Lebanese University
Faculty of Law, Political and Administrative Sciences
The Deanship

Mediation in the Banking Sector

A thesis in fulfillment of Research Masters in Law- Specialization Business Law

Prepared by
Jana Wissam El Khouri

Members of the Jury

Dr. Marie-line Karam	**Supervising Professor**	**President**
Dr. Israa Bazzi	**Professor**	**Member**
Dr. Habib Kazzi	**Professor**	**Member**

2025

Dedication

To my beloved mom, Randa,

Your endless love, strength, and gentle guidance have been my foundation. Words cannot express my gratitude for you.

To my dear father, Wissam,

Thank you for your wisdom and the quiet strength that has always grounded me. This achievement reflects the values you have instilled in me.

إلى أمّي التي لا تُقَدَّر بمحبةٍ ولا بثمن ، وإلى أبي، نقطة ضعفي، الذي لا يجود الزمان بمثله.

Acknowledgements

I would like to express my deepest gratitude to my parents for their unconditional love, unwavering support, and constant encouragement throughout this journey.

I am also profoundly thankful to my sisters, Lara and Tamara, whose kindness and belief in me have always been a source of strength.

To my friends and colleagues who became family along the way, thank you for your presence, motivation, support that knows no limits and the warmth you added to every step of this process.

My sincere appreciation goes to my advisor Dr. Marie-line Karam for her invaluable guidance, thoughtful mentorship, and continuous support.

I am equally grateful to the committee members Dr. Habib Kazzi and Dr. Israa Bazzi for their insightful comments and contributions, which enriched the quality of this dissertation.

Finally, I would like to acknowledge the role the Lebanese University played throughout my journey, for the opportunities it has provided me and for fostering an environment that supported my academic growth.

Abstract:

In the realm of conflict resolution, there exist two distinct pathways for reaching settlements. The first is a traditional legal route through litigation in the courts reaching a legally binding judgment from a court, while the second involves non-litigation methods, collectively referred to as alternative dispute resolution. One prominent method within alternative dispute resolution is mediation.

The thesis on “Mediation in the Banking Sector" sheds the light on an innovative subject, for Mediation as an Alternative Dispute Resolution was practiced in a cautious manner and was not applied in all fields and disputes but was rather restricted to specific cases depending on the nature of the conflict and the circumstances of the disputing parties.

This thesis explores the impact of mediation on the prevention and resolution of banking disputes, particularly in the context of the dual crises of COVID-19 and Lebanon's economic downturn. It examines how the unique characteristics of banking-related disputes influence the effectiveness of mediation, identifies the types of banking issues best suited for mediation, and evaluates the role of mediators in facilitating successful outcomes.

Additionally, this research assesses the extent to which mediation helps preserve the interests of customers and the reputation of banks, contributing to overall trust and stability within the financial and banking sector.

Furthermore, Lebanon is not familiar with such concept as well as banking institutions, because of the traditional business community and its diversity, the traditional relationship between banks and their clients, and lack of enforcement of alternative dispute resolutions to solve the disputes that may arise.

By delving into these areas, this thesis aims to provide a foundation for understanding the role of mediation in banking disputes by first exploring the nature and characteristics of such disputes and then examining how mediation has emerged as an effective resolution mechanism. By setting the stage for the subsequent chapters, it establishes the importance of mediation as a tool for resolving financial conflicts while addressing the unique challenges and opportunities it presents within the banking sector.

Keywords: Mediation, Banking disputes, settlements, conflict prevention, financial matters, financial institutions, business, execution, mediation services, AI, Online Dispute Resolution.

Table of Contents

i. Key Benefits of Mediation in Banking

ii. Common Areas Suitable for Banking Mediation

C. Examining the Role and Impact of Mediators in Banking Mediation

i. Code of Conduct and Ethics of Mediators

ii. Skills and Techniques Essential for Banking Mediators

iii. Confidentiality and Trust Issues in Banking Mediation

Part Two: Effectiveness of Mediation in Banking Disputes

Chapter 1: Evaluating the Impact of Mediation in Banking Disputes

A. Identifying Banking Matters Resolved through Mediation

i. Common Types of Resolved Disputes (loans, mortgages, credit card issues, etc.)

ii. Success Rates and Settlement Patterns in Banking Mediation

B. Challenges and Limitations of Mediation in Banking

i. Power Imbalances Between Banks and Clients

ii. Confidentiality and Trust Concerns

iii. Enforcement of Mediation Agreements

iv. Lack of Specialized Banking Mediators

C. External Factors Influencing Mediation Outcomes

i. Regulatory Environment and Legal Frameworks

ii. Cultural Attitudes Toward Dispute Resolution

iii. Impact of Institutional Policies (Bank strategies on mediation)

Chapter 2: Analyzing Mediating Banking Matters in Lebanon

A: Examining Banking Disputes Cases

i. Lebanese Mediation Centers as Primary Venues for Banking Disputes

ii. Case Studies of Banking Mediation Outcomes in Lebanon

iii. Institutional Challenges in Lebanese Banking Mediation

B: Banking Disputes During Crisis Periods

i. COVID-19 and Its Effects on Banking Disputes

ii. Economic Crisis and Financial Instability

iii. Cybersecurity, Digital Banking, and Mediation of Tech-Related Disputes

iv. Prospects: Online Dispute Resolution (ODR) for Banking Conflicts

Introduction:

Thousands of years back across various civilizations, mediation, as one of the oldest methods of conflict resolution, has traceable roots.

Historically, mediation was practiced as a peaceful tool to settle disputes outside of formal legal frameworks. The concept of mediation emerged in the United States in 1976 as part of a government initiative aimed at reducing the burden on the courts. It ends in registering more than 80% of the cases in mediation at the American Association of Arbitration.

