scheme works, namely the functioning of the panels that make up the decision-making body and the support structures supplied by the Bank of Italy. An overview is also provided on the relation between the Ombudsman and the Bank of Italy when the latter is acting as the supervisory authority for the banking and financial sector.

Section 2 describes the Ombudsman's activity in its fifth year and the changes that occurred in the composition of the panels and territorial secretariats. It also illustrates the regulatory and legislative developments regarding out-of-court settlements.

Section 3 provides statistical information on the appeals received by the ABF, the decisions it issued and the overall activity of the panels in 2014 and in the first months of 2015.

Section 4 outlines the main issues that were brought to the Ombudsman's attention in 2014. Section 5 details some of the issues concerning the limits to the Ombudsman's jurisdiction. Preliminary information on 2015 cases is contained in Section 6. Section 7 provides a summary of the decisions issued by the Coordinating Panel, which has been functioning since 2012 with the goal of ensuring consistency among the territorial panels and solving interpretation issues.

The Report is available online, both on the [Bank of Italy's website](#) and on the [ABF's website](#); a hard copy may also be obtained on request at all Bank of Italy branches and at the Paolo Baffi Library (richieste.pubblicazioni@bancaditalia.it).

The online version has hyperlinks redirecting users to some websites.

With this Report, the Bank of Italy fulfills its obligations under Credit Committee Resolution 275 of 29 July 2008 and the provisions on alternative dispute resolution relating to banking and financial transactions and services (ABF Provisions).

This abridged version contains the first three sections.

1. THE BANKING AND FINANCIAL OMBUDSMAN: MAIN CHARACTERISTICS

This section describes the main characteristics of Italy's Banking and Financial Ombudsman: its goals, make-up and the functioning of the panels. It also outlines the role played by the Bank of Italy in supporting the Ombudsman and the relation between the Ombudsman and the Supervisory Authority.

The Banking and Financial Ombudsman (ABF): what it is

In 2009 the Bank of Italy instituted the Banking and Financial Ombudsman (Arbitro Bancario Finanziario, ABF) implementing Article 128-*bis* of the Consolidated Law on Banking, a provision introduced by Law 262/2005 (Investor Protection Law).

The Investor Protection Law stipulates that the banking and financial sectors must have systems in place for the out-of-court settlement of disputes. The law states the principles to which these systems should conform: timeliness, cost-effectiveness and effective legal protection; a deciding body that is impartial and representative; protection of the legal right to seek remedy through the other means made available in the legal system.

The Ombudsman is a decision-making alternative dispute resolution scheme: disputes are resolved through the decision of a third party that examines the case exclusively in the light of the documents presented by the parties and decides on the basis of the appeal brought by the customer.

Decisions, which are left completely and exclusively to the single panels, are taken on individual cases according to law, by applying the statutory and regulatory provisions that govern the matter in dispute and the general principles of civil and trial law.

The Ombudsman's decisions are not legal judgments: they are not legally binding on the customer or the intermediary and they do not affect the possibility of submitting the dispute to the civil courts.¹

The cogency of the ABF's decisions lies in their authoritative quality and impartiality. If an intermediary refuses to comply with a decision, notice of its non-compliance is published on the ABF's website.

(1) By Ruling 218/2011 the Constitutional Court has clarified that the Banking and Financial Ombudsman cannot be considered a court of law, thereby denying the ABF's right to raise questions of constitutionality.

The Banking and Financial Ombudsman must not be confused with arbitration, a legal instrument provided for in the Italian Code of Civil Procedure, whose purpose is to enable consenting parties, under an agreement that may precede or follow the rise of the dispute, to have their case settled by one or more arbiters whose decisions are binding.

Nor can the Ombudsman be likened to mediation, as per Legislative Decree 28/2010 as amended. The two procedures differ in legal basis, scope and the prerequisites to access them. The outcomes are also very different.

The procedure before the ABF ends with a non-enforceable pronouncement by a third party whose task is to decide who is in the wrong and who is in the right; mediation, on the other hand, when successful, ends with a settlement agreement, signed by the parties and the mediator. The proceedings may be approved by a court and made legally binding on the parties.

Pursuant to Legislative Decree 28/2010 as amended by Decree Law 69/2013, converted with amendments into Law 98/2013, recourse to mediation is a prerequisite for filing a judicial proceeding: no complaint can be filed before a court without first going through the mediation process. Pursuant to the legislation mentioned above, this condition is also satisfied by recourse to the ABF.

How the ABF works

Participation in the ABF system is a legal obligation of banks, a condition for the exercise of banking and financial activities. Non-compliance is punishable by a fine.

All intermediaries entered in the registers kept by the Bank of Italy (banks, finance companies, payment institutions, electronic money institutions, loan guarantee consortia, the Post Office as regards its BancoPosta activity) must adhere to the system, as must foreign intermediaries that operate in Italy and are not part of Fin-Net, the European out-of-court settlement system endorsed by the European Commission.

APPEAL TO THE ABF

Before filing an appeal to the Ombudsman, the customer must lodge a dispute with the intermediary, which must respond within 30 days. If it does not, or if the response is unsatisfactory, the customer may then submit an appeal to the Ombudsman. This must be done within twelve months from the day the complaint was sent to the intermediary. If more than twelve months have gone by, the customer must submit a new complaint to the intermediary before addressing the Ombudsman. Otherwise the appeal is inadmissible.

The Banking and Financial Ombudsman can decide disputes involving amounts of up to €100,000. Where the dispute relates to the ascertainment of

rights, obligations and prerogatives, there is no value limit on the account or relationship involved.

No appeal can be presented regarding conduct or transactions prior to 1 January 2009.

The procedure begins with the lodging of the appeal which is done by filling in a form (a fill-in version is available on the ABF website) where customers provide details of the case and state their request. Any relevant documents may be attached.

The appeal may be sent to the technical secretariat of the competent panel or to any branch of the Bank of Italy, or it can be presented in person at one of the branches of the Bank of Italy that are open to the general public. For details on the procedure for lodging an appeal, see the Practical Guide, available on the ABF website, which contains the form and the instructions for filling it in.

The Ombudsman cannot examine cases if the appeal is incomplete, irregular or late. For example, an appeal is inadmissible: (a) when the dispute is not within the ABF's competence; b) if the customer or intermediary is not determined, or if the defendant intermediary is not part of the system; (c) when no specific action of the intermediary is contested; (d) if the proper form was not used or the appeal is unsigned; (e) if it was lodged more than twelve months after a complaint was submitted to the intermediary; or (f) if it concerns transactions or conduct that occurred before 1 January 2009.

A checklist is available on the ABF website to determine, in practice, whether a dispute can be submitted for the examination of the Banking and Financial Ombudsman.

If the dispute does not concern banking and financial transactions and services but rather investment products, services or activities, the customer may petition Consob's Conciliation and Arbitration Chamber or the Ombudsman-Giurì bancario at the Banking and Financial Conciliator body.

The customer can seek recourse to the ABF without the assistance of an attorney and at an extremely modest fee: €20 to cover the costs entailed by the procedure. The sum is reimbursed by the intermediary if the Ombudsman's decision is in the customer's favour, in which case the intermediary pays a charge of €200. Failure to do so is tantamount to non-compliance with the ABF's decision.

Intermediaries must also make an annual payment to the association to which they belong, calculated on the basis of the total remuneration of the panel members representing the banking and financial industry. Failure to make the payment constitutes "non-cooperation" with the procedure on the part of the intermediary.

Disputes are submitted to a decision-making body divided into three territorial panels. Jurisdiction is according to the complainant's domicile.

Each panel is composed of five members appointed by the Bank of Italy, of whom three (including the chair) are selected by the Bank and one each by associations representing intermediaries and customers.² Appointees must satisfy specific requirements of expertise, independence and impartiality.

The term for deciding on an appeal is a maximum of 105 days: 45 days granted to the intermediary to submit a defence brief and 60 days for deliberations, net of any periods of suspension. An additional 30 days term is allotted to notify the parties of the decision and the grounds for it.³

The panels decide on the basis of the documentation submitted, applying the law in force and any relevant provisions of codes of conduct to which the intermediary subscribes.

Since 2012 the territorial panels have been flanked by a Coordinating Panel, whose purpose is to ensure greater consistency of the single panels' pronouncements. The body is composed of the chairpersons of the territorial panels plus two members representing intermediaries and customers and chosen annually by lot. The Coordinating Panel is chaired by the oldest of the panel chairpersons.

In cases where the territorial panel deems the issue at point to be of particular significance or finds that the dispute under its scrutiny has given or could give rise to inconsistent pronouncements, it refers the decision to the Coordinating Panel, ordering a stay of the proceeding.

An appeal is referred to the Coordinating Panel also in cases where the dispute raises jurisdictional questions or problems relating to the rules governing the proceeding and the territorial panel does not agree with the principles of law that have been stated in previous decisions on the matter.

When a panel intends to differ from a decision taken by the Coordinating Panel, it will state the reasons why the specifics of the concrete case call for a different solution.

The ABF and the role played by the Bank of Italy

CICR resolution 275/2008, implementing Article 128-*bis* of the Consolidated Law on Banking, assigns to the Bank of Italy a central role for the full attainment of the objectives set by the Law.

(2) For consumers, the members are designated by the National Consumer Council; for professionals/business owners, they are designated by Confindustria acting in agreement with Confcommercio, Confartigianato and Confagricoltura; for intermediaries, they are designated by the Banking and Financial Conciliator.

(3) The intermediary must transmit its defence brief to the competent technical secretariat within 30 days of receipt of the appeal. If the intermediary is a member of a qualified trade association, it has the same time limit of 30 days to transmit its defence brief to that association, which within 15 days from reception must forward it to the technical secretariat.

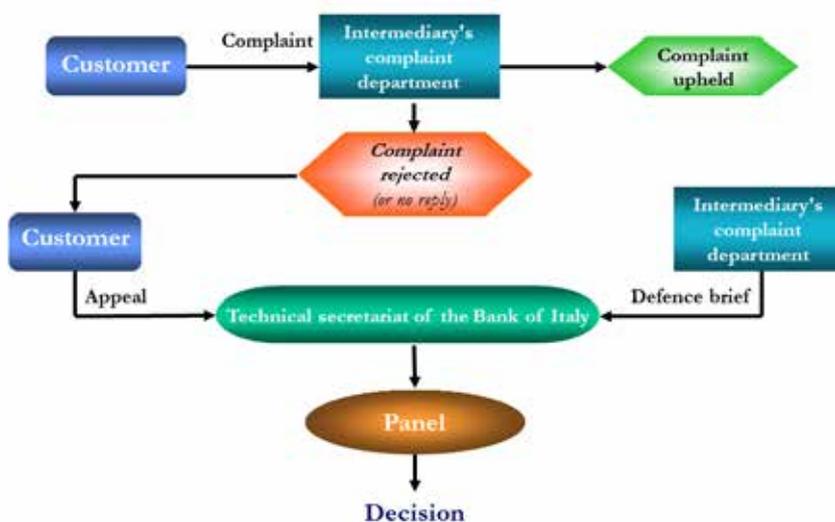
The Bank is assigned regulatory tasks such as issuing implementing provisions, appointing members of the decision-making body and performing ancillary activities connected to the proper functioning of the system.

The Bank of Italy provides the ABF with means and resources, in part through its technical secretariats, which are made up of Bank of Italy employees and established at Milan, Rome and Naples branches to support their respective territorial panels (see section 2, sub-section on “The technical secretariats and the central coordinating unit at the Bank of Italy”).

The technical secretariats carry out the procedural activities for the appeals. In particular, they: (a) receive the appeals; (b) check that the documentation submitted by the parties is complete, in order, and timely; (c) request additional information, if necessary; (d) handle communications with the parties and prepare a technical report for the members of the panel. The technical secretariats also perform the formalities necessary to the functioning of the panels: they prepare the calendar and the agenda of the panels’ meetings for approval by their respective chairs and convene the meetings. Lastly, they attend the meetings of the panels and draft the minutes.

Figure 1

Functioning of the Banking and Financial Ombudsman



After a decision is made, the technical secretariats verify compliance and arrange for the forms of public notice in the event of non-compliance. The technical secretariats also respond to requests for information from complainants and other entitled persons.

Given the ABF’s territorial-based jurisdiction, it was deemed necessary to establish a central coordinating unit which, starting from 2014, has been based in the new Customer Protection and Anti-Money Laundering Directorate following the reorganization of the supervisory function.

The central unit coordinates the technical secretariats and ensures the proper functioning of the system. In particular, it: (a) handles activities in connection with the appointment of members of the decision-making body; (b) informs the general public about the ABF's activities; (c) monitors the workflow and develops guidelines for the overall efficiency of the system; (d) provides expert assistance to the technical secretariats; (e) provides technical and operational assistance to the panels; (f) maintains and updates the IT support procedure, coordinating with the Bank of Italy's technical functions.

The Bank of Italy is currently streamlining the system in compliance with the objectives set in the Strategic Plan for 2014-16, which addresses the activities of the Ombudsman.

The Banking and Financial Ombudsman and its supervisory goals

As an alternative dispute resolution system, the Ombudsman performs an activity whose goal is not only to restore the equilibrium of the individual relationship giving rise to the dispute but also to make the financial system more efficient and competitive.

The presence of an effective dispute resolution mechanism gives financial intermediaries an incentive to abide by the principles of transparency and fairness in customer relations, enhances the public's trust in intermediaries, and prompts closer monitoring of legal and reputational risks.

The Bank of Italy checks banks' compliance with the rules on transparency and fairness with off-site prudential controls and on-site inspections at branches and headquarters. In the case of irregularities, anomalies or misconduct, the Bank intervenes and, depending on the seriousness of the issues, takes appropriate measures with respect to the system or individual banks.

The outcomes of the Ombudsman's proceedings constitute a significant contribution to supervisory activity: the Ombudsman's decisions "become part of the broader pool of information at the Bank's disposal for its regulatory and control function".⁴

Intermediaries are under no obligation, in their customer relations, to abide by every statement or interpretation made or endorsed by the Ombudsman. Nevertheless, pursuant to the Ombudsman's directives, banks and other financial intermediaries must ensure, through appropriate internal procedures, that their complaints departments are familiar with the Ombudsman's guidelines, are current with respect to the most recent positions and assess customer complaints on this basis. In particular, the complaints departments are required to determine whether the point raised by the customer has a precedent in earlier cases decided by the panels, and to take the solutions in those cases under consideration.

(4) *Disposizioni della Banca d'Italia sui sistemi di risoluzione stragiudiziale delle controversie in materia di operazioni e servizi bancari e finanziari*, Section 1, sub-section 1.

The Bank of Italy expects intermediaries to settle the dispute in the complaint stage, if the Ombudsman's decisions on a given matter have been constantly and uniformly in favour of the customer.

Without prejudice to the separation between the supervisory function and the Ombudsman, among the activities aimed at ensuring transparency and fairness in the relations between intermediaries and customers, in 2014 a number of measures targeting single banks were taken, using among other things information that was available from the outcomes of appeals brought before the Ombudsman.

Moreover, a specific analysis was carried out concerning intermediaries' behaviour in making unilateral contract changes, taking account of the data from disputes brought before the Ombudsman. In light of the findings the Bank issued an official communication reminding intermediaries of their obligations and sensitizing customers to their legal rights.

2. THE ACTIVITY OF THE BANKING AND FINANCIAL OMBUDSMAN

This section provides an overview of the Ombudsman’s activities in 2014 and the changes to membership of the panels and the staff of the Bank of Italy units that support those activities. Special attention is paid to the changes in the Italian regulations introduced by Directive 2013/11/EU on alternative dispute resolution (ADR).

The fifth year

In its fifth year of operation the ABF registered another substantial expansion of activity, in particular that of the three territorial panels in deciding cases and of the technical secretariats in their auxiliary functions (see the sub-section “The technical secretariats and the central coordinating unit at the Bank of Italy”).

Figure 1

Territorial jurisdiction of the ABF panels



The Ombudsman received 11,237 appeals, 43 per cent more than in 2013. On average, more than 900 customers a month (655 in 2013) filed appeals concerning accounts or relationships with a bank or other financial intermediary for improper conduct or disputes over the parties’ rights, obligations and powers.

In 2014, 8,563 appeals were decided, an increase of over 2,200; the panels reviewed an average of nearly 800 appeals each month (compared with fewer than 600 a month in 2013). In 67 per cent of the cases the outcome was favourable to the complainant: in 33 per cent the panel decided for partial or total acceptance of the complainant’s request, and in 34 per cent it declared the dispute settled by agreement between the parties, obviating the need for a decision.

In 2014, the Coordinating Panel met three times, issuing a total of 26 decisions: in 17 decisions the Panel decided the case on the merits, outlining the key interpretative principles to which the territorial panels should conform in analogous cases; in 9 decisions the Coordinating Panel referred the cases to the territorial panel with jurisdiction.

The composition of the territorial panels

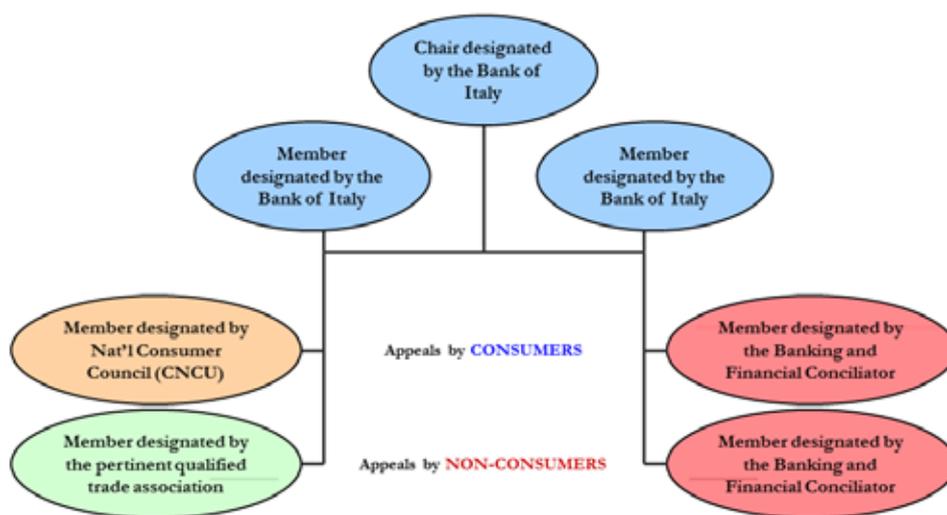
With the expiration of the five-year term of the original territorial panel chairs, in October 2014 the Bank of Italy designated new chairs. In addition, during the year the Bank designated an alternate member and renewed the term of an effective panel member. Two alternate members were also designated by the Banking and Financial Conciliator (Conciliatore Bancario Finanziario) and four members (one effective and three alternates) by Confindustria.

In the early part of 2015, the terms of five alternate members of the territorial panels were renewed upon designation by the Bank of Italy.

The appointments are posted on the websites of the Bank of Italy and the ABF.

Figure 2

Composition of the ABF panels



At present the panels consist of 58 members (21 effective and 37 alternate). Of these, 22 (9 effective, 13 alternate) were designated by the Bank of Italy. The rest were designated by the Banking and Financial Conciliator (6 effective, 10 alternate), by the National Consumer Council (3 effective, 8 alternate) and by Confindustria (3 effective, 6 alternate).

The technical secretariats and the central coordinating unit at the Bank of Italy

The technical secretariats consist of 58 staff members: 23 in Milan, 20 in Rome and 15 in Naples.⁵ Task forces have been formed within them, consisting of staff members from various branches of the Bank, and have contributed greatly to the operation of the ABF. On a temporary, trial basis, the operational team has been

(5) Data as of 9 June 2015.

reinforced, adding staff members with a legal background to review and analyze the appeals. Staff at other branches also worked with the secretariats through IT links.

In the past year, 48 recent law graduates completed six-month internships at the technical secretariats and the central coordinating unit. The latter served as informational liaisons between the secretariats and the panels, collaborating with the Bank's Directorate General for Information Technology to resolve problems in the support procedure. Special attention was paid to safeguarding diversity in the workplace, assessing and verifying the feasibility of IT modes for ABF support adapted to utilization by persons with special abilities.

Legislative developments

Italian Legislation – Decree Law 132/2014, converted into Law 162/2014, introduced assisted negotiation; this procedure flanks compulsory mediation, which was reintroduced by Decree Law 69/2013, converted into Law 98/2013, following a finding of unconstitutionality of Legislative Decree 28/2010 on the grounds that the Government exceeded the authority delegated to it.

In contrast to the ABF which has decision-making authority, in mediation and assisted negotiation (optional and consensual alternative dispute resolution tools aimed at avoiding recourse to judicial proceedings) the parties negotiate the agreement.

In mediation proceedings, an external and impartial third party (the mediator) is called upon to facilitate agreement between the parties. In assisted negotiation, the parties are represented by lawyers who work towards reaching an agreement, commonly referred to as the “assisted negotiation convention”.

Like mediation, assisted negotiation proceedings can serve as prerequisite for the commencement of judicial proceedings when specified types of dispute are involved; assisted negotiation is not available for claims regarding banking, financial and insurance contracts, for which mediation is required.

The ADR Directive – The purpose of the European Directive on alternative dispute resolution for consumer disputes is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market through the development of fast, effective alternative dispute resolution systems.

The Directive requires member states to guarantee access to ADR systems that meet harmonized quality standards. It further introduces a system for monitoring the operation of ADR entities, entrusted to a specially designated national authority.

The Directive sets 9 July 2015 as the deadline for transposition into national law. For Italy, Law 154/2014 mandated the Government to implement a number of EU directives, including the ADR Directive.

In May 2015, the Council of Ministers approved a preliminary draft legislative decree, which, in transposing the ADR provisions, designates as national competent authorities the relevant supervisory authorities for their respective sectors and the Ministry of Justice and the Ministry of Economic Development for specified matters. As regards the ABF, the national competent authority would accordingly be the Bank of Italy.

To ensure uniformity in exercising the functions of the competent authority, the Ministry of Economic Development shall institute a coordinating and advisory body; the Ministry is the sole point of contact with the European Commission.

The Directive's entry into force raises two necessities: verifying the extent to which the rules and operation of the ABF satisfy the European requirements and establishing a proper system for assessing the quality of its services to users.

On the first point, the regulatory and organizational scheme of the ABF is already largely in line with the Directive. Some fine-tuning of the procedure could be useful, such as the possibility of online access.⁶

With regard to the second point, the evaluation of the quality of the service provided to customers will need to be refined, among other things through the institution of key performance indicators (KPI) to monitor satisfaction with European standards.

Initiatives in place to raise awareness of the ABF's activities

The ABF website is a valuable source of information. In 2014 it was accessed an average of 20,000 times a day by approximately 1,000 visitors, numbers that have grown steadily over the past few years. There was also an increase in the number of pages accessed each day (approximately 9,100).

The website includes an archive of the decisions issued by the territorial panels and by the Coordinating Panel, updated monthly (as of 9 June 2015, over 15,000 decisions were available). Most site visits were for decisions involving mortgages.

The file of decisions was the website's most frequently visited page, followed by "*Il Ricorso*" (Appeals), which describes the jurisdiction of the ABF and the conditions and procedures for filing an appeal. The third most-visited page was "*Intermediari Inadempienti*", or non-compliant intermediaries. ABF's annual report for 2013 was accessed almost 5,600 times in three months.

The practical guide to the ABF is also available on the website, which illustrates the entity's main features, how to file an appeal and the procedure followed in

(6) On 21 May 2013 Regulation EU/524/2013 on online resolution of consumer disputes was approved. The regulation creates a European platform (online dispute resolution, ODR) that will serve as the single point of access to consumers and traders seeking out-of-court resolution of disputes involving contracts stipulated online.

resolving appeals. In 2014 the filing form in fillable PDF format was accessed more than the traditional read-only form (almost 27,000 as against 20,000 times).

The Bank of Italy has a toll-free number (800-196969) where customers may obtain, among other things, general information about the activities and functions of the ABF. Choosing among the various options, users can receive news about the functions of the Ombudsman and the filing of appeals; they may also leave a voice message with any queries they may have. In 2014 there was an 8 per cent increase in phone calls requesting information about the ABF, which accounted for one third of all the calls received. Amongst the queries made on the voice messaging system, almost 76 per cent related to the ABF; these queries mostly concerned the procedure for presenting appeals (42 per cent) or the scope of the Ombudsman's jurisdiction (38 per cent).

As in previous years, the Bank of Italy again took part in educational initiatives to further raise awareness about the activities of the Ombudsman. Many encounters were conducted at local level, involving the prefecture, the Finance Police, the Tax Police, universities, chambers of commerce, trade organizations, associations of tax accountants and bar associations.

As the ABF's jurisprudence may be of interest to various different categories of professionals, the Annual Report was sent to Prefects, rectors of major universities, deans of law faculties, presidents of trial courts and appellate courts, bar associations, and associations for accountants and notaries.

The activities of the ABF and its jurisprudence were found to be of particular importance with regard to continuing education programmes for trainee judges; these programmes were prepared in collaboration with the Higher School of the Judiciary.

To encourage an ongoing dialogue with consumer groups, two meetings were held, in May at the insurance supervisory authority Ivass and in November at the Bank of Italy. At the latter both the ABF and the consumer groups called for developing effective communication to customers of the information needed to access consumer protection schemes. In the meeting held in January 2015, the participants stressed the importance of further augmenting the statistical appendix and of providing more detailed explanations of the key issues contained in the ABF's Annual Report.

Alternative dispute resolution of cross-border cases: Fin-Net

Fin-Net is a network promoted by the European Commission in order to assist the development and cooperation of ADR schemes in Europe which participate in the network for banking, financial and insurance sectors. It enables consumers who have a dispute with an intermediary in another member state to turn to their own national ADR scheme, which, through Fin-Net, will put them in touch with the equivalent scheme in the intermediary's country.

Fin-Net currently has 58 member ADR schemes from EU countries plus Iceland, Liechtenstein and Norway.⁷ Italy's Banking and Financial Ombudsman has been a member since 2011.

Under the aegis of the European Commission, the network periodically holds meetings on issues of common interest. The meetings represent an important opportunity for ADR operators to exchange information and experiences, fostering the dissemination of international best practices. The meetings also examine regulatory and legislative developments in financial services and consumer protection.

In 2014 the Fin-Net meetings were held in June in Athens and in December in Brussels. The discussion centred on the transposition of the ADR Directive.⁸

(7) As of 31 May 2015.

(8) For more information about Fin-Net see http://ec.europa.eu/finance/fin-net/index_en.htm. The European Commission also publishes an annual report on the network.

3. DATA ON APPEALS AND OPERATIONS

Overview

The data on the appeals submitted to the Banking and Financial Ombudsman in 2014 confirm the pattern observed in 2013, with a further increase of 43 per cent; the monthly average rose from 655 to 936.

The incidence of appeals concerning loans secured by a pledge of one-fifth of borrower's salary or pension rose (to 33 per cent of all appeals, from 19 per cent in 2013). By category of intermediary, 52 per cent of the appeals were addressed to banks, 22 per cent to Poste Italiane, 23 per cent (more than in 2013) to intermediaries entered in the register referred to in Article 107 of the Consolidated Law on Banking in the version predating the amendment enacted by Legislative Decree 141/2010, and other intermediaries (3 per cent).

The overwhelming majority of the appeals (90 per cent) were filed by consumers and the rest by small businesses or professionals.

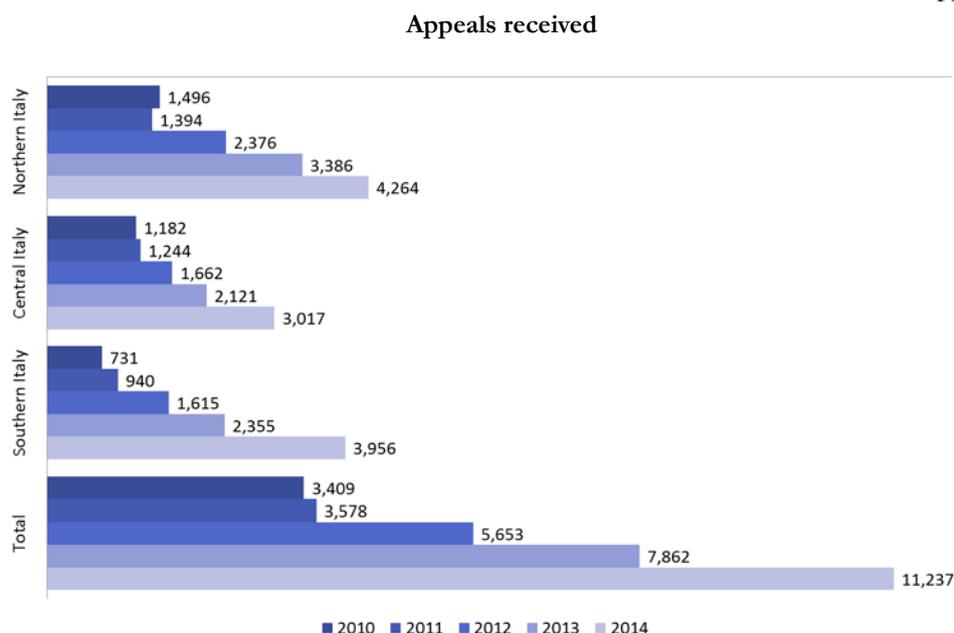
In 2014, there were 178 panel meetings, deciding an average of 48 cases per meeting (up from 39 in 2013) for a total of over 8,500 cases; in 67 per cent of the cases the decision was in favour of the complainant. The intermediaries almost always comply with the ABF's decisions (more than 97 per cent compliance).

The sub-sections that follow provide data on the appeals filed, outcomes, and the activities of the panels.

Aggregated data

In 2014 the Ombudsman received 11,237 appeals. The largest number were submitted to the North panel, but again the sharpest increase, 68 per cent, was

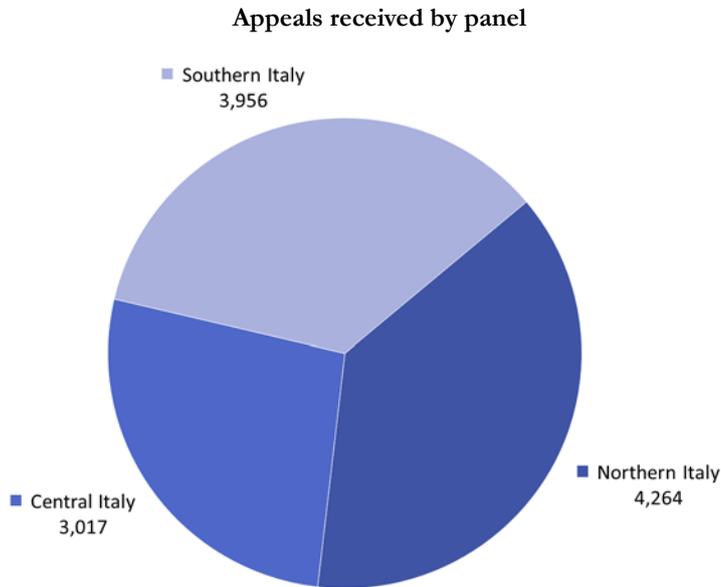
Figure 1



recorded by the South panel. This increase is associated mainly with appeals involving the early repayment of loans secured by a pledge of one-fifth of salary, mostly granted before 2012; increasingly, this type of appeal has been filed by attorneys and other professionals.

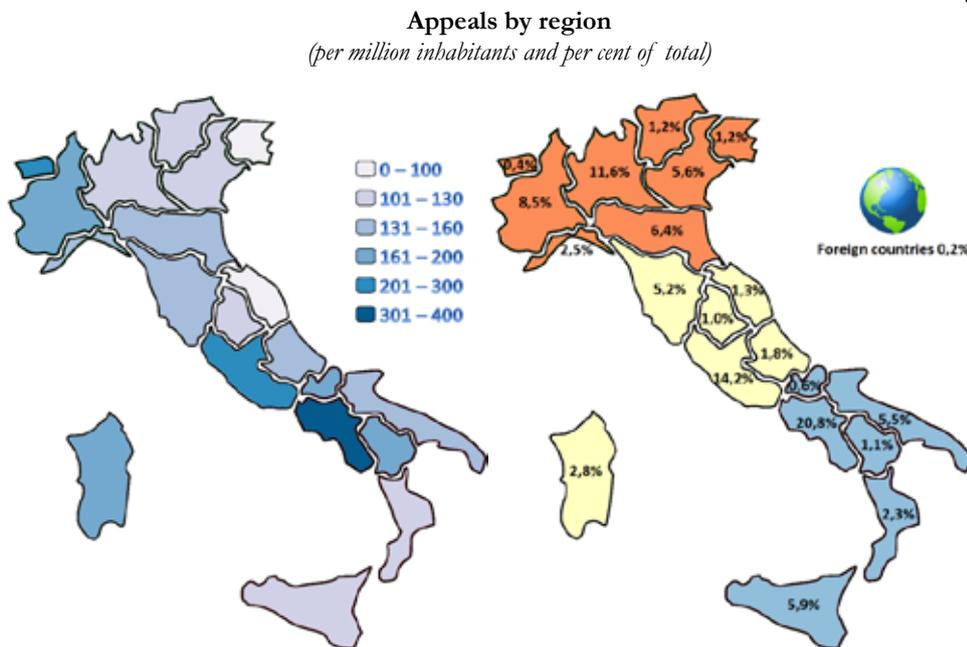
The geographical distribution of the appeals received for 2014 is illustrated in the figures below.

Figure 2



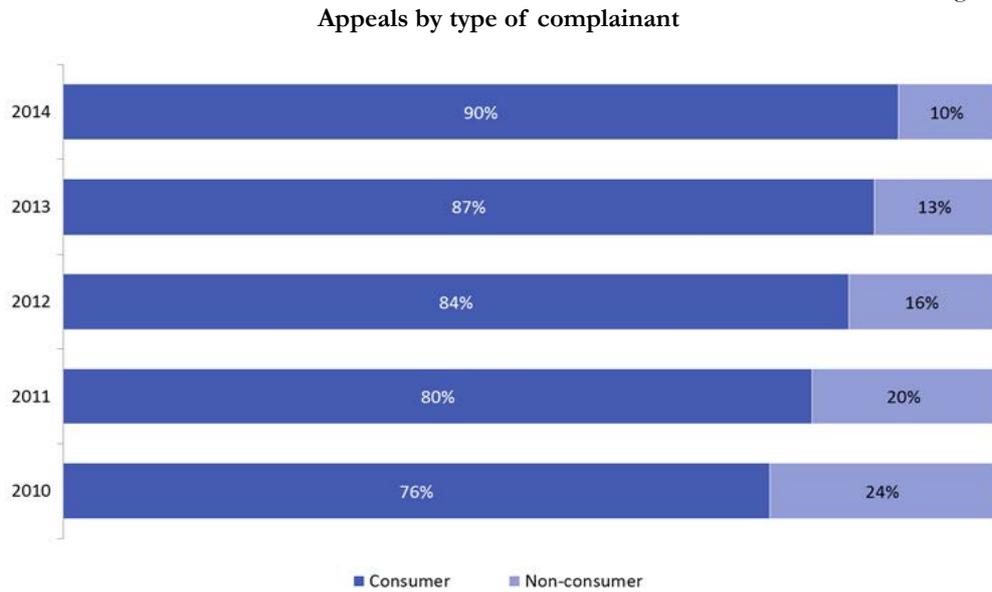
The regions where the most appeals were submitted to the Ombudsman were Campania and Lazio, both in number and in proportion to population.

Figure 3



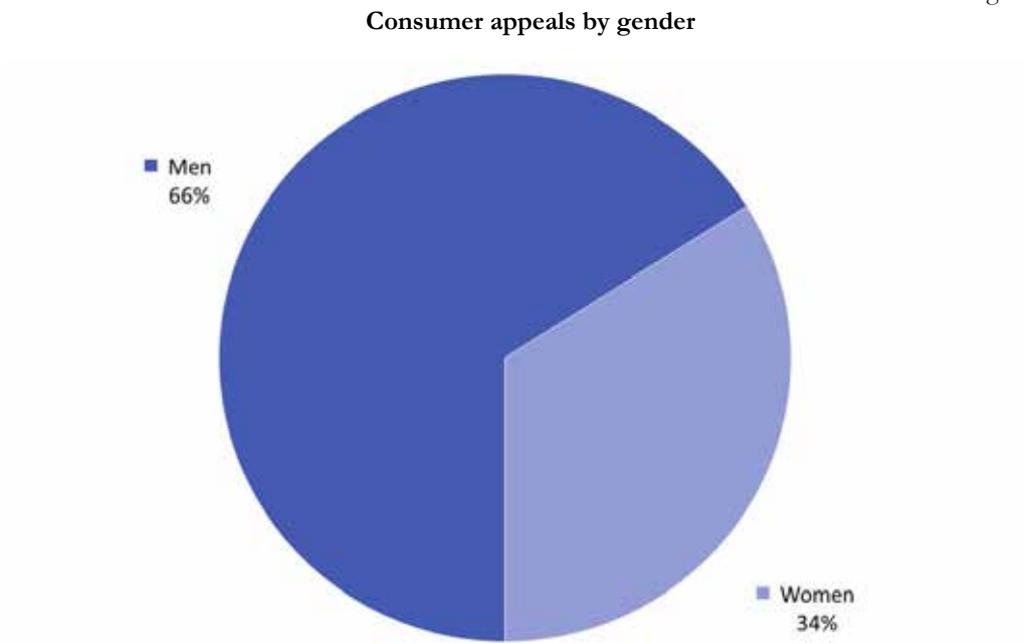
The appeals submitted by consumers continued to predominate, their share increasing by 3 percentage points compared with 2013.

Figure 4



The breakdown of consumer appeals by gender is substantially similar to that for 2013, with a slight increase in the percentage filed by men.

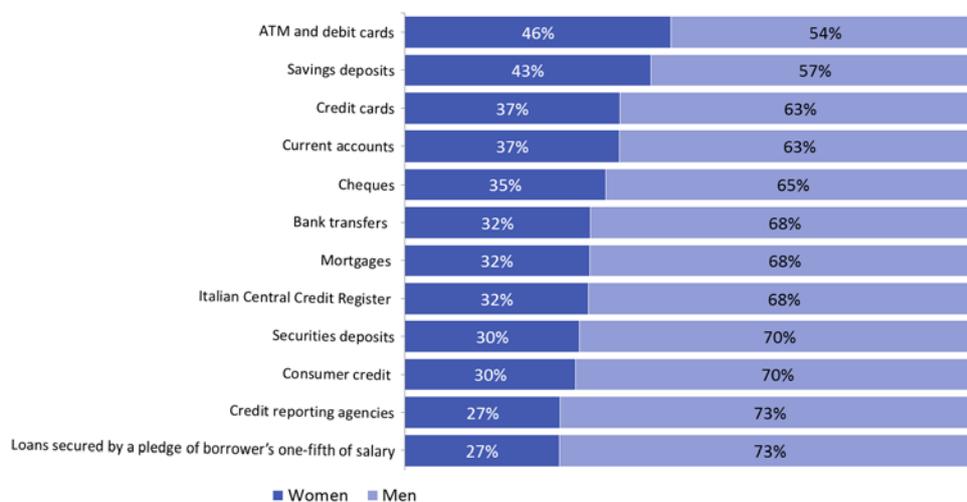
Figure 5



By matter under dispute, the highest incidence of filings by women involve ATM or debit cards and savings deposits, presumably because women are more likely to use such instruments over others.

Figure 6

Consumer appeals by gender and by matter under dispute

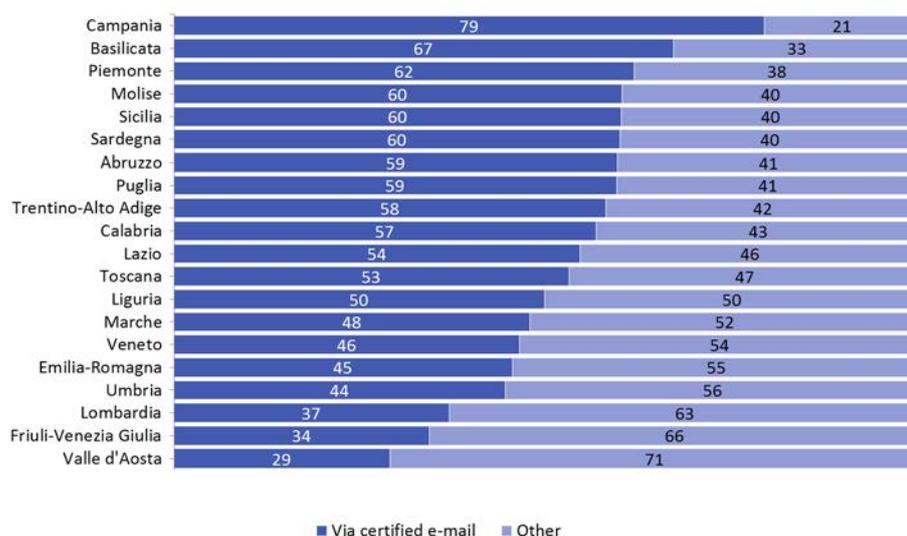


Consumer appellants had an average age of 51 (up from 48 in 2013), but both age and gender vary with the matter under dispute. For appeals involving securities deposits, the average age was 62; for those involving mortgages, credit cards, and credit reporting agencies the complainants were mostly men, with an average age of 45 (as regards credit reporting agencies in particular, 73 per cent of the complainants were men).

In submitting their appeals, 57 per cent of complainants used certified e-mail (55 per cent of consumers, 71 per cent of non-consumers), marking an increase compared to 2013, thanks largely to the increased use of certified e-mail by consumers. This trend was particularly strong in Campania, where a high percentage of appeals were filed with the assistance of a professional.

Figure 7

Percentage of appeals submitted via certified e-mail by region

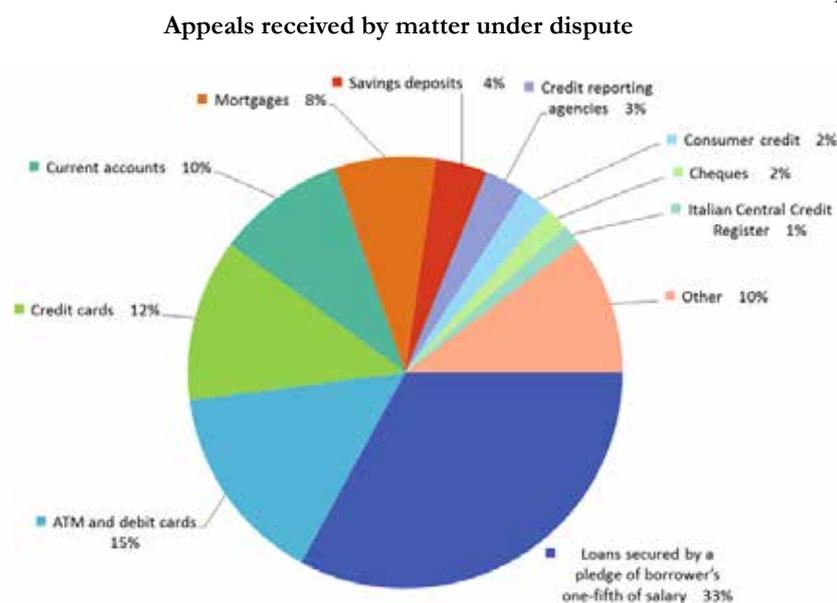


Matters under dispute

Again in 2014 the appeals filed involved a variety of matters, with some changes in the distribution among the various types of banking and financial services and products at issue.

Disputes involving loans secured by a pledge of borrower's one-fifth of salary accounted for 33 per cent of all appeals.

Figure 8



The breakdown by matter under dispute shows a rise in the number of appeals for all except those involving the Central Credit Register and credit cards, but the distribution changed (Figure 9). In 2014 the largest number of appeals involved loans secured by a pledge of salary (a 152 per cent increase over 2013), which for the first time outnumbered those involving ATM and credit cards.

Figure 9

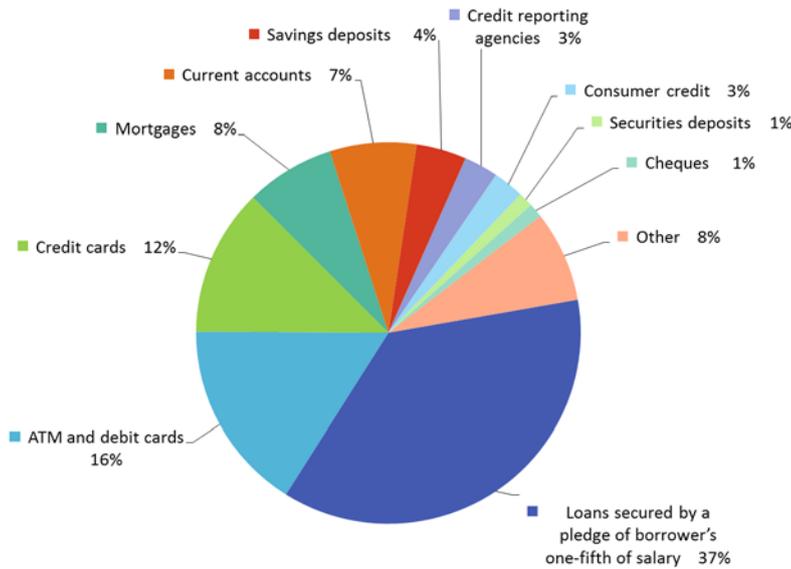
Appeals by matter under dispute, 2013-2014

2014	(2013)	Matter under dispute	2014		2013	
			No.	% of total	No.	% of total
1	(2)	Loans secured by a pledge of borrower's one-fifth of salary	3,673	32.9	1,458	19.4
2	(3)	ATM and debit cards	1,673	15.0	1,108	14.8
3	(1)	Credit cards	1,359	12.2	1,603	21.4
4	(4)	Current accounts	1,069	9.6	813	10.8
5	(5)	Mortgages	842	7.6	697	9.3
6	(9)	Saving deposits	427	3.8	167	2.2
7	(6)	Credit reporting agencies	334	3.0	331	4.4
8	(7)	Consumer credit	264	2.4	216	2.9
9	(10)	Cheques	193	1.7	143	1.9
10	(11)	Italian Central Credit Register	162	1.5	177	2.4

The distribution by matter under dispute also varied with type of complainant (consumer or not). Of consumers' appeals, 37 per cent involved loans secured by a pledge of salary.

Figure 10

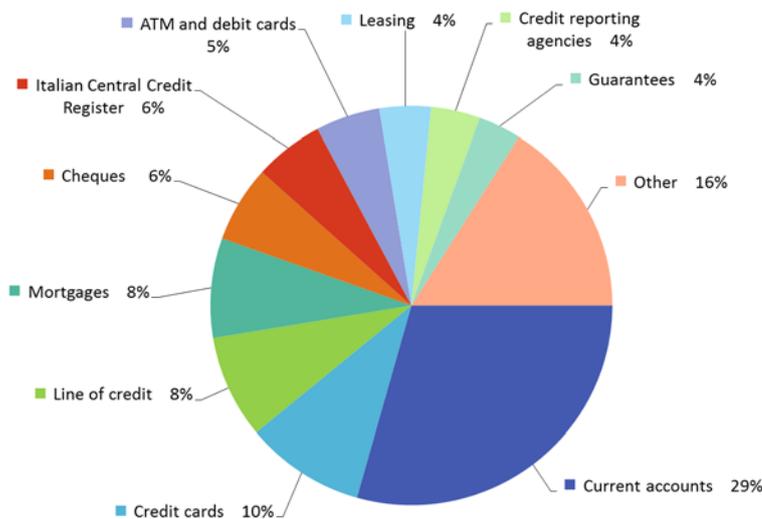
Appeals filed by consumers by matter under dispute



Non-consumers' appeals, instead, related most commonly to current accounts.

Figure 11

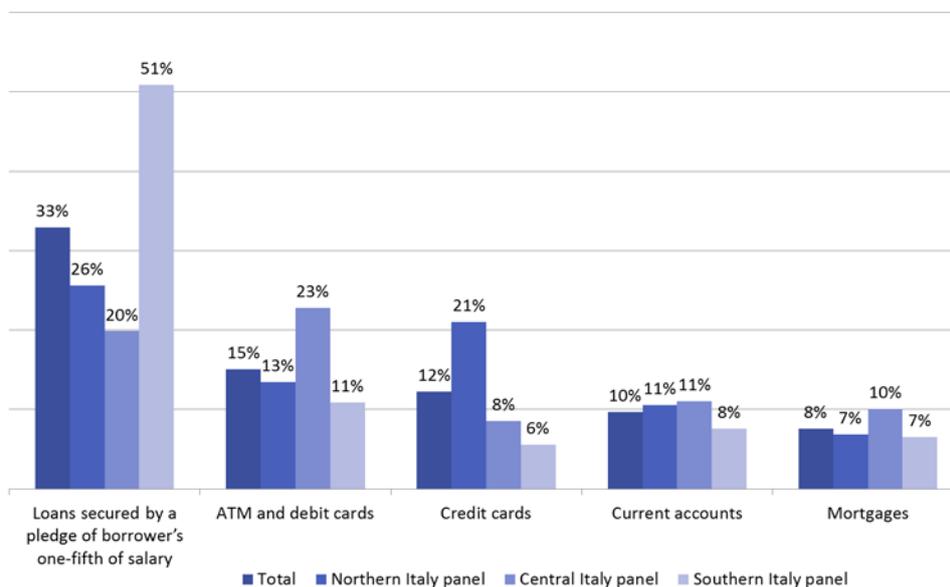
Appeals filed by non-consumers by matter under dispute



The distribution of appeals by matter also differed according to geographical area, i.e. the different jurisdictions of the panels. Appeals involving loans secured by a pledge of salary accounted for 26 per cent of appeals in the North, 20 per cent in the Centre and 51 per cent in the South.

Figure 12

Appeals by matter under dispute and geographical area



By single region, the relative importance of disputes involving loans secured by a pledge of salary, credit cards, and debit cards differed significantly (Figures 13, 14 and 15).

Figure 13

Loans secured by a pledge of borrower's one-fifth of salary: share of appeals by region

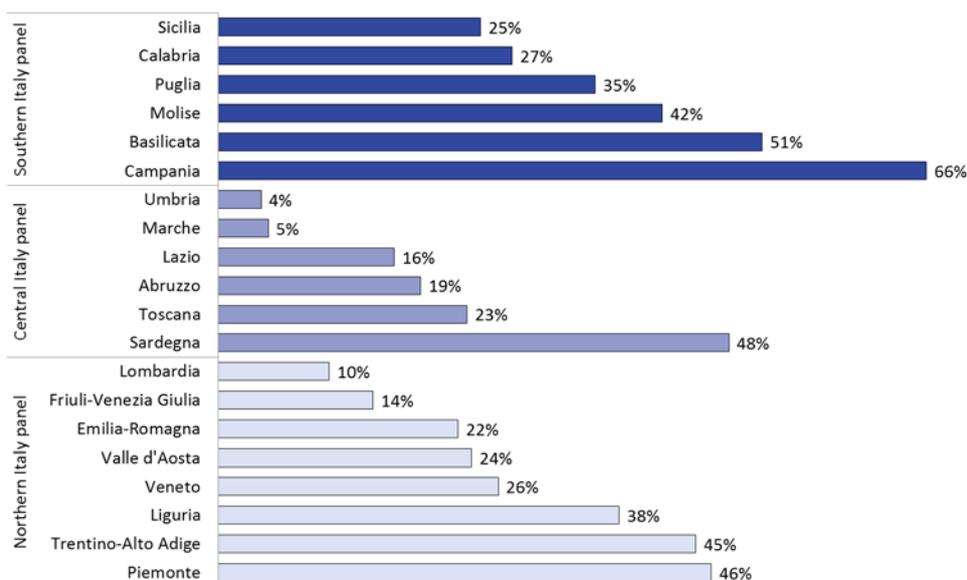


Figure 14

Credit cards: share of appeals by region

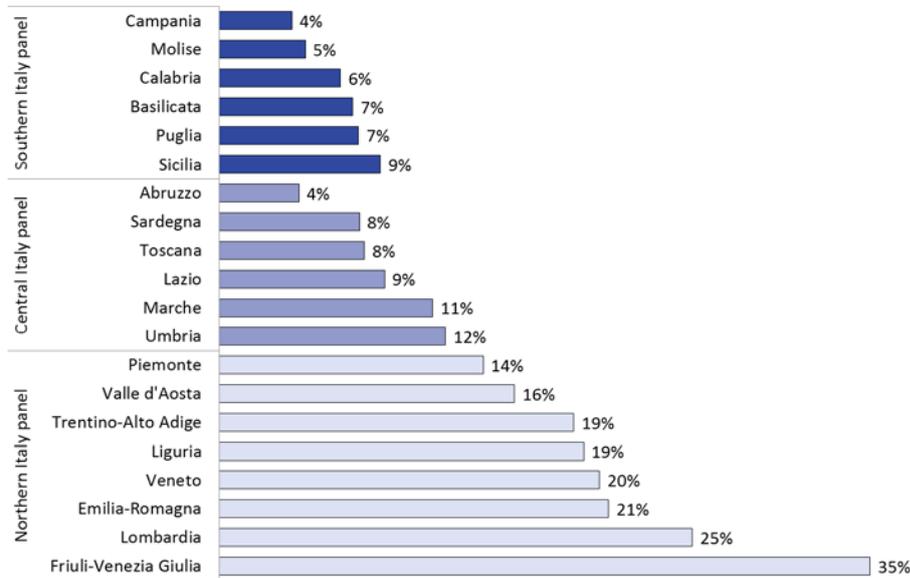
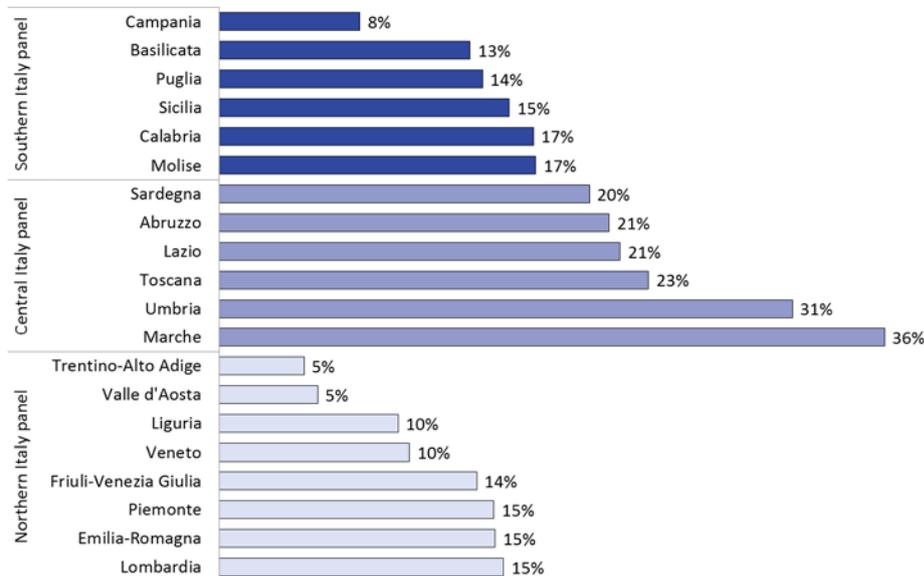


Figure 15

ATM and debit cards: share of appeals by region



The relative importance of the various matters under dispute also varied with type of intermediary. Appeals against financial companies registered pursuant to Article 106 and Article 107 of the Consolidated Law on Banking,⁹ mostly involved

(9) For financial companies, reference is to entry in the general register pursuant to Article 106 or the special register pursuant to Article 107 of the text predating the amendment enacted by Legislative Decree 141/2010.

questions relating to loans secured by a pledge of salary (89 per cent for Article 106 and 73 per cent for Article 107 intermediaries).

Figure 16

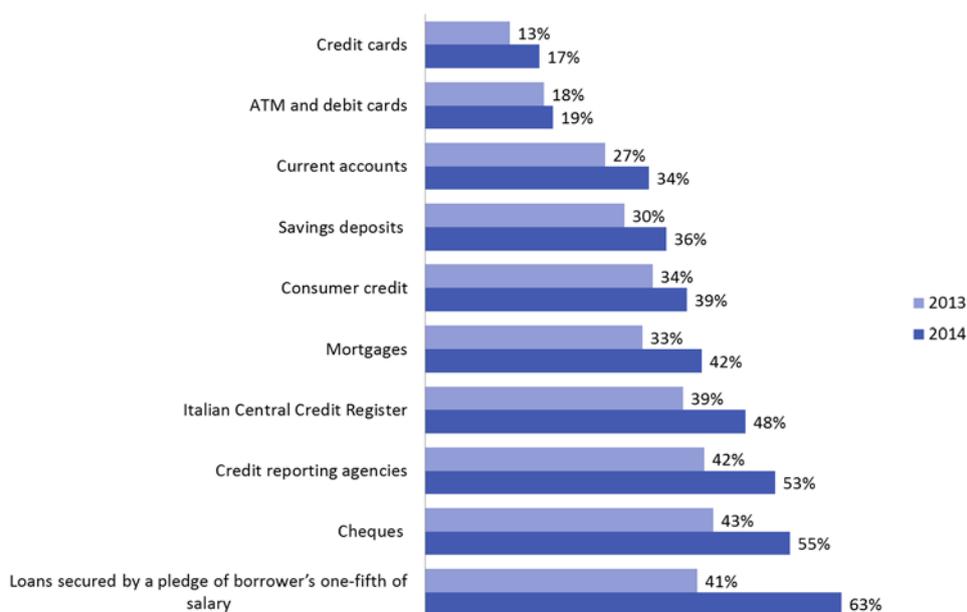
Matter under dispute by type of intermediary
(per cent)

MATTER UNDER DISPUTE	System	PLC banks	Foreign banks	Popular banks	Mutual banks	Fin. Intermediaries Leg. Decree 385/93 art. 107	Fin. Intermediaries Leg. Decree 385/93 art. 106	Payment institutions
Loans secured by a pledge of borrower's one-fifth of salary	33	18	64	35	0	73	89	0
ATM and debit cards	15	16	4	6	11	0	0	10
Credit cards	12	7	8	4	5	3	0	76
Current accounts	10	16	3	19	24	0	1	3
Mortgages	8	15	12	12	19	1	0	0
Saving deposits	4	1	0	1	1	0	0	0
Credit reporting agencies	3	4	2	4	6	5	1	2
Consumer credit	2	2	1	1	2	6	0	0
Cheques	2	3	1	3	6	0	0	0
Italian Central Credit Register	1	3	1	1	3	1	0	0
Other	10	15	4	15	24	10	9	8
Total	100	100	100	100	100	100	100	100

Of the appeals submitted in 2014, 41 per cent were presented by lawyers or other professionals (28 per cent in 2013). Appeals dealing with loans secured by a pledge of salary were those which were most often filed with legal or other professional assistance.

Figure 17

Share of appeals presented by lawyer or other professional, by matter under dispute

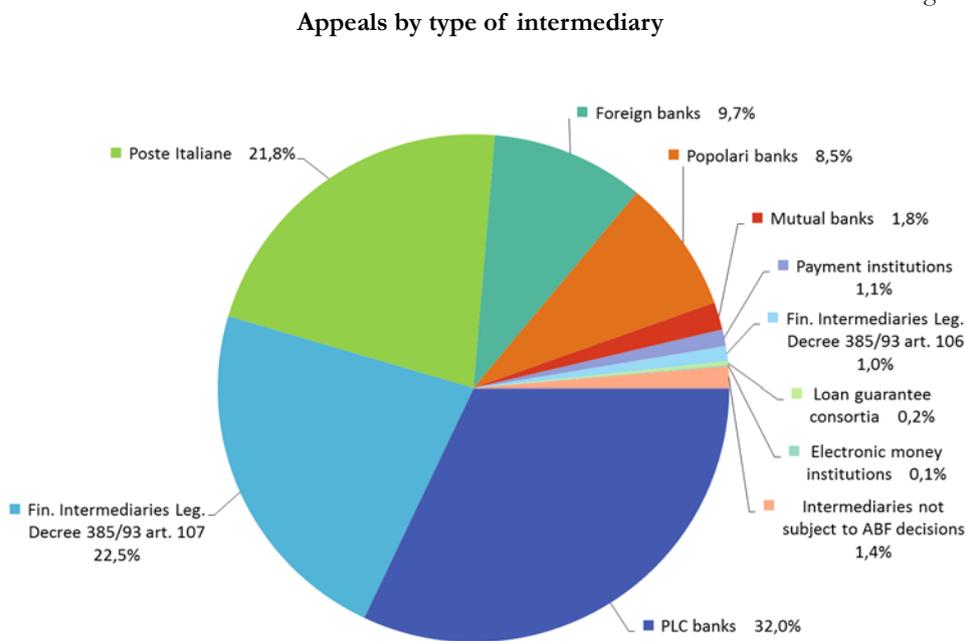


Complainants under the jurisdiction of the South panel, those in Campania in particular, were most likely to seek the assistance of a lawyer or other professional.

Types of intermediary

Again in 2014, the largest number of appeals to the Ombudsman came against banks incorporated as limited companies, although their share fell from 37 to 32 per cent. The share of appeals against Article 107 intermediaries rose from 16.5 to 22.5 per cent, while appeals against Poste Italiane fell from 28 to 21.8 per cent.

Figure 18

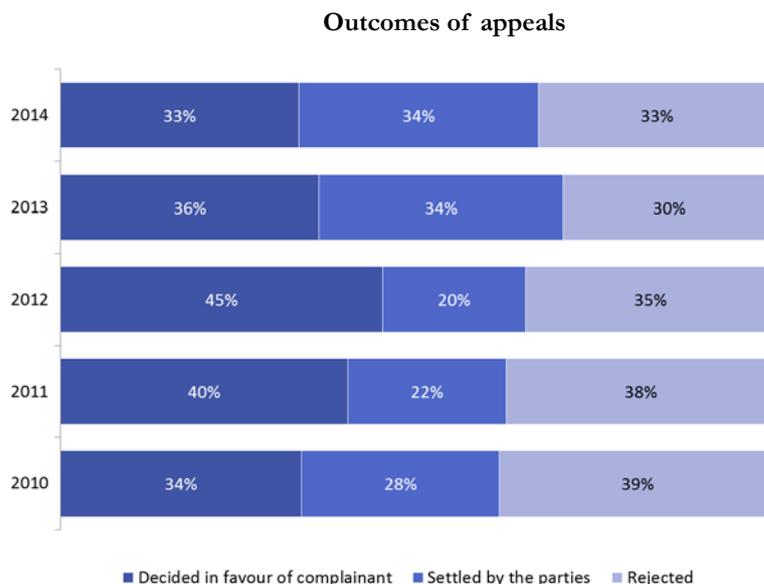


Outcomes

The panels decided an average of 48 appeals per meeting, compared with 39 in 2013.

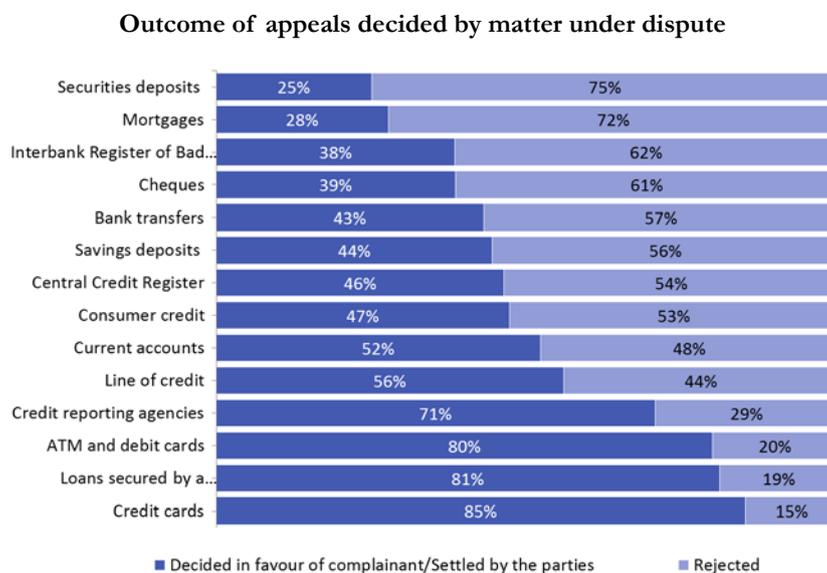
In 67 per cent of the cases the ABF found substantially in favour of the complainant, compared with 70 per cent in 2013; in 33 per cent the panels decided partially or totally in favour of the complainant, and in the other 34 per cent the dispute was settled by an agreement between the parties before reaching the decision phase. The panels rejected 33 per cent of the appeals, either because the customer’s case was unfounded or not adequately proven, or on procedural grounds.

Figure 19



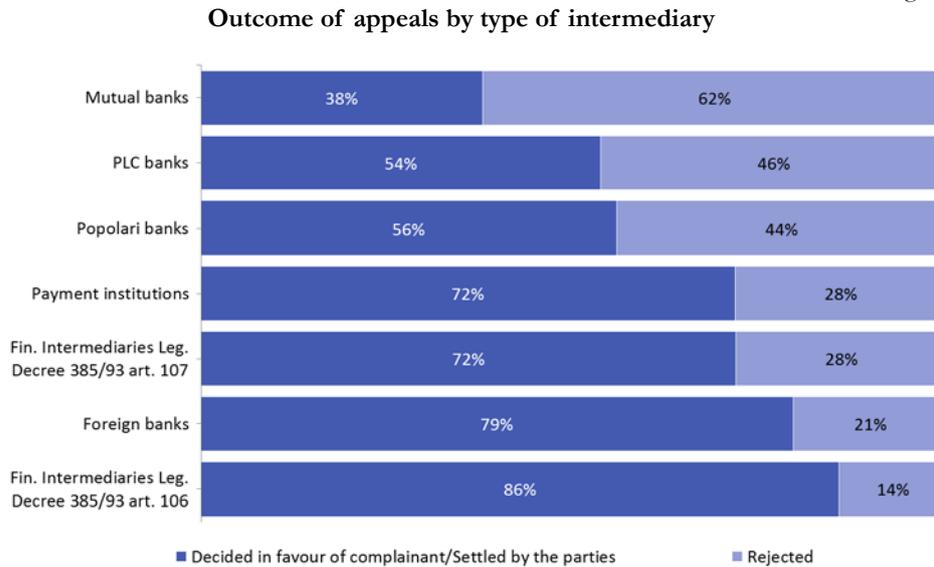
Outcomes differed significantly depending on the matter under dispute: the percentage of cases decided in favour of the customer or settled was lower for mortgages and securities deposits and extremely high, as in 2013, for credit cards, loans secured by a pledge of salary and debit cards.

Figure 20



Outcomes differed also depending on the type of intermediary. Mutual banks had the lowest rate of adverse outcomes (38 per cent); Article 106 intermediaries had the highest (86 per cent).

Figure 21



Regarding the ten banking groups involved in the largest number of decisions in 2014, Figure 22 shows (in decreasing order) the percentage of appeals decided in favour of the complainant and those settled before the ABF's decision.

Figure 22

Percentage of appeals decided in favour of complainant or settled before decision

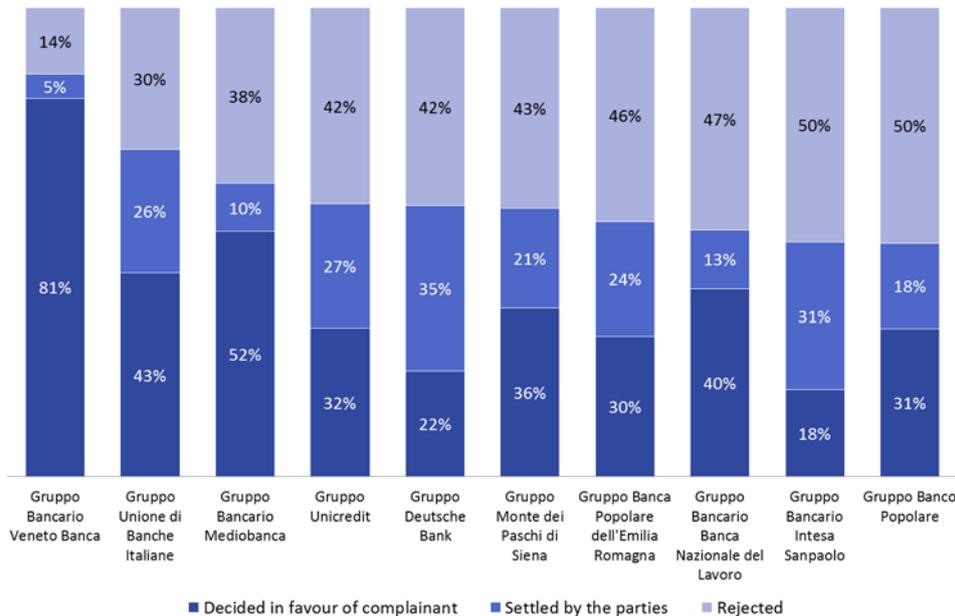
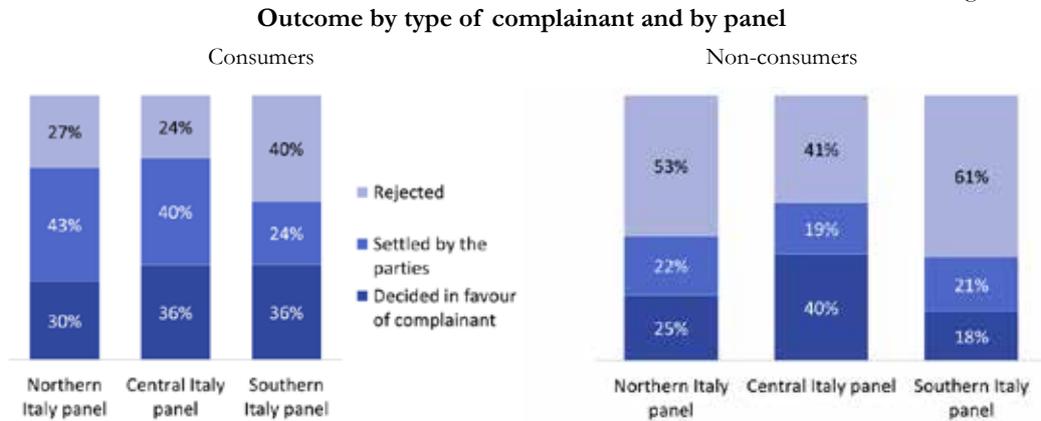


Figure 23 reports the outcomes of appeals according to panel and type of complainant (consumer and non-consumer). In considering the breakdown, we find that in all three panels the percentage of positive outcomes (decisions in favor of the complainant and settlements before decision) is higher for consumers than for non-consumers. The difference reflects the lower incidence of disputes involving credit

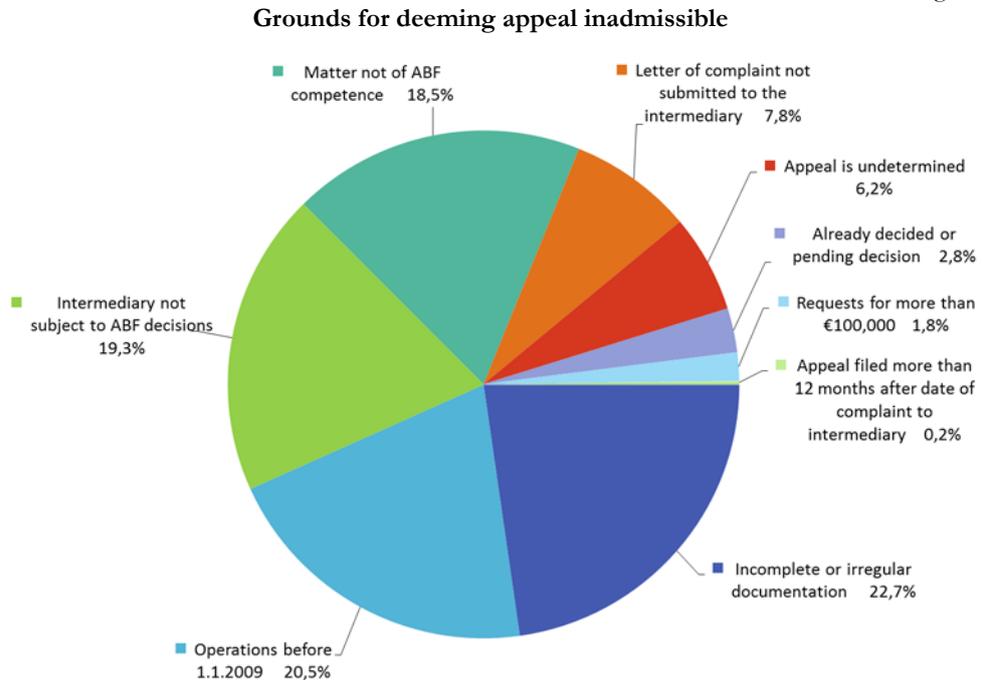
cards, ATM cards and loans secured by a pledge of borrower's one-fifth of salary among non-consumers, appeals that have higher success rates.

Figure 23



In 2014, 4.4 per cent of the appeals submitted to the Ombudsman were rejected as inadmissible, down from 4.7 per cent in 2013. Figure 24 shows the distribution of the grounds for such dismissal.

Figure 24



Of the 2,797 decisions in favour of the complainant during the year, there were 73 cases of non-compliance with the Ombudsman's decision, most of which again involved loans secured by a pledge of salary. The non-compliant institutions were two banks, one payment institution, two Article 107 intermediaries, two loan guarantee consortia (no longer in the general register) and four Article 106 intermediaries.

The rate of non-compliance increased from 1.2 to 2.6 per cent; in cases involving loans secured by a pledge of salary it came down from 5.7 to 4.7 per cent.

There were also instances of non-cooperation with ABF procedures, such as: (a) failure of some intermediaries to pay their contribution to the honorariums of the panel members designated by the Banking and Financial Conciliator, (b) failure of some intermediaries to submit a defense brief, and (c) intermediaries' failure to publish notice of their non-compliance in two nationwide newspapers.

In 2014 there were a few instances of possible criminal implications in relation to the alleged falsification of parts of the appeal by third parties acting without a power of attorney issued by the actual complainant.

Data on the first four months of 2015

Albeit to a lesser extent than in the previous two years, the first four months of 2015 confirm the steady increase in recourse to the Ombudsman, with a rise of 12 per cent over the year-earlier period. The sharpest increase was registered by the Central Italy panel (21 per cent).

By matter under dispute, there was an increase in cases involving loans secured by a pledge of salary or pension (47 per cent of the appeals submitted in the first four months) and a decrease in the share involving ATMs and debit cards (12 per cent) and credit cards (7 per cent).

The share of appeals lodged by consumers rose further, to 92 per cent, and the share in which the complainant, consumer or not, was represented by a professional rose to 55 per cent. The proportion of appeals with outcomes favourable to the complainant remained practically unchanged at 66 per cent.