

Complaints Report in brief



COMPLAINTS

The Banco de España resolved **34,146** complaints

(compared with 34,330 in 2021, 21,320 in 2020 and 14,638 in 2019)



ENQUIRIES

The Banco de España fielded **50,567** enquiries: **8,067** written enquiries and **42,500** telephone enquiries

(compared with 48,955 in 2021, 46,884 in 2020 and 30,462 in 2019)



AREAS OF COMPLAINT

Three out of every four complaints relate to the following products: cards, current accounts and mortgages

One-third concern allegedly fraudulent operations (cards and transfers)



RECTIFICATION RATE

83.7% of customers' complaints were upheld



WHAT CHANNELS ARE AVAILABLE?

- a) Online (*Virtual Office*)
- b) In writing (in person or by post)
- c) By email: for enquiries only, not for complaints

To file a complaint, you must prove that you have previously contacted your [bank](#)



RESOLUTION CRITERIA

See Chapter 3

For the salient themes of the year, see the diagram at the beginning of the chapter

Why publish a Complaints Report?

- This Report fulfils the legal mandate (set out in Article 30(4) of Law 44/2002 of 22 November 2002 on Financial System Reform Measures) to report statistics on enquiries and complaints received and disseminate the criteria applied by the Banco de España in resolving complaints.
- It also complies with the provisions of Article 38 of Law 7/2017 of 2 November 2017, transposing into Spanish legislation Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes, relating to the annual activity reports that must be made public by alternative dispute resolution entities (see Annex 2 of Chapter 2).
- Along with the data on the activity performed, the Report compiles and summarises the main best banking practice criteria applied, which set standards of conduct for banks.
- Complaints are an essential element in conduct supervision, providing early warning of areas for improvement in banks' customer relations.
- Moreover, the Report is an educational tool, as it also contributes to the financial education of the general public in their banking operations. Its main highlights are published and updated on the Bank Customer Portal.
- From its eminently practical standpoint, the Report also helps identify possible areas for improvement in conduct regulation, thanks to the knowledge acquired through the analysis of disputes.

CHAPTER 1. THE BANCO DE ESPAÑA'S COMPLAINTS SERVICE. MAIN HIGHLIGHTS

Main highlights

This first chapter, which adopts a new approach, addresses various general issues on how the service works that may be of interest to both the general public and financial market operators supervised by the Banco de España:

- History and functions of the complaints service.
- Banks against which a complaint may be filed and prior procedure at the customer service department (CSD): in order to file a complaint with the Banco de España, customers must first have contacted the bank concerned, which must furthermore be a supervised institution.
- Thus, service users must demonstrate that the bank has refused to accept their complaint or that the legal deadline for receipt of a response has elapsed (15 working days for complaints relating to payment services and, for complaints relating to other matters, one month for those submitted by EU-resident consumers and two months for those submitted by non-EU resident consumers and non-consumers).
- **Deadlines and channels** for filing complaints.
- Procedure for handling complaints and possible procedural itineraries. Particular emphasis is placed on the differences depending on who lodges the complaint (whether an EU or non-EU resident consumer), focusing especially on the grounds for inadmissibility and for declaring the complaint outside the Banco de España's remit.
- Complementary actions in complaints that conclude with an unfavourable report for the banks: rectification stage and assessment guidelines.

CHAPTER 2. COMPLAINTS ACTIVITY

Number of complaints processed

- In 2022, one of the busiest years of the past decade in terms of complaints activity, the Banco de España processed **34,146 complaints**, 0.5% less than in 2021 (34,330). This has entailed dealing with **180,395 incoming and outgoing documents**, almost **60% of all the documents handled by the Banco de España**.
- **95.3%** of complaints were **lodged by EU resident consumers** and the rest by non-EU resident consumers or by non-consumers.

How were these complaints filed?

Most complaints (59%) were filed online, through the **Virtual Office**. Email is not a valid channel for filing complaints (although it is valid, for instance, for making enquiries).

Entities against which the complaints were filed

79.5% of the complaints were lodged against banks.

Average resolution period	<p>The average resolution period was 69 calendar days. For the first time, the Report indicates the average time taken by the different processes and decisions (see Chart 2.22).</p>
Processing and resolution	<ul style="list-style-type: none"> • 47.4% of the complaints received (16,178) ended with the bank accepting liability, the customer withdrawing the complaint (7,724 complaints, with an average resolution period of 31 days), or a final report being issued on the merits of the matter (8,454 complaints, with an average resolution period of 151 days, of which 4,187 were reports in the bank's favour, 3,481 were reports in the complainant's favour and 786 were reports with no decision). <ul style="list-style-type: none"> — A new chart (see Chart 2.24) depicts the share of each of these types of resolutions, classified by area, and shows that: (i) a high proportion of the complaints where banks accept liability or customers withdraw their complaints relate to cards, current accounts and direct debits; (ii) the areas with the highest number of reports in the complainant's favour are mortgages and guarantees; (iii) the areas with the highest proportion of reports in the bank's favour are cards, time deposits, bequests and bills of exchange; and (iv) the highest proportion of reports with no decision is in SME operations. In any event, it should be borne in mind that these proportions are relative to the absolute number of resolutions. — Another novel feature is Table 2.4, which breaks down the complaints with reports in the complainant's favour by area, reflecting those areas in which the banks' actions have been more lacking. Of note were fraud (where the bank was unable to prove that the operation was duly authenticated before being performed) and mortgages (particularly, maintenance fees charged to the designated payment account where the bank failed to prove that the account was being used for other purposes). — Customers' complaints were upheld in 83.7% of the cases that ended with a report in the complainant's favour, acceptance of liability by the bank or withdrawal of the complaint. In such cases, on the information available, banks reimbursed customers more than €6 million (€6,026,691), the highest figure in the last decade. • In the remaining 52.6% of cases the Banco de España has been unable to issue a report on the merits of the matter due to the following reasons: <ul style="list-style-type: none"> i) In 10.5% of cases the complainant failed to provide the minimum documentation needed (3,579 complaints with incomplete information, closed within an average of 43 days); ii) In 3.3% the issue raised fell under the remit of another institution (1,115 complaints, closed within an average of 23 days); iii) In 12.1% the complainants failed to prove that they had previously filed the complaint with the bank or did so incorrectly (4,133 complaints, which were redirected to the corresponding CSD, within an average of 40 days); iv) In 26.8% (9,141 complaints) the complaint could not be processed as there were legal grounds for inadmissibility (other than not having filed a previous complaint with the CSD) or it was outside the Banco de España's remit (the average response period in these cases was 52 days). For the first time, a breakdown of these reasons is provided (see Table 2.3). <p>The most frequent reason was that the complaint fell under the jurisdiction of the courts (in almost 70% of cases). Of note among these complaints were: cases of alleged fraud where the complainant had been deceived and had provided the security data needed for authenticating transactions to a third party, complaints where the disputed transaction was not the payment itself but the underlying business, and contracts where the complainant sought to have all or some of the contractual clauses declared null and void or unfair. Other noteworthy reasons for inadmissibility relate to complaints that had already been brought before or resolved by the courts, disputes about non-banking operations or banks' commercial policies, and complaints against entities not supervised by the Banco de España.</p>
Main areas by volume of complaints	<ul style="list-style-type: none"> • More than half of the complaints received (53.1%) are concentrated in the following five areas (new Section 1 in Chapter 2), with the first two being particularly prominent: <ol style="list-style-type: none"> 1 Allegedly fraudulent card transactions or bank transfers: these transactions account for nearly one out of every three complaints received (10,361 complaints, 30.3% of the total, of which 86.1% relate to cards and 13.9% to transfers). <ul style="list-style-type: none"> — Their volume doubled compared with 2021. — Around 47% of these complaints were rejected as they fell outside the Banco de España's remit (in most cases, as explained above, the complainant had been deceived and had provided the security data needed for authenticating transactions to a third party, or else the disputed transaction was not the payment itself but the underlying business).

- 43.8% were resolved through acceptance of liability by the bank, withdrawal of the complaint by the customer, or the issuance of a final report, with a global customer satisfaction rate of 84.4%.
- It should be borne in mind that at end-December 2022 there were **over 102 million** bank cards in Spain. Thus, the 8,919 cases analysed affected 0.01% of the cards in use. Furthermore, on **ECB** data, after the introduction of strong customer authentication, card-not-present fraud declined by 12% in 2021, continuing the previous downward trend.

2 Current account maintenance fees (3,732 complaints, **10.9% of the total**). Unlike in the previous case, **most of these complaints reached the final stage of the procedure** (2,615 complaints, 70.1%) **and were upheld** (2,167 complaints: 1,815 through acceptance of liability or withdrawal and 352 with the issuance of a report in the complainant's favour). The rectification percentage is also very high (94.5%). In these cases, the Banco de España analyses the framework contract signed to check if the disputed fee was envisaged in it and, if the contract was modified, whether the requirements established in the contract and in the applicable regulations for making such a change were met.

3 Request for contractual documentation of revolving credit cards (1,420 complaints, **4.2% of the total**). Somewhat more than 36% of these complaints were rejected because the complainants failed to prove that they had previously requested the documentation through the channels established by the bank to do so, or because they had not lodged a specific complaint about the non-delivery of the documentation.

4 Mortgage loan arrangement costs (1,401 complaints, **4.1% of the total**). More than 91% of these complaints were rejected, the main reason being that the Banco de España has no power to decide on the validity or legality of the contractual clauses, their unfairness or the amount of the costs to be reimbursed. These issues, where appropriate, are for the courts to resolve.

5 Maintenance fees in current accounts linked to mortgage payments (1,213 complaints, **3.6% of the total**). As in cases where these payments were made in an unlinked account, most of these complaints reached the final stage of the procedure (651 complaints, 53.7%) and were resolved in the complainant's favour (549 complaints: 412 through acceptance of liability or withdrawal and 137 through the issuance of a report in the complainant's favour). The rectification percentage is also very high (91.1%). In these cases, the Banco de España analyses whether the bank complied with the applicable regulations, depending on the mortgage loan arrangement date, and whether the linked account was used for purposes other than paying the loan and associated insurance.

CHAPTER 3.

RESOLUTION CRITERIA

This chapter sets out the best banking practice criteria applied to resolve complaints in 2022. It also includes useful tools for readers, such as the fee comparison tools, simulators and guidelines published on the Bank Customer Portal, and the explanatory boxes and/or diagrams on current regulation and best banking practice, jurisprudence and complementary actions carried out in 2022.

1, 2 and 3

Deposits and bank accounts. Introduction and common aspects; demand deposits and current accounts. Basic payment accounts; term deposits with principal guaranteed

- With regard to demand deposits and accounts in general, there are frequent complaints related to unheeded **requests for documentation**. In these cases, it was recalled that customers should be given a copy of their contract upon request and that requests for account activity should be specific and proportionate to the aim pursued. In general banks must keep bank account and deposit documentation for six years.
- Another noteworthy category are complaints relating to **fund withdrawals**. Funds may be withdrawn by the account holder; in the event of multiple holders, the agreed withdrawal system applies. **Freezing and cancellation of accounts** under **anti-money laundering** regulations are also frequent grounds for complaint. The circumstances of each case are taken into account, particularly whether the bank acted diligently and effectively in informing customers of the specific restrictive measures applied to their accounts.
 - Regarding **settlement of payment accounts**, a recurrent issue are **disputes relating to fees and expenses charged**, in some cases relating to **increased fees, or the introduction of new fees**. In these cases, banks' compliance with their formal obligations regarding changes in terms and conditions is analysed, especially to determine if two months' prior notice was given, thus allowing customers to close their accounts free of charge if they were unhappy with the new fees. If the change is notified via an electronic banking mailbox, banks must inform their customers, proactively or via another means of communication, of the existence of the notification in the electronic mailbox.

- New criteria have been incorporated to improve transparency and bank customer protection when customers go into unplanned overdrafts and are charged overdraft fees.
- Complaints were also filed relating to **offsetting of debit balances** between accounts and **attachment** of bank accounts. Banks were reminded that offsetting of debit balances is considered possible, even if the debt in question belongs to only one of the joint account holders, provided that both account contracts include a clause clearly authorising the bank to offset balances. In the case of attachment of accounts, it was noted that banks are merely intermediaries and that they are obliged to execute any attachment orders received. Also, that the Banco de España is only competent to analyse whether banks acted transparently with account holders, notifying them of the existence of an attachment order as soon as it was received and making the corresponding attachment, and whether the steps taken were strictly consistent with the terms of the order received.
- Another frequent area of complaint was banks' **failure to cancel accounts** after having allegedly been asked to do so by account holders. These requests must be met within 24 hours, and may only be ignored when this is sufficiently warranted. From the standpoint of good practice, banks should provide remote alternatives for cancelling accounts, particularly when the customer uses online banking and interacts with the bank remotely.
- In these cases, we recommend that customers submit their cancellation instructions in writing. In the case of **dormant accounts**, banks must be able to show that they fulfilled their obligations to **provide customers with periodic information** on the existence of the accounts.
- Complaints were also analysed regarding **basic payment accounts**, mainly relating to banks' refusals to open accounts of this kind. The grounds for refusal to open a basic payment account are regulated, and include already holding another payment account, one of the most frequently seen reasons in these cases.
- **Term deposits** drew fewer complaints. They were mostly concerned with tacit renewals and failure to give sufficient advance notice (one month) of new terms and conditions, early redemption and penalisation or the corresponding withholding, and the lack of clarity on these matters in the contract.
- In 2022 complaints began to be processed on the role of the de facto guardians who assist people with disabilities under Law 8/2021. This Report reflects the Banco de España's first contact and cooperation with the public prosecution service and banks on this issue.

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Payment services

The most common issues raised relating to payment services involved:

- Allegedly fraudulent payments with cards and mobile devices, with a focus on cases in which cardholders claim not to have used their cards for either in-person or online purchases. The steps taken by users and banks are also verified in these transactions. Best practice criteria have been included that reinforce the provisions of payment service transparency regulations in order to increase the security of electronic payments.
- Revolving credit cards, where the need for customers to be provided with the necessary information (pre-contractual, contractual and post-contractual) on product terms and conditions was underlined.
- Direct debits (refund and rejection of direct debit payments, cancellation of direct debit orders), including one-off and business-to-business (B2B) direct debits.
- Cash payments into accounts, which are a cash service remunerated through the account maintenance fee and for which the charging of any other fees is therefore deemed inappropriate.

The following new developments stand out:

- Criteria have been incorporated to improve transparency when banks unilaterally increase revolving credit card interest rates.
- Transfers of funds (irrevocable nature of transfers, incidents in execution, bank transfer fraud, fees and expenses, etc.). Given the increase in instant transfers, particularly via Bizum, certain relevant information has been included to prevent fraud and ensure the payment operation is properly executed.

5

Cheques

The most common problems relate to: (i) the charges associated with issuing, handling and cashing cheques, including those calculated as a percentage; (ii) cheque clearance times; and (iii) prior information provided to customers on these aspects. The 2022 Report provides an improved explanation of the procedure to be followed in case of theft or loss of banker's drafts.

6

Personal loans

- Here a distinction is mainly drawn between **loan agreements** entered into with consumers (especially consumer loans) and **loan facilities for SMEs**.
- In the case of consumer loans, analysis of complaints filed focuses on: compliance with the prior provision of the pre-contractual Standard European Consumer Credit Information (SECCI); the regulatory compliance of the form and content of the loan agreement (APR, right of withdrawal, right to early redemption, among others); and, lastly, the post-contractual information, since the regulations envisage standard models for periodic settlement statements. A significant number of complaints related to disagreements about the outstanding amount of loans.
- Regarding loans to SMEs, transparency regulations establish two requirements in the event of non-renewal of credit facilities: (i) at least three months' notice must be given if the bank stops the funding or reduces it by at least 35%; and (ii) the "SME financial information" document must be provided.

7

Mortgage loans

- In complaints relating to the time when a mortgage loan is arranged, the best practice criterion is recalled regarding the need to inform the customer in advance about the costs associated with any banker's drafts and transfers that may have to be issued in order to obtain the mortgage loan, which must be specified in Section 4 of the European Standardised Information Sheet (ESIS), "Interest rate and other costs".
- Of particular importance in a mortgage loan agreement are the financial conditions and, specifically, the various components of the formula for calculating the instalments:
 - Many complaints filed relate to the applicable interest rate, which may be fixed or variable. Variable interest rates may or may not be linked to an official reference index. In the latter case, the customer must be notified of any interest rate changes.
 - According to the regulations, as a general rule, fees and expenses may be freely agreed, although there are certain limitations, for example in the case of early repayment or redemption of the loan.
 - Pursuant to Law 5/2019 (the LCCI by its Spanish abbreviation), the late payment interest rate is capped at 3 percentage points above the interest on the loans subject to this law arranged after its entry into force.
 - Under the LCCI, banks cannot oblige customers to take out linked products to be granted a loan, with the exception of repayment and property insurance, unless they prove such products entail a benefit for the customer and are authorised by the competent authority. The bank shall accept, at no additional cost, other alternative policies from other providers with equivalent conditions and coverage, both upon initial signing and at each renewal.
 - Two situations may arise when it comes to changing the parties to the loan agreement: subrogation of the debtor and subrogation of the creditor.
 - Early repayment or redemption often gives rise to discrepancies over the fees or compensation charged by the bank, under the applicable legal regime, arising in most cases from the coexistence of different legal regimes whose application will depend, inter alia, on the mortgage origination date. The Report includes an analysis and a diagram of the different regimes.
- Numerous complaints related to **delays in the processing of applications for novation** of variable rate loans to switch to a fixed rate, during which time the fixed rates offered were raised and which even concluded with a refusal to grant the novation at the fixed rate initially offered by the bank.
- Another issue to be highlighted concerns the **costs payable at the Real Estate Registry** in cases where the lender has been taken over by another bank that was not the original collateral taker.

8

Mortgagors experiencing financial hardship

- The **Code of Good Practice (CGP) approved in 2012**, and subsequently amended on successive occasions, ultimately aims to protect mortgagors experiencing financial hardship, to enable them to keep their principal residence.
- From the moment banks sign up to the Code, **they are obliged to give it visibility**, informing of its adoption and its content, and to apply its measures to borrowers on the exclusion threshold.
- The **interpretative criteria established by the Control Committee on the application of the CGP** (whose secretary is appointed by the Banco de España), published in a [compendium of enquiries on this matter](#), are highlighted.
- Royal Decree-Law 19/2022 introduced a new CGP, consisting of a set of measures for borrowers having difficulties meeting their mortgage payments as a consequence of the recent interest rate hikes, but who do not reach the levels of financial hardship envisaged to be eligible for cover under the existing CGP. These are temporary measures as applications may only be submitted up to 31 December 2024.

- Another significant development in this field is the publication by the Banco de España, under the mandate included in Royal Decree-Law 19/2022, of a *Guideline of tools for mortgagors experiencing financial hardship* and a *simulator* (both available only in Spanish).

9

Guarantees and collateral

In the case of complaints relating to guarantees and collateral, customers – the guaranteed party – ask for fees to cease to be charged when guarantees have been cancelled and the bank acts as guarantor, or question the timing of the cancellation. They also question whether the bank should have made the payment requested by the beneficiary, in view of the duration of the guarantee and the obligations guaranteed.

10

Probate services

The complaints analysed under this heading mainly relate to heirs' right to information and disputes concerning access to a deceased's assets. In this respect, the following must be taken into consideration:

- After a customer's death, the heirs have the right to **obtain information on the deceased's financial position**. For this purpose, they have to present the death certificate, the certificate of the Register of Wills and a copy of the last will and testament and/or of the certificate of intestate succession. Once the heirs have proven their status, banks must provide them with a certificate of the deceased's account balance(s) at the date of death and with details of account activity, at least in the year preceding the death and thereafter. This information shall be provided free of charge and shall not be conditional upon application for probate.
- In order to **gain access to the deceased's assets**, the heirs must present, in addition to the documentation indicated above, the public or private document evidencing acceptance, division and distribution of the estate, along with proof of payment of, or exemption from, inheritance tax. Further, the heirs to the funds must choose a withdrawal method (transfer, cash, etc.), while the bank must offer at least one withdrawal method free of charge. The bank may only charge a fee if the withdrawal method chosen differs from that offered free of charge.

CHAPTER 4.

ENQUIRIES

Number of enquiries

- **The total number of enquiries fielded rose by 3.3% to 50,567** in 2022, compared with 48,955 in 2021.
- **The number of enquiries made in writing – 8,067 – was higher than ever in 2022** (19.5% more than in 2021). Although the complaints filed covered a broad range of issues, the three main ones were: **current accounts and deposits** (26.7%), **mortgage loans** (15.6%) and the **Banco de España's modus operandi** (12.7%).
- The number of **telephone enquiries** fielded (via toll-free numbers 900 545 454 and 913 388 830, open Monday to Friday from 08:30 to 17:00) rose slightly (0.7%) in 2022, from 42,207 in 2021 to **42,500**. The bulk of these enquiries (29.9% of the total) related to the complaint procedure, including questions on how to make a complaint, enquiries about the status of an ongoing complaint and doubts as to how long it would take to receive a response or solution to a complaint. They also took in reporting of problems experienced with the Virtual Office. The second largest group of telephone enquiries (16.8% of the total) related to accounts and deposits, covering issues concerning fees, freezing of accounts, etc.

Selection of the most representative enquiries

The written enquiries received covered a wide range of matters, including: requests for information and documentation on bank accounts held; changes in account numbers following a bank merger; changes in terms and conditions of a current account before the time permitted to close the account; the activity permitted in an account that is frozen; instant payments (transfers) and irrevocability; international transfer fees; identity theft in bank transactions; debt recovery costs and late-payment interest in personal loans; if it is compulsory to hold an account linked to a mortgage loan; insurance products linked to mortgage loans and cancellation of such products after the entry into force of Law 5/2019; partial or full repayment of mortgage loans; amount of provision of funds and term for liquidation thereof; mortgage deregistration costs in the event of one or more bank mergers; and application for probate when it is not possible to go to the bank branch where the deceased's assets are held, or how heirs are affected by the deceased having acted as guarantor in a loan.