In Europe, since the 1970s, significant efforts have been made to explore alternative methods of conflict resolution outside the traditional court system. During this time, the profession of conflict mediators began to take form, eventually evolving into a thriving industry in recent years. Mediation firms have expanded significantly across various fields, gaining a reputation as that of law firms. Today, mediation addresses a wide range of disputes, including commercial, labor, family, insurance, and other fields.

The success or failure of businesses in a constantly evolving economic environment, such as the banking sector, largely depends on the quality of commercial relationships between business partners. Once established, these relationships must be preserved, which is why the European business landscape has fully embraced mediation as an essential tool for resolving disputes, particularly in commercial matters.

However, even as mediation grows, the litigation landscape itself has evolved, driven by technology and data analytics. Modern platforms such as SOLOMONIC, a cutting-edge litigation analytics tool, enable financial institutions and law firms to assess the risks, costs, and probable outcomes of court litigation with remarkable precision.

SOLOMONIC analyzes historical court decisions, judge behaviors, and case law patterns to predict litigation timelines, success probabilities, and potential damages. For example, before proceeding with a lawsuit, a bank can use SOLOMONIC to evaluate whether a case might drag on for years or result in unfavorable judgments, factoring these predictions into their dispute resolution strategy. Such advancements in litigation forecasting reveal an important reality: even with sophisticated risk modeling, traditional litigation remains expensive, uncertain, time-consuming, and relationship-damaging, especially in sensitive sectors like banking.

Thus, the existence of platforms like SOLOMONIC paradoxically strengthens the case for mediation — not just as a "soft" alternative, but as a strategic, rational, and often superior choice for resolving complex banking disputes.

A totally different form was considered in the Middle East where mediation has historically taken the form of "Sulh" (reconciliation), a culturally significant process and proactive means of preventing conflicts or resolving disputes amicably. It has been practiced for centuries as a mean

of addressing conflicts in both personal and commercial matters, emphasizing compromise, mutual satisfaction, and the restoration of relationships.

Mediation serves as a platform for individuals who feel restricted or obstructed due to various factors—administrative, logistical, or emotional—to express their perspectives. It carries an educational aspect, functioning as a conduit for conveying messages. Effective mediation necessitates the abilities of a spokesperson, including proficiency in rhetoric. Today, mediation is recognized as a method to intervene in challenging situations between parties, especially within conflict-laden environments.

In the past, mediation has taken on different forms. Some scholars assert that third-party interventions in conflicts have been present since ancient times. However, the formal concept of mediation, as understood in contemporary contexts, emerged prominently in the late twentieth century.

In ancient Greek culture, the origins of mediation can be linked to a philosophical movement that encouraged individuals to reflect on their relationships with others and, consequently, on themselves. The **maieutic method**, developed by Socrates, facilitated this introspection.

Socrates believed that individuals possess inherent knowledge accumulated from previous generations, stored within their consciousness. Through skillful questioning, he aimed to help individuals access and express their deepest understanding. This practice sought to develop personal responsibility by encouraging control over one's passions and prompting individuals to examine the dynamics of "master-slave" relationships between themselves and others.

As societies evolved, the practice of mediation adapted to suit different legal, social, business and economic systems.

In modern times, the rise of **Alternative Dispute Resolution (ADR)** in the 20th century marked a significant shift toward institutionalizing mediation as a formalized process for dispute settlement. Mediation gained prominence as an efficient, cost-effective, and collaborative alternative to litigation, particularly in commercial and civil matters.

France introduced legislation on Mediation in 1995 (**Law no. 95-125 of 8 February 1995**[1]). Since then, mediation has taken off, albeit very slowly at first, thanks in particular to the creation of mediation centers. In recent years, the development of mediation as an alternative dispute resolution method has accelerated. This development is the result of both European and national rules. Following extensive consultation with Member States on measures that could be implemented to encourage the use of mediation, the European Parliament and the Council of the European Union adopted **Directive 2008/52/EC** applicable to cross-border disputes in civil and commercial matters.

[1] Law No. 95-125 of February 8, 1995, relating to the organization of courts and civil, criminal and administrative procedure.

Recent reforms to the legal system in France, whatever the subject matter, reflect a real desire on the part of the French legislator to promote alternative dispute resolution methods, including mediation. The French Code of Civil Procedure (CPC) now contains specific provisions on judicial mediation and contractual mediation. Judicial mediation may be ordered by the judge in the course of legal proceedings, if the parties accept this. Contractual mediation is initiated by the parties themselves.

Since the 1st of January 2016, professionals have also been obliged to provide consumers with the contact details of the consumer mediator in their economic sector (article L.612-1 of the French Consumer Code), enabling consumers to initiate a mediation process in the event of a dispute with a professional.

In addition, **Law no. 2019-222 of 23 March 2019**[1] introduced an obligation to attempt mediation, conciliation or a participatory procedure, before seizing the judicial court, for disputes with an amount at stake of less than € 5,000 or relating to a neighborhood dispute (article 750-1 of the Code of Civil Procedure).

Finally, **Decree no. 2023-686 of 29 July 2023**[2] introduced the possibility of "chopping up" on-going legal proceedings in different parts. Under this new possibility, the parties may agree, while proceedings, to submit one or more issues between them to court for a decision, without submitting the dispute in its entirety (articles 807-1 to 807-3 of the CPC). The legislator's idea is that once the parties have obtained a decision on some of the issues that have arisen between them, they can resolve the rest of their dispute amicably. Once the court decision has been obtained, the parties are encouraged to reach an amicable agreement, for example through mediation.

Although mediation has long been little-known, it is now playing an increasingly important role in the French legal system, due to several reforms in recent years. It is therefore essential to become familiar with this method of dispute resolution and to consider it more frequently for your disputes.

In recent decades, **Alternative Dispute Resolution (ADR)** methods have gained popularity in the banking sector as more efficient, confidential, and cost-effective options compared to traditional litigation.

Common ADR methods in banking relations include mediation where a neutral third party facilitates discussions and dialogue between the bank and the customer to help them avoid conflicts and preserve the business relations or reach a mutually acceptable agreement in case disputes arise. However, mediation is non-binding unless a settlement is signed.

On the other hand, arbitration is the process where a neutral arbitrator (or panel) listens to both sides and issues a binding decision to resolve the dispute, similar to a court judgment but in a more

[1] Law No. 2019-222 of March 23, 2019, on the 2018-2022 Programming and Reform of the Justice System.
[2] Decree no. 2023-686 of 29 July 2023 on measures to promote the amicable settlement of disputes before the judicial courts.

private setting. Arbitration, unlike mediation, it is only applicable to resolve disputes and not prevent or avoid it.

And there is the simple mechanism of negotiation, direct discussions between the bank and the customer (often with legal advisors) to resolve the conflict without third-party involvement.

The advantages of ADR in banking conflicts are:

- **Speed**: Disputes are often resolved faster than through court proceedings.
- **Cost-effectiveness**: Lower legal and administrative costs compared to litigation.
- **Confidentiality**: ADR processes are private, protecting the reputation of both the bank and the customer.
- **Flexibility**: Parties have more control over the process and outcomes, with options to craft creative settlements that a court might not be able to impose.
- **Preservation of relationships**: ADR is generally less adversarial, allowing banks and customers to maintain business relationships post-dispute.

In the banking sector, mediation has emerged as a key tool for resolving disputes between financial institutions and their clients.

For example, many banks now include mandatory arbitration clauses in account agreements, requiring customers to resolve disputes through arbitration rather than litigation. Financial regulatory bodies in many countries encourage or even require banks to establish internal dispute resolution mechanisms and promote mediation or arbitration before escalating to formal litigation[1].

The key characteristics of Mediation are the **voluntary participation** of all parties involved where they choose to engage willingly. This voluntary nature ensures that participants are more committed to negotiate and avoid the dispute outcome or finding a mutually acceptable resolution.

At any point during the mediation, parties retain the right to withdraw, emphasizing the non-coercive environment of the process. This aspect is crucial as it fosters a collaborative atmosphere where parties are more open to discussing their issues candidly and working together towards a solution.

Besides, the mediator is an **impartial neutral facilitator** who assists the parties in communicating effectively, identifying underlying interests, and exploring potential solutions. Importantly, the mediator does not have the authority to impose a decision, but they should be entirely independent, with no connections to either party. Maintaining strict neutrality, the mediator refrains from favoring either side. Rather than imposing decisions, the mediator offers suggestions for the parties

[1] Ferroka & Rineke Sara, "The Use of Mediation as an Alternative in Banking Dispute Resolve", Universitas Borobudur Jakarta, N.D.

to consider. In specialized fields like construction, finance, or corporate law, a mediator's technical expertise can be invaluable, enabling more pertinent and effective discussions.

Confidentiality is a cornerstone of the mediation process, providing a secure yet private environment for open and creative dialogue. All participants, including the mediator, are bound to maintain strict confidentiality regarding all matters discussed during mediation. Exceptions arise only if all parties consent to disclosure or when revealing information is essential to implement the agreed-upon solution. Statements or documents exchanged during mediation are generally inadmissible in subsequent legal proceedings, adhering to the same exceptions.

Additionally, if the mediator holds separate sessions with each party, they may share information from one party with the other only if explicit permission is granted.

Mediation is **less formal and more flexible** than court proceedings, allowing for a more adaptable approach tailored to the specific needs and circumstances of the parties involved.

Mediation offers a structured and predictable process, contrasting with the uncertainties of traditional legal proceedings concerning duration, cost, outcomes, and enforcement. The mediator collaborates with the parties to set an agenda, deciding on joint or separate meetings and determining session lengths. Typically, mediation is planned for a two-month period, extendable upon mutual agreement. In judicial mediation, the initial duration is capped at three months, with the possibility of extension if all parties concur. Mediation offers a **cost-effective alternative** to traditional litigation, primarily due to its shorter duration and reduced associated expenses. While litigation can extend over months or even years, incurring substantial legal fees, court costs, and other related expenses, mediation typically resolves disputes within hours to days.

This expedited process significantly lowers costs for all parties involved. Additionally, mediation often minimizes the need for extensive discovery procedures and other pre-trial activities that are common in litigation, further reducing expenses. The collaborative nature of mediation also allows parties to share the mediator's fees, leading to additional savings. Overall, mediation not only conserves financial resources but also saves time, making it an attractive option for dispute resolution.

However, in mediation, when parties successfully reach an agreement, they have the option to formalize and enforce this settlement through the judicial system. Specifically, any party involved can submit the mediated agreement to the Secretariat of the Court of First Instance in the region where the mediation occurred.

With the increasing complexity of banking operations, the importance of maintaining trust and reputation has made mediation an attractive option. It allows parties to resolve conflicts efficiently, preserve business relationships, and avoid the adversarial nature of court proceedings.

We often think of mediation as a method to resolve conflicts after they've already occurred, but its potential to prevent disagreements in the first place is just as valuable. By promoting open

conversations and helping people understand each other's perspectives, mediation addresses issues before they become serious disputes. In areas like banking, where trust and clear communication are essential, mediation can help banks and their customers spot potential problems early on and work together to find solutions. This proactive approach doesn't just solve conflicts—it prevents them, building stronger relationships and keeping interactions positive and stable.

The history of banking regulations and disputes reflects the ongoing interplay between financial innovation and the need for oversight. From the informal dispute resolution practices of ancient times to the modern frameworks of global banking regulation, the evolution of this field underscores the importance of protecting stakeholders and maintaining trust in financial systems. As the banking sector continues to face new challenges, the role of effective dispute prevention and resolution mechanisms remains pivotal in ensuring stability and confidence. Banks often provide clients with service packages that include contractual clauses which can sometimes be unclear or presented in a manner that is not easily understood by the recipients of these services.

Banking disputes typically arise from contractual disagreements, loan defaults, fraud allegations, compliance issues, or customer service complaints. These disputes often involve high stakes, including financial losses and reputational risks, particularly for banks, which depend on trust and stability to operate effectively and reserve their esteemed position in the social, business, and banking environment.

Traditional litigation plays a significant role in resolving banking disputes; however, it also has profound effects on both the financial institutions involved, and their relationships with clients. While litigation ensures a structured and legally binding resolution, it often comes with challenges that can impact banks' reputations, client trust, and long-term relationship making the adoption of alternative dispute resolution mechanisms not just beneficial, but essential for many reasons related to the nature of banking disputes.

First, traditional litigation involves an extended resolution process and substantial financial costs where the legal proceedings can take months or even years to reach a solution, creating uncertainty for both banks and their clients, besides, the substantial financial and legal expenses, administrative costs, and possible settlement payouts which can financially strain both parties. This has an impact on clients that may feel frustrated with the time-consuming nature of litigation, especially when seeking quick resolutions to financial disputes, the legal costs that may discourage customers from pursuing their claims, leading to dissatisfaction with the banking institution.

As a result, damage to reputation and public trust may occur, leading to negative publicity, as banking disputes that escalate to litigation often attract media attention, harming the bank's image[1]. Thus, consumer confidence will be lost, and clients may perceive banks as unwilling to negotiate or resolve issues amicably, leading to distrust and affecting the bank's brand image, potentially driving away current and prospective customers.

[1] Erik Moller, Elizabeth Rolph & Patricia Ebener, "Private Dispute Resolution in the Banking Industry", RAND, N.D,

Consequently, the nature of banking disputes is highly diverse reflecting the complexity of financial transactions, regulatory frameworks, and the critical relationships between banks and their clients. These disputes often involve technical, legal, and ethical dimensions, requiring specialized prevention and resolution mechanisms, many of which can be effectively addressed through mediation. Understanding the nature and scope of these disputes is critical for implementing effective resolution methods, such as mediation, which is increasingly recognized as a preferred approach to maintaining trust, efficiency, and long-term relationships in the banking sector.

On the other hand, the global COVID-19 pandemic has fundamentally reshaped numerous sectors, with the banking industry being no exception. As financial markets faced unprecedented volatility, banks encountered a surge in disputes arising from loan defaults, delayed payments, and restructuring demands. This period of confusion highlighted the need for efficient dispute resolution mechanisms capable of maintaining stability and trust within the banking sector.

In recent decades, the increasing complexity of financial instruments, technological advancements, and globalization have led to new types of banking disputes. Issues such as fraud, data breaches, and disputes over financial products (e.g., derivatives and mortgages) have become more prominent. Regulatory bodies like the Financial Conduct Authority (FCA) in the UK and the Securities and Exchange Commission (SEC) in the US have played key roles in managing these disputes and enforcing compliance.

In 2021, most claims filed against banks were related to contractual disputes, followed by fraud as the second most common issue.

Contractual claims included breaches of contract, disputes over contract interpretation, issues involving implied terms, and other contractual matters such as claims based on alleged oral agreements. Disputes over contract interpretation were particularly prevalent, with banks being frequently involved in such cases.

According to the CMS Legal Services' banking disputes report of the financial year 2022: "Banking and Finance has featured in the top two sectors for volume of cases in both the High Court and the LCIA in recent years".

Regarding Fraud victims and according to the UK Finance 2021 Fraud Report, Authorized Push Payment (APP) fraud has escalated annually, reaching unprecedented levels during the pandemic and posing a significant challenge to the banking sector.

In practice, it's anticipated that most Authorized Push Payment (APP) fraud complaints from individuals will continue to be addressed under the Contingent Reimbursement Model (CRM) Code and/or through the Financial Ombudsman Service (FOS), rather than through court proceedings. This is due to the value of such claims and the benefits of resolving complaints without incurring legal costs associated with court cases.

The CRM Code, a voluntary scheme adopted by several firms, including highest street banks, provides a framework for reimbursing customers in cases of APP fraud. The Contingent Reimbursement Model (CRM) Code establishes consumer protection standards aimed at mitigating Authorized Push Payment (APP) scams, where individuals are deceived into authorizing payments to accounts, they mistakenly believe are legitimate.

Meanwhile, Lebanon's prolonged economic crisis reinforced these challenges, further straining the relationship between banks and their clients. Against this backdrop, mediation represents a crucial tool for preventing and resolving banking disputes, offering a more collaborative and less adversarial alternative to traditional litigation affected as well through the COVID-19 pandemic and the economic crisis.

In the banking sector, mediation plays an important but often overlooked role in preventing disputes before they escalate into serious conflicts. Banks deal with countless interactions daily—ranging from routine transactions to complex loan agreements—and these interactions inherently carry the potential for misunderstandings or disagreements. Mediation, when integrated proactively, provides a valuable framework for early dialogue and clear communication. By offering a neutral space where banks and their clients can openly discuss expectations, address concerns, and clarify obligations, mediation helps uncover and resolve misunderstandings right at their inception. For example, regular mediation meetings or consultations during the formation and management of loan agreements, mortgages, or credit facilities can preemptively address any confusion or dissatisfaction that might otherwise fester and escalate into formal disputes or litigation.

In Lebanon, where the economic crisis has heightened the urgency for effective dispute resolution, mediation can serve as a vital instrument for addressing conflicts swiftly and amicably, thus fostering a more stable financial environment and facilitating the business relations.

Within the context of resolving banking-related disputes, a specialized form of mediation known as banking mediation plays a crucial role. Banking mediation offers a straightforward, cost-effective, and expedited mechanism for resolving issues that arise between customers and banks. Moreover, the outcome of mediation, which often results in an agreement between the customer and the bank, is perceived as an efficient problem-solving approach, as it effectively safeguards the interests of both customers and banks.

Mediation has emerged as a vital tool for resolving disputes across various sectors, and its application within the banking industry is increasingly recognized as an effective alternative to traditional litigation. Banking disputes often involve complex financial transactions, regulatory requirements, and sensitive client relationships, making mediation an attractive option for achieving swift, cost-effective, and mutually acceptable resolutions.

This structure sets the stage for addressing a critical research question:

“What are the potential benefits and obstacles of using mediation to resolve financial and banking disputes?”

The following sub-questions are considered in this study:

1- What types of financial and banking disputes are most suitable for mediation?

2- How does mediation differ from other dispute resolution mechanisms, such as litigation or arbitration, in the context of financial and banking disputes?

3- How does mediation contribute to preserving relationships between financial institutions and their clients?

4- What are the main barriers to the adoption of mediation in the financial and banking sector?

5- How does the technical and complex nature of financial disputes affect the effectiveness of mediation?

6- What qualifications and expertise should mediators possess to handle banking and financial disputes effectively?

7- How does the use of mediation in banking disputes contribute to market stability and customer confidence?

8- How can I refer to a dispute with the bank mediator?

This thesis is structured into two main parts. Part One of this thesis explores banking disputes, their causes, and traditional resolution methods, introducing mediation as an alternative and analyzing mediator roles, ethics, and confidentiality. Part Two evaluates mediation's effectiveness in banking, reviewing common dispute types, success rates, studying its benefits and challenges. It also examines external influences such as regulatory environments, cultural attitudes, and institutional policies, with a special focus on Lebanon through local mediation centers, case studies, and challenges. Finally, it discusses how mediation has adapted to crises like COVID-19, economic instability, cybersecurity, digital banking, and prospects for Online Dispute Resolution (ODR).

To answer the research question provided and the sub-questions raised, this thesis will provide an in-depth exploration and analysis through the following outline:

Part One: **Understanding the Landscape of Mediation in Banking Disputes**

Chapter 1: Banking Disputes — Characteristics, Causes, and Analysis

A. Types and Classification of Banking Claims

Part One: Understanding the Landscape of Mediation in Banking Disputes

The financial sector, being one of the most critical pillars of modern economies, is inherently exposed to disputes due to the complexity of its operations. Banking disputes, which can arise from a variety of issues such as contractual disagreements, loan defaults, regulatory non-compliance, or customer complaints, often require effective resolution mechanisms to protect relationships, preserve trust, and minimize reputational and financial risks.

Traditionally, litigation was the go-to method for resolving such conflicts. However, over time, mediation has emerged as a preferred alternative due to its high ability to preserve confidentiality and relationships that are vital in the banking industry.

Mediation, a form of Alternative Dispute Resolution (ADR), provides a platform for disputing parties to engage in open dialogue facilitated by a neutral third party—the mediator. Unlike adversarial court processes, mediation focuses on collaboration and finding mutually agreeable solutions, making it particularly suitable for disputes in sectors like banking, where long-term relationships and trust are critical.

The landscape of mediation in banking disputes has evolved significantly over the years, influenced by the growing complexity of financial instruments, globalization, and advancements in regulatory frameworks. In some jurisdictions, mediation has become a formalized process, encouraged or even mandated as a pre-litigation step. In others, it remains a voluntary alternative to litigation.

Regardless, mediation offers distinct advantages: it is faster, less costly, and private, making it particularly attractive to banks and financial institutions that wish to avoid the public scrutiny and financial burdens associated with prolonged court battles.

Despite its benefits, mediation in banking disputes also presents serious challenges. The technical nature of many financial conflicts requires mediators with specialized expertise in banking laws and practices. Furthermore, the willingness of both parties to participate in good faith is crucial to the success of mediation. In recent years, the role of mediation has been expanding, with international banking organizations and regulatory bodies increasingly recognizing its value in addressing cross-border disputes and fostering greater harmony in financial relationships.

Chapter One: Banking Disputes — Characteristics, Causes, and Analysis

Paragraph (A) of Article 3 of the **Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on Certain Aspects of Mediation in Civil and Commercial Matters** states the following:

"'Mediation' means a structured process, however named or referred to, whereby two or more parties to a dispute attempt by themselves, on a voluntary basis, to reach an agreement on the settlement of their dispute with the assistance of a mediator. This process may be initiated by the parties or suggested or ordered by a court or prescribed by the law of a Member State."

Unlike court proceedings, mediation emphasizes collaboration, confidentiality, and maintaining relationships. This is especially relevant in banking disputes, where preserving client trust and minimizing public exposure are critical objectives.

The adoption of mediation in banking disputes varies globally. In some jurisdictions, such as the United States and the United Kingdom, mediation is well-established and often mandated as a pre-litigation step. In others, particularly in developing markets, the use of mediation in banking disputes is still emerging. However, with the growing emphasis on alternative dispute resolution

(ADR) worldwide, mediation is becoming an integral part of the banking sector's dispute resolution framework.

Mediation has proven to be an effective mechanism for resolving banking disputes, offering a collaborative and pragmatic alternative to traditional litigation. By addressing disputes efficiently and preserving critical client relationships, mediation supports the banking sector's broader goals of maintaining trust, stability, and reputation. As the financial industry continues to evolve, the role of mediation is likely to expand, providing an invaluable tool for navigating the complexities of banking conflicts.

The origins of banking and credit institutions can be traced back to ancient civilizations, such as Mesopotamia, Greece, and Rome, where early forms of lending and deposits were conducted. In these times, disputes often arose over loan terms, interest rates, and the repayment of debts[1]. With limited formal regulations, such conflicts were typically resolved through informal negotiations or interventions by local authorities.

During the Middle Ages, the rise of merchant banking and trade financing in Europe led to the expansion of banking practices. Disputes over loans, bills of exchange, and contractual obligations became more common as commerce grew. Without standardized banking laws, disagreements were often settled through customary practices or arbitration facilitated by trade guilds.

The evolution of banking regulations and disputes has closely followed the development of financial systems worldwide. From the early days of unregulated banking practices to the establishment of sophisticated regulatory frameworks, the history of banking is marked by periods of financial innovation, crises, and subsequent reforms aimed at safeguarding the interests of stakeholders.

The development of modern banking regulation began actively during the 17th and 18th centuries, with the establishment of central banks, such as the Bank of England in 1694. These institutions were tasked with stabilizing financial systems and addressing disputes between banks and their clients or among financial institutions.

As banking systems expanded during the Industrial Revolution, the need for regulatory oversight became increasingly apparent. Financial crises, such as the **Panic of 1873**[2] and subsequent banking failures, highlighted the risks of unregulated banking practices. In response, governments began implementing laws to govern banking operations, protect depositors, and ensure market stability.

The early 20th century witnessed significant regulatory developments, driven by financial crises like the Great Depression of the 1930s. In the United States, landmark legislation such as the Glass-Steagall Act of 1933 separated commercial and investment banking, while deposit insurance was

[1] Giuseppe De Palo & Mary B. Trevor, "EU Mediation: Law and Practice", Oxford University Press, 4 October 2012.
[2] The **Panic of 1873** was a financial crisis that triggered an economic depression in Europe and North America that lasted from 1873 to 1877 or 1879 in France and in Britain.

introduced to protect consumers. Similar regulatory efforts were performed globally to restore confidence in banking systems.

The expansion of international banking in the mid-20th century brought about cross-border disputes and the need for international regulatory cooperation. Agreements such as the **Basel Accord**[1] (starting in 1988) established global standards for banking supervision and risk management, addressing disputes related to capital adequacy, liquidity, and systemic stability.

On the other hand, Lebanon's banking sector has undergone significant evolution over the decades, driven primarily by the need to ensure financial stability, attract foreign investment, and maintain a robust regulatory environment. The Lebanese banking sector has long been considered one of the cornerstones of the country's economy, known for its resilience and sophistication in a region often marked by political and economic instability. Its foundations date back to the early 20th century, when Beirut emerged as a regional financial hub due to its liberal economic environment, strategic location, and strong ties with both Arab and European markets. The **legal framework** governing the banking system, after applying the general **Code of Commerce** to all banking procedures, was solidified in the mid-20th century with the creation of **Banque du Liban (BDL)** in 1963 through the **Code of Money and Credit (CMC)**—a pivotal law that still serves as the backbone of Lebanon's financial system. The CMC granted BDL broad regulatory powers over commercial banks and financial institutions, tasked it with ensuring monetary stability, issuing the national currency, and supervising the financial system.

Following this, series of laws among which the **Banking Secrecy Laws** (notably **Law No. 3/1956**) reinforced the sector's reputation as a safe and private haven for deposits, attracting both local and international capital. This secrecy law, unique in the region, shielded client identities and account details unless lifted by a court order, which helped boost confidence in Lebanese banks. Throughout the 1990s and 2000s, especially after the civil war ended in 1990, Lebanon invested heavily in rebuilding its economy, and the banking sector played a leading role in financing reconstruction. It grew steadily, becoming one of the most developed sectors in the country—both in terms of **assets** and **technological adoption**. Banks in Lebanon also acted as the **main lenders to the state**, purchasing large volumes of government debt, which generated significant profits due to high interest rates.

In recent years, amid growing financial crises and instability since late 2019, Lebanon has faced unprecedented banking challenges, prompting regulators and lawmakers to reconsider existing frameworks. This crisis underscored deep-rooted problems such as lack of clear legal frameworks for capital controls, inadequate protection of depositors' rights, and insufficient transparency regarding banks' financial health. It is within this context of mounting disputes and pressures on

[1] The **Basel Accords** are a series of three sequential banking regulation agreements (Basel I, II, and III) set by the Basel Committee on Bank Supervision (BCBS) provides recommendations on banking and financial regulations, specifically, concerning capital risk.

the judicial system that the Lebanese government introduced specific laws promoting mediation—Law 82/2018 (Judicial Mediation) and later Law 286/2022 (Conventional Mediation)—as innovative responses that we'll be explaining accordingly.

A. Characteristics and reasons of Banking Disputes

Conflicts in banking arise due to a variety of factors involving customers, employees, institutions, and regulators. These conflicts can affect the bank's reputation, operational efficiency, and even its legal standing if not properly addressed.

i. Common causes of Banking Disputes:

1. Miscommunication and Lack of Transparency

- **Poor communication** between the bank and its customers is a leading cause of disputes. Customers may not fully understand the terms of loans, fees, account rules, or changes in policies.
- **Lack of transparency** about hidden fees, penalties, or complicated financial products often results in customer dissatisfaction and legal complaints.
- **Unclear contracts** and financial jargon can create misunderstandings, especially for customers without financial expertise.

2. Errors and Operational Mistakes

- **Clerical errors**, such as posting transactions incorrectly, charging incorrect fees, or misplacing customer records, can quickly escalate into disputes.
- **Technical failures**, including online banking errors or ATM malfunctions, can frustrate customers and lead to trust issues.
- **Mistakes in loan processing** (e.g., wrong interest rates or repayment terms) are also common triggers for conflict.

3. Loan Defaults and Debt Recovery Practices

- **Disagreements over loan repayment** often led to major conflicts. Borrowers may claim unfair treatment, while banks focus on asset recovery.
- **Aggressive collection tactics** by banks or third-party agents, including harassment or lack of negotiation flexibility, can result in serious conflicts and reputational damage.

- **Restructuring terms disputes**, where customers seek easier repayment terms, can lead to dissatisfaction if not handled carefully.

4. Fraud and Unauthorized Transactions[1]

- **Identity theft**, **account hacking**, or **unauthorized withdrawals** create immediate tension between the bank and the affected customers.
- Customers often expect full reimbursement, while banks may dispute responsibility depending on circumstances (e.g., negligence on the customer's part).
- **Internal fraud**, where employees engage in unauthorized activities, can also create major legal and financial problems for banks.

5. Fee Structures and Hidden Charges

- Customers frequently dispute **unexpected fees** such as maintenance fees, overdraft charges, or minimum balance penalties.
- **Complex fee structures** without clear explanations are a major source of dissatisfaction and conflict.
- Promotional offers that are **misleading** (e.g., "zero fees" that later apply hidden charges) are another cause of customer frustration.

6. Interest Rates and Pricing Disputes

- **Variable interest rates** that fluctuate with market conditions may surprise customers if not explained well at the outset.
- **Perceived unfair pricing** for loans, mortgages, and credit cards can create resentment, especially if customers feel they were not given the best available rate.

7. Customer Service Issues

- **Rude, unresponsive, or incompetent service** frustrates customers and often escalates minor problems into larger disputes.

[1] Michael Godden, "Banking and finance disputes review", NORTON ROSE FULLBRIGHT, 8 July 2016.

- **Delays in problem resolution**, such as waiting weeks to correct a transaction or dispute a charge, can deepen mistrust.
- Customers expect banks to be reliable and efficient — failure in this area damages the relationship quickly.

8. Ethical Concerns and Social Responsibility

- Customers today are increasingly aware of **banks' ethical practices**, including their investment choices (e.g., funding controversial industries).
- **Conflicts of interest**, such as advisors pushing certain financial products for their commission benefit rather than customer need, can cause serious breakdowns in trust.
- **Corporate scandals** involving money laundering, financing illegal activities, or unfair treatment of marginalized groups can lead to customer boycotts and lawsuits.

9. Compliance and Regulatory Issues

- **Failure to comply** with financial regulations can lead to customer and investor disputes.
- **Overly strict compliance measures**, like freezing accounts without sufficient communication (e.g., during anti-money-laundering investigations), can frustrate legitimate customers.
- Changes in banking regulations that impact customer funds, privacy, or accessibility without adequate notice can also trigger conflicts.

10. Competition and Innovation Gaps

- Traditional banks sometimes fall behind fintech companies in offering modern, user-friendly digital services.
- Customers frustrated with **outdated technologies** or **limited digital banking options** may experience conflict when comparing their services to more modern competitors.
- **Unfair competitive practices**, such as discriminatory loan approvals, can also trigger disputes and public backlash.

11. Lebanese “De facto” Capital Control [1]

- Lebanon failed to adopt a formal and timely capital control law, resulting in banks imposing informal measures that restricted clients' access to their deposits.

- The proposed draft law risked legitimizing discriminatory practices by distinguishing between "fresh" dollars and older deposits ("**lollars**"), allowing selective access to funds. This discrimination contributed significantly to grievances and conflicts between depositors and banks.

- Instead of developing a structured banking resolution law that transparently allocated losses and responsibilities, informal capital controls effectively shifted the crisis’s burden entirely onto depositors, deepening societal anger and generating widespread banking disputes.

- Assigning discretionary authority over capital control measures to a committee under Banque du Liban’s leadership—rather than a transparent, government-managed system—exacerbated perceptions of arbitrariness, deepening disputes and fueling further mistrust in the banking system and state institutions.

ii. Types and Classification of Banking Dispute:

Banking disputes can arise from a variety of issues, typically falling into the following categories:

- **Contractual Disputes**

Banking relationships are governed by agreements such as loan contracts, deposit agreements, and credit facilities. Disputes often arise when a party breaches the terms of the contract, including:

- Non-payment of loans or interest.
- Disputes over loan terms or interest rate adjustments.
- Ambiguity in contract clauses leads to misunderstandings.
- Non-compliance with contractual duties and bank regulations.

[1] Sibylle Rizk, “Lebanese bank amnesty disguised as capital control law”, L’Orient Today, 4 September 2022.

- **Consumer Complaints**[1]

Disputes between banks and individual customers frequently occur due to:

- Unfair fees or hidden charges.
- Issues with loan approvals or denials.
- Unauthorized transactions or delays in processing payments.
- Errors in account management or financial reporting.

- **Regulatory and Compliance Issues**

Banks operate in a highly regulated environment and must comply with local and international laws. Disputes often arise when banks or clients fail to meet regulatory requirements, including:

- Breaches of Anti-Money Laundering (AML) or Counter-Terrorism Financing (CTF) regulations.
- Non-compliance with central bank circulars or financial reporting standards.
- Violations of data protection laws, especially with the rise of digital banking.

- **Fraud and Mismanagement**

Fraudulent activities or mismanagement within the banking system can lead to significant disputes, such as:

- Allegations of insider fraud or embezzlement.
- Cybersecurity breaches resulting in unauthorized transactions.
- Disputes arising from phishing or identity theft impact customer accounts.

- **Loan and Credit Issues**[2]

Conflicts often emerge over the terms and execution of credit facilities, including:

- Loan faults or disputes over repayment schedules.
- Claims of unfair lending practices.
- Misrepresentation of loan terms or denial of restructuring requests during financial crises.

[1]Andrew Teasdale & Harvey Naglie "CONSUMER PERSPECTIVE DISCUSSION", Consumer Council of Canada, 12 November 2018.
[2]Angelica ROSU, "Dispute Settlement through Banking Mediation", ACTA UNIVERSITATIS DANUBIUS, N.D.

- **Securities and Investment Disputes**

In the case of investment or wealth management services provided by banks, disputes may arise over:

- Poor or negligent investment advice leading to financial losses.
- Disagreements over the management of securities, portfolios, or trust accounts.
- Miscommunication or disputes over risks associated with complex financial products.

- **Employment and Labor Disputes**

Internally, banks may face disputes with their employees, such as:

- Issues related to employment contracts, wages, and benefits.
- Discrimination, wrongful termination, or workplace misconduct cases.
- Disputes regarding non-compete clauses or confidentiality agreements.

- **Technology and Digital Banking Disputes**[1]

The rise of digital banking and technological advancements has introduced new areas of conflict, such as:

- **System Errors**: Disputes caused by technical glitches, such as incorrect fund transfers or delayed transactions.
- **Cybersecurity Breaches**: Conflicts over liability in cases of hacking, phishing, or other cybercrimes impacting customer accounts.
- **Digital Service Failures**: Issues related to mobile banking applications, online payment platforms, or digital wallets.
- **Data Privacy Violations**: Complaints arising from the mishandling or unauthorized sharing of customer information.

- **Cross-Border Transactions and Jurisdictional Issues**

Globalization and the increase in cross-border banking activities have led to disputes involving multiple jurisdictions, including:

- Disagreements over international loan agreements or syndicated loans.

[1] Faggiano and others, "Resolving Customer Complaints in the Digital Era", Arthur D. Little, 1 December 2019.

- Issues related to currency exchange fluctuations or payment delays in cross-border transactions.
- Conflicts arising from differing regulatory requirements between jurisdictions.

- **Bankruptcy and Insolvency Disputes**

When businesses or individuals face financial distress, disputes often emerge involving banks, such as:

- Conflicts over the enforcement of security interests or collateral recovery.
- Disagreements regarding the priority of claims in insolvency proceedings.
- Challenges to restructuring agreements or loan write-offs.

- **Ethical and Environmental Concerns**

With the rise of Environmental, Social, and Governance considerations, disputes can arise over:

- Accusations against banks for financing projects that harm the environment or violate ethical standards.
- Stakeholder disputes regarding the alignment of banking practices with **ESG[1] policies** to encourage responsible and sustainable practices while also addressing the broader social and environmental impacts of business activities, extending beyond mere financial performance.

B. Analyzing and Managing Banking Disputes

i. Complexity of Banking Matters

Banking disputes are an inevitable aspect of financial transactions, given the complexity of the services offered and the diverse expectations of customers. Effectively managing these disputes is critical for maintaining customer trust, regulatory compliance, and operational stability.

Two major approaches are used in addressing banking conflicts: traditional litigation and the increasingly popular alternative dispute resolution (ADR) methods.

[1] ESG Policies are guidelines and principles that businesses, organizations, and investors use to integrate Environmental, Social, and Governance (ESG) considerations into their operational strategies, decision-making processes, and risk management practices.

Historically, **litigation** has been the primary route for resolving banking disputes. Litigation involves taking the dispute to court, where a judge (and sometimes a jury) determines the outcome based on the evidence and applicable laws.

The key features of litigation in banking conflicts are:

- **Formal and structured process**: Litigation follows strict procedural rules and timelines, offering a comprehensive examination of the dispute.
- **Public record**: Court cases are usually matters of public record, which can impact on the reputation of the bank if the dispute is sensitive.
- **Time-consuming and expensive**: Legal battles can take years to resolve and involve significant costs in attorney fees, court fees, and administrative expenses.
- **Binding decisions**: Court judgments are legally binding and enforceable, providing a definitive resolution to the conflict.

Litigation is often used in cases involving large-scale fraud, breach of contract, regulatory violations, or high-value commercial disputes. While litigation provides a structured forum for complex disputes, its adversarial nature and high costs have prompted banks and customers alike to seek faster and more flexible alternatives.

ii. Financial Ombudsman Services (FOS) as a Model for Banking Mediation

In UK, a report was examined by CMS Legal Services in dispute resolution within the banking and finance sector, highlighting developments in the English courts, major arbitration institutions, and alternative dispute resolution mechanisms.

The Business Banking Resolution Service (BBRS) was established on 15 February 2021 to offer a novel alternative dispute resolution mechanism for eligible small and medium-sized enterprises (SMEs) