



An tOmbudsman Seirbhísí  
Airgeadais agus Pinsean

Financial Services and  
Pensions Ombudsman

# ADR Annual Activities Report 2022

Published in accordance with S.I. No. 343/2015 – European  
Union (Alternative Dispute Resolution for Consumer Disputes)  
Regulations 2015



# Introduction

This report is published by the Financial Services and Pensions Ombudsman (FSPO) in accordance with S.I. No. 343/2015 - European Union (Alternative Dispute Resolution for Consumer Disputes) Regulations 2015.

The FSPO was established on 1 January 2018 to resolve complaints from consumers, including small businesses and other organisations, against financial service providers and pension providers.

The FSPO provides an independent, fair, impartial, confidential and free service to resolve complaints. When a consumer is unable to resolve a complaint with a financial service provider or a pension provider, they can refer their complaint to the FSPO.

The FSPO is governed by the provisions of the Financial Services and Pensions Act 2017, as amended ("the Act"). This governing legislation sets out that the Ombudsman shall try, as far as is possible, to resolve a complaint by mediation. Mediation provides a faster and more efficient way to resolve complaints. Where these early interventions do not resolve a dispute, the FSPO will formally investigate a complaint in a fair and impartial manner. The investigation and adjudication of a complaint results in a decision which is legally binding on both parties to the complaint.

Where the complaint is upheld, substantially upheld or partially upheld, the Ombudsman may direct rectification or compensation, or both, in respect of all, or some of the matters complained of. Where the Ombudsman upholds, substantially upholds or partially upholds a financial service complaint, he can direct a financial service provider to pay compensation of up to €500,000 and he can also direct both financial service providers and pension providers to fix or correct the issue. Such rectification can be very significant, as it can involve restoring a person's financial position. In the case of a pension complaint, such rectification shall not exceed any actual loss of benefit under the pension scheme concerned. Additional financial redress in the form of compensation cannot be directed in relation to pension complaints.

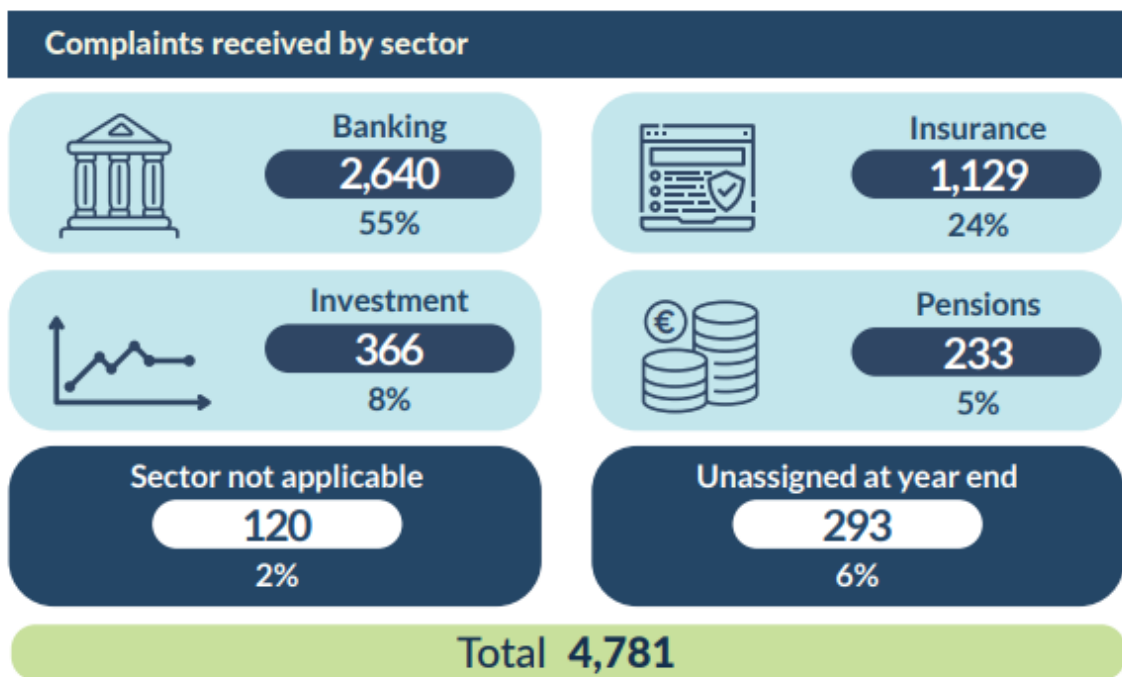
The sections contained within this report are, in accordance with Section 10(2) of S.I. No. 343/2015:

- (a) the number of disputes received and the types of complaints to which they related
- (b) any systematic or significant problems that occur frequently and lead to disputes between consumers and traders and such information may be accompanied by recommendations as to how such problems can be avoided or resolved in future, in order to raise traders' standards and to facilitate the exchange of information and best practices
- (c) the percentage share of ADR procedures which were discontinued and, if known, the reasons for their discontinuation
- (d) the average time taken to resolve disputes
- (e) the rate of compliance, if known, with the outcomes of the ADR procedures; and
- (f) cooperation of ADR entities within networks of ADR entities which facilitate the resolution of cross-border disputes, if applicable.

## (a) The number and types of disputes received and the types of complaints to which they related

A total of 4,781 complaints were received by the FSPO in 2022. Of the 4,781 complaints received in 2022, 55% (2,640) related to banking products, 24% (1,129) related to insurance and 8% (366) related to investment products. 5% (233) concerned complaints about pension schemes.

2% (120) were categorised as 'sector not applicable' and 6% (293) had no sector yet assigned at year end.

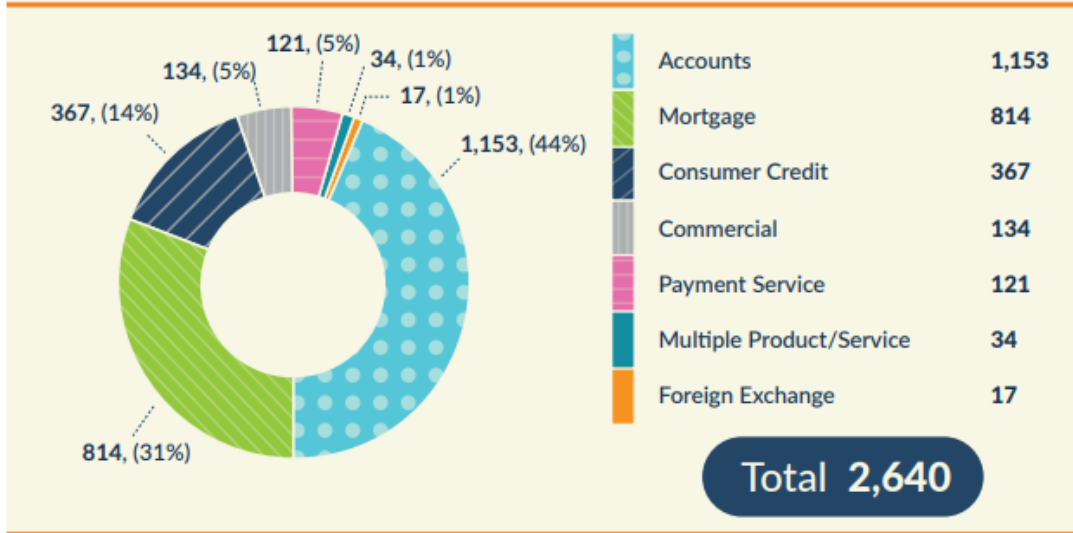


### Banking complaints

The FSPO received 2,640 banking related complaints in 2022 representing 55% of all complaints received.

The banking products most complained about in 2022, were accounts at 44%, followed by mortgages (31%). Bank accounts and mortgages also accounted for the highest number of complaints to the FSPO in 2022, across all sectors.

## Banking Products

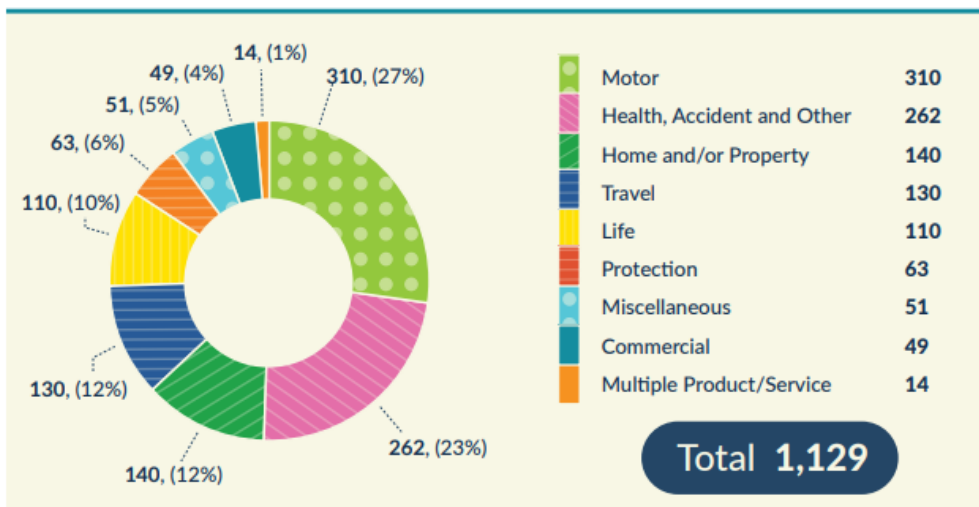


## Insurance complaints

In 2022 the FSPO received 1,129 insurance related complaints, a reduction of 5% from the volume in 2021.

27% of insurance complaints in 2022 concerned motor insurance and a further 23% of insurance complaints concerned health, accident or other insurance - this category includes dental, pet or phone insurance.

## Insurance Products



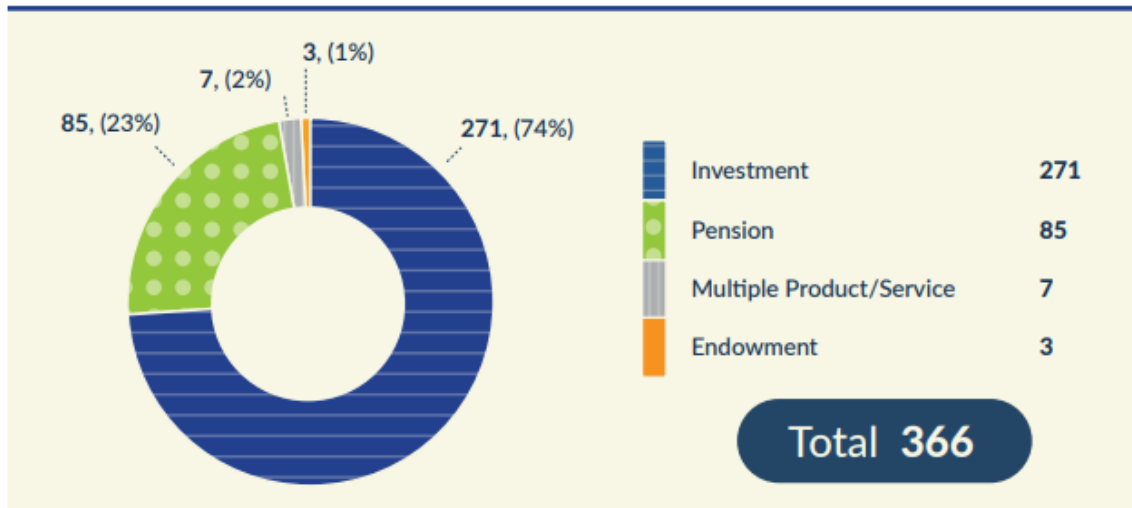
## Investment complaints

The FSPO received 366 investment complaints in 2022, representing 8% of all complaints received. The investment category includes not only investments, but also pension-related investment products, a category for multiple products, and endowments.

Some products complained about involve investments which are put in place to make provision for a person's retirement such as AVCs (Additional Voluntary Contributions), but such products are not a "pension scheme" within the meaning of the FSPO's governing legislation. As a result, these products fall within the investment category.

The conducts most complained of within the investment category were maladministration and customer service, each accounting for approximately a third of complaints in this sector.

### Investment Products



## Pension complaints

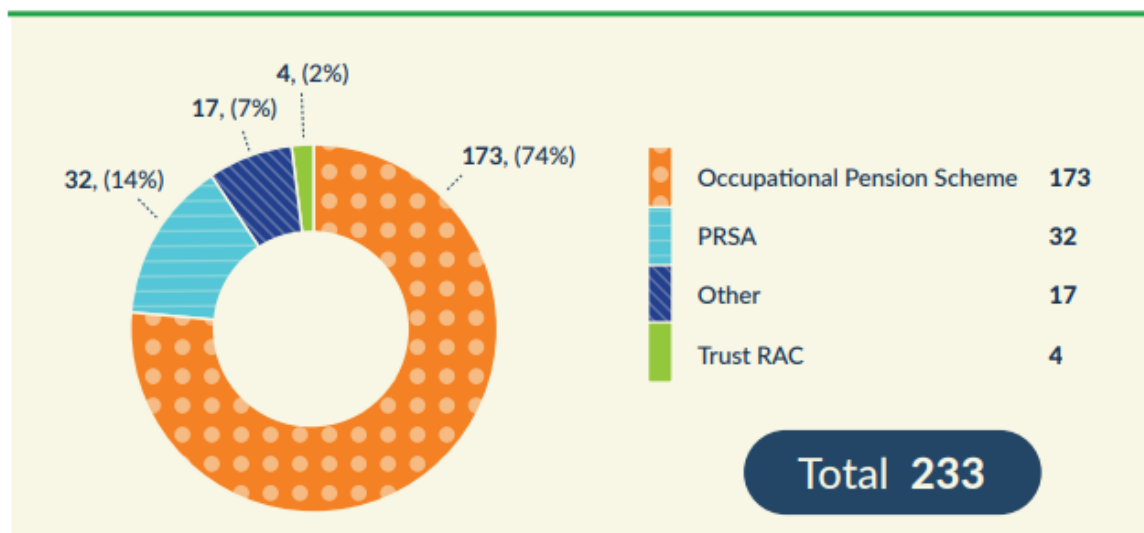
The FSPO received 233 pension complaints in 2022, with the majority of such complaints arising from occupational pension schemes (74%).

Occupational pension schemes are schemes set up by an employer to provide retirement and/or other benefits for employees. This includes both public sector and private sector occupational pension schemes. PRSAs (Personal Retirement Savings Accounts) are pension savings accounts, normally paid for by personal contributions, although employers can pay contributions to these plans too. They accounted for 14% of complaints in 2022.

Trust RACs (Retirement Annuity Contracts) are schemes established under trust and approved by the Revenue Commissioners. They are for the benefit of individuals engaged in, or connected with, a particular occupation and which provide retirement annuities for them, or benefits for their dependents.

The conducts most complained of in relation to pensions were maladministration (38%) and calculation of pension benefit (25%).

### Pension complaints



**(b) Any systematic or significant problems that occur frequently and lead to disputes between consumers and traders and such information may be accompanied by recommendations as to how such problems can be avoided or resolved in future, in order to raise traders' standards and to facilitate the exchange of information and best practices.**

Section 62 of the Financial Services and Pensions Ombudsman Act 2017 gives the FSPO the power to publish legally binding decisions in relation to complaints concerning financial service providers.

To provide full access to the Ombudsman's decisions, the FSPO has created an online database of all published legally binding decisions. This can be accessed at [www.fspo.ie/decisions](http://www.fspo.ie/decisions). This database holds the full text of the Ombudsman's published decisions issued since January 2018 in relation to complaints against financial service providers. New Decisions are uploaded periodically, typically once a month<sup>1</sup>.

The Ombudsman also publishes Digests of decisions, which contain summaries of decisions made in relation to complaints against financial service providers and case studies of decisions made in relation to complaints against pension providers. Digests relevant to 2022 include:

- [Volume 7](#) published in February 2022, contains summaries of decisions concerning complaints related to travel insurance complaints.
- [Volume 8](#) published in November 2022 contains summaries of decisions concerning complaints related to private health insurance.

By publishing these decisions and Digests of decisions, the Ombudsman aims to enhance transparency and understanding of the powers of the FSPO and its services. Providing access to the Ombudsman's decisions contributes to an enhanced consumer protection framework and is a valuable tool for providers and consumers alike in understanding the Ombudsman's decisions.

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<sup>1</sup> As at 29 June 2023, the database holds 2,107 decisions, with decisions issued up to end January 2023 having been published.



The Digests of Decisions published in 2022 highlight the broad range of issues leading to complaints made to the FSPO and the decisions made by the Ombudsman. Such decisions include directions to providers to rectify the conduct complained of by reviewing the wording of policies, admitting insurance claims for payment, and/or by paying compensation.

The Ombudsman, on publishing the [Overview of Complaints for 2022](#), referred to the departure of two major financial service providers from the Irish market, which posed the potential for a high volume of complaints to be made to the FSPO, given the number of impacted customers. During 2022, the FSPO received less than 100 complaints identified as relating to market exit, though not all of these complaints were in relation to the conduct of those providers leaving the market. The FSPO contributed to this outcome by collaboratively engaging and sharing information with stakeholders within the Irish banking landscape, including with the providers leaving the market.

In addition, the Ombudsman highlighted the continuing trend in receiving complaints relating to fraud. Whilst it should be noted the FSPO cannot investigate fraud, as it is a criminal matter, the FSPO can investigate a complaint which relates to service failings of a provider in dealing with a customer who suspects fraud on their account, and any complaint about unauthorised transactions. The Ombudsman cited a number of case studies where the consumer identified what they described as fraudulent activity on their bank account in his Overview of Complaints.

During 2022, in accordance with the provisions of section 18 of the Act, this Office referred 10 legally binding decisions to the Central Bank of Ireland (CBI). This is an important part of our role, and these referrals, in addition to the ongoing sharing of information with the CBI on areas of mutual interest, help to ensure that issues and conducts evident in complaints made to this Office can be considered from a regulatory perspective. Consumers place their trust in financial providers when using their services. It is a serious matter where that trust is breached.

In each complaint referred to the Central Bank of Ireland, which are listed in Table 1.0, the Ombudsman outlined the reason for the referral and enclosed an anonymised copy of the legally binding decision.

**Table 1.0 Complaint issues referred to the Central Bank of Ireland in 2022**

Decision Reference	Issues raised by the complaint
<a href="#">2021-0554</a>	The Ombudsman was concerned about the provider's inadequate record keeping, as it did not have access to the consumer's records dating from the period before the provider acquired the credit card account from the previous owner.
Unavailable as at 31 December 2022*	The Ombudsman expressed concern that the provider's action in reducing the interest rate on a deposit account, did not comply with the contractual notice requirement, and it raised a potentially systemic issue.
<a href="#">2022-0027</a>	The Ombudsman was concerned about the provider's failure to adequately explain a change of calculation methodology, which resulted in an immediate decrease of more than €50,000 in a customer's arrears balance, which was difficult to reconcile.
<a href="#">2022-0068</a>	The intermediary's practices and failings when selling insurance products, were noted to be potentially systemic in nature, impacting other consumers.
<a href="#">2022-0080</a>	The Ombudsman noted that after the provider gave the consumers incorrect information regarding a mortgage product, the situation became more serious when the staff member altered the contents of the application form, without the consumers' authority.
<a href="#">2022-0079</a>	The provider's incorrect practice of refusing the consumer's increased top-up payments to his Personal Pension Plan, were noted to be potentially systemic in nature, impacting other consumers.
<a href="#">2022-0176</a>	The evidence disclosed the provider's very poor operational practices, in particular the absence of clear demarcation lines in its own operations and those of another legal entity operating as an intermediary.

<a href="#">2022-0214</a>	The Ombudsman noted breaches of the duty of confidentiality owed to the consumer and the provider's failure to ensure that its employees appreciated the seriousness of their inappropriate information sharing.
<a href="#">2022-0308</a>	The evidence disclosed difficulties for the provider in understanding its obligations when reporting to the CCR regarding a debt which had been written off.
<a href="#">2022-0335</a>	Evidence that at the time of sale, the provider gave the consumer incorrect information about the level of premium payable over the policy term, raising a concern that this issue may be systemic in nature.

\*Following the referral of the decision to the Central Bank of Ireland, the provider commenced a statutory appeal to the High Court seeking to strike down the decision in question. As of March 2023, when the above table of details was published by the FSPO, those High Court proceedings had not yet been determined.

During 2022, the FSPO also shared a copy of every legally binding decision issued, concerning a complaint about a tracker mortgage rate of interest, with the Central Bank of Ireland (CBI). Copies of 134 tracker mortgage decisions were sent by the FSPO to the CBI. The same approach was adopted for 19 legally binding decisions issued in complaints concerning declined insurance claims for business interruption losses.

The Act also provides that the Ombudsman may make recommendations to the Central Bank of Ireland (CBI) in relation to measures that the CBI might take in order to effectively deal with persistent patterns of complaints.

The Act also provides that the Ombudsman shall cooperate with the Pensions Authority with a view to ensuring that this Act operates in a way that contributes to promoting the best interests of actual or potential beneficiaries of pension services and to the efficient and effective handling of complaints. The Pension Authority and the FSPO have signed a Memorandum of Understanding to facilitate this cooperative engagement. No decisions made on pension complaints in 2022, were referred by the FSPO to the Pensions Authority.

### (c) The percentage share of ADR procedures which were discontinued and, if known, the reasons for their discontinuation

In 2022, the FSPO received 4,781 complaints and 4,647 complaints were closed. Of the 4,647 complaints closed in 2022, as outlined in the graphic below:

- 2,090 (45%) complaints were closed in Customer Operations and Information Management (COIM),
- 1,722 (37%) were closed by way of mediation in Dispute Resolution Services (DRS),
- 629 (14%) were closed in Investigation Services (IS) and
- 206 (4%) were closed in Legal Services (LS).



361 complaints were withdrawn at various stages of our processes in 2022. The reason for withdrawal of a complaint can vary depending on the stage at which the complaint is withdrawn. At times, regardless of the stage at which a complaint is withdrawn, a complaint may be resolved to the complainant's satisfaction by the provider. While the FSPO encourages settlements at the earliest stage, a settlement at any stage is always encouraged and welcome. Complainants may also withdraw their complaint due to a change in life circumstances. The FSPO is always willing to take such matters into consideration and may offer to put the complaint on hold for a time instead, if appropriate.

Of the 2,090 complaints closed in Customer Operations and Information Management, 925 were closed at an early stage in COIM. In some cases, the complainant did not provide enough information for the complaint to proceed, but over a third of these complaints were resolved by the provider and no further action was required from the FSPO. In other cases, the complainant had not completed their provider's internal complaints process and once the complainant was directed back to the financial service provider, they were able to get their complaint resolved. The remaining complaints were closed in COIM for the following reasons:

- 248 complaints were determined as being more appropriately dealt with by the Courts.
- 186 complaints were closed because they were complaints concerning a non-regulated financial service provider, or a company which wasn't providing a financial service.
- 118 complaints, when assessed, were outside the time limits for making a complaint.
- 176 complaints were closed as the person or entity making the complaint did not meet the definition of a complainant under the Financial Services and Pensions Ombudsman Act 2017 or did not have the right to make a complaint.
- 277 complaints were withdrawn by the complainant.
- 58 complaints were considered more appropriately dealt with by another forum.
- 102 complaints were closed within COIM because they were found to be ineligible. This was mainly because the complaint would be more appropriately investigated by an Alternative Dispute Resolution (ADR) body in another country and complainants were referred to that body to progress their complaint.

Of the 1,722 complaints closed through Dispute Resolution Services a total of 20 complaints were closed when the parties reached a settlement themselves and 35 were withdrawn by the complainant. In some 7 complaints, contact was made with the complainant only, the complaint was intended for another Ombudsman, or the complainant resolved their issue without the provider.

16 were closed within Dispute Resolution Services at an early stage as the complainant did not provide enough information to proceed, or the complaint could be immediately resolved.

Of complaints closed in Investigation Services, 116 were settled during investigation on foot of an on-the-record offer from the provider, 38 were withdrawn or otherwise closed and 36 complaints were settled during the formal investigation process as an outside settlement.

#### (d) The average time taken to resolve disputes

As noted earlier 47% of complaints are closed at an early stage in Customer Operations and Information Management, while a further 35% are closed in Dispute Resolution Services. In total, more than 80% of complaints that closed in 2022 were closed within 12 months of the complaint being made. Complaints that require a formal process can take considerably longer as detailed below.

The average time from receipt of complaint to closure was 10 months for complaints that closed in 2022. Further details of the timelines for complaints closed in Dispute Resolution Services and in Investigation Services is provided in Tables 3.0 and 4.0.

The FSPO first deals with complaints through mediation, by listening to both parties and engaging with them to facilitate a resolution that is acceptable to both parties. Much of this informal engagement takes place by telephone. The table below details complaints closed in the FSPO's Dispute Resolution Service.

**Table 3.0 Percentage of complaints closed in DRS in 2022**

Time open	Percentage of complaints closed in DRS in 2022
2 months or less	6.4%
2-4 months	38.6%
4-6 months	27.4%
Over 6 months	27.5%

Where these early interventions do not resolve the dispute, the FSPO formally investigates the complaint and issues a decision that is legally binding on both parties, subject only to an appeal to the High Court.

Formal investigation of a complaint by the FSPO is a detailed, fair and impartial process carried out in accordance with fair procedures. Detailed submissions are gathered by the FSPO from those involved in the dispute and exchanged between the parties. The FSPO was established by statute and operates in accordance with fair procedures.

The FSPO is required to take into account a range of EU and national legislation, and case law, when adjudicating on matters in dispute between consumers and financial services providers and pension providers. In particular, the FSPO must operate in accordance with its governing legislation the Financial Services and Pensions Ombudsman Act 2017, (the Act) as amended. The FSPO makes every effort to assist the parties in understanding these complex provisions as they relate to each individual complaint. Assessing whether a complaint falls within the remit of the office is a significant part of the work undertaken by the FSPO.

The table below details the time taken from receipt to closure of complaints within this formal investigation process in 2022.

**Table 4.0 Percentage of complaints closed in Investigation Services in 2022**

Time open	Percentage of complaints closed in Investigation Services in 2022
1 year or less	6.0%
1-2 years	29.0%
2-3 years	25.5%
Over 3 years	39.5%



## (e) The rate of compliance, if known, with the outcomes of the ADR procedures

The Ombudsman has wide-ranging powers to deal with complaints against financial service providers, including to direct a provider to rectify the conduct that is the subject of the complaint.

There is no limit to the value of the rectification the Ombudsman can direct. Financial services providers can be directed to pay compensation to a complainant of up to €500,000. In terms of dealing with complaints against pension providers, the Ombudsman can direct redress that shall not exceed any actual loss of benefit under the pension scheme concerned. The Ombudsman cannot direct a pension provider to pay compensation.

The Ombudsman's decisions are legally binding on the parties, subject only to an appeal to the High Court. Additionally, complaints which are resolved by way of dispute resolution settlements result in a mediated agreement, which is signed by both parties and is enforceable in a Court.

Legally binding decisions can be enforced through the Courts pursuant to Section 65(1) of the Financial Services and Pensions Ombudsman Act 2017. In 2022, no decisions required enforcement through the Courts.

## (f) Cooperation of ADR entities within networks of ADR entities which facilitate the resolution of cross-border disputes, if applicable

The FSPO is an active member of FIN-NET which helps consumers resolve cross border disputes out of court.

The FSPO will initially assess a complaint to determine if it falls within its remit. If it is determined that a complaint would be more appropriately dealt with by another competent scheme in the EEA, the FSPO will, as part of its service, direct the consumer to the correct ADR body. This is in accordance with the Memorandum of Understanding on a cross-border, out-of-court complaints network for financial services.

The FSPO has a broad remit in relation to cross border complaints. The FSPO may accept complaints made against financial services providers that are regulated by the Central Bank of Ireland, and against financial services providers that are regulated by a competent authority in the EEA and which passport their products and services to consumers on a 'freedom of service basis'. For consumers making cross border complaints which fall under our remit, the FSPO will assist consumers in progressing their complaint where English or Irish is not their first language.

Over the last number of years, the presence of an increased number of financial service providers passporting from another jurisdiction, has given rise to a significant and increasing number of complaints received where, because of the governing law of the contract, the complaint is one to be referred by the FSPO to another ADR body. Where the contract is governed by a law other than the laws of Ireland, the FSPO is not in a position to investigate and adjudicate on that complaint. This is because to do so would require the FSPO to interpret and apply the laws of a foreign jurisdiction to the investigation and adjudication of that complaint which will lead to a legally binding outcome.

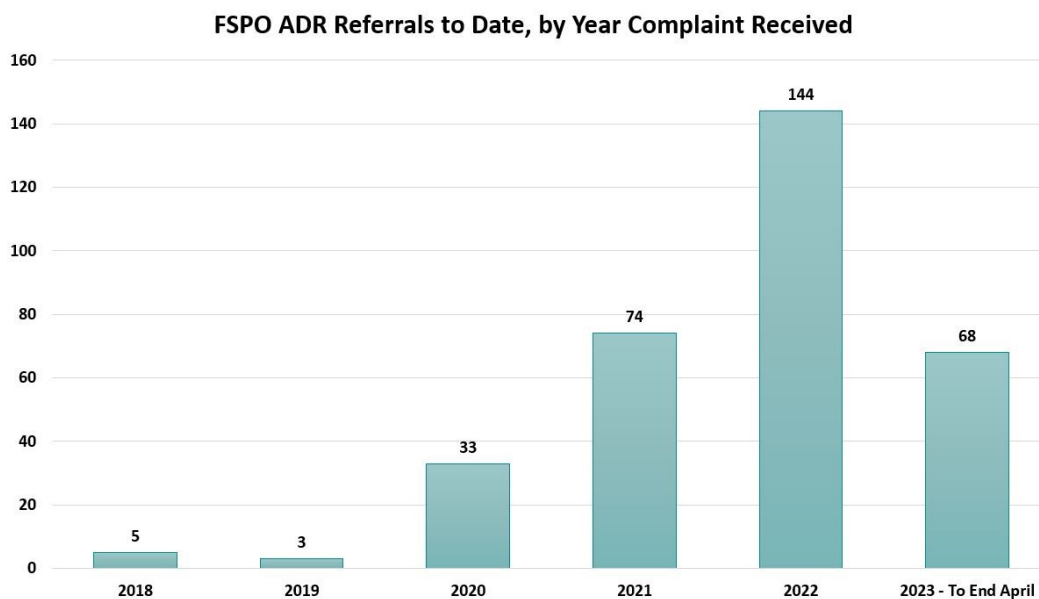
With a view to providing a solution to the parties, where the governing law is not Irish law, the practice of the FSPO is to seek the consent of both parties to the investigation and adjudication of the complaint, pursuant to the laws of Ireland. In doing so, the FSPO notes that such an agreement by the parties, to facilitate the provision of the ADR service, will not in any manner alter the underlying governing law of the contract. In some instances, both parties have provided the required consent and the investigation can proceed in accordance with the laws of Ireland.

When both parties do not agree to an FSPO investigation on that basis, the FSPO will refer the complaint to the alternative appropriate ADR body in the relevant jurisdiction, as the competent authority to adjudicate the complaint in relation to the contractual issue arising. This includes referrals to ADR bodies within the EEA area, in accordance with the [FIN-NET Memorandum of Understanding on a Cross-Border Out-of-Court Complaints Network for Financial Services](#).

It can be seen from the table below, which is available on [www.fspo.ie](http://www.fspo.ie), that [the number of such referrals to another ADR body](#), has grown since the FSPO came into being in 2018.

The FSPO anticipates that the potential expansion of services by such providers, to include credit facilities, means that the number of such referrals has the potential to very significantly increase. This understanding is borne out by the data reflected in the table below, indicative of this growing trend.

## FSPO Cross-Border ADR Referrals



In addition to the FSPO seeking consent of both parties to the application of Irish law to the investigation and adjudication of individual complaints, where financial services contracts are clearly governed by the laws of a foreign jurisdiction, the FSPO has sought, in certain instances, to establish the general position of certain providers regarding their approach to such a request being made in individual complaints, for consent to a complaint investigation pursuant to the laws of Ireland.

Such a suggested approach has been declined by a small number of “digital banking” and payment service providers, and although the number of such providers has been low to date, that number has the potential to significantly increase. Consequently, these communications seeking to explore the potential for the FSPO to supply an appropriate agreed ADR service in such circumstances, arise in the context of a significant, and increasing, volume of complaints and significant numbers of consumers in Ireland.

It is of course arguable that no issue arises for consumers, in respect of this referral of complaints between the respective ADR bodies of Member States, because ADR bodies across the Member States are equipped to receive complaints from consumers involving such cross-border activity. A consumer in Ireland may however have a preference for pursuing their complaint to the FSPO as any language barrier, whether perceived or real, can give rise to consumer reluctance to pursue a complaint. In addition, ADR bodies across the Member States apply a variety of time limits and may not be equivalently equipped to deliver redress for the consumers in question.

The FSPO considers this issue for consumers to be common across the European Union and, given the concept of the free movement of services across the EU, this issue creates something of a paradox. The FSPO takes the view that one potential solution may involve a European regulatory requirement for financial service providers to offer consumers the alternative option of resolving their complaints in what the consumer may consider to be a suitable location, namely, their place of residence, and to do so by enabling the consumer to elect for the alternative governing law of their place of residence, for the purpose of the complaint investigation.



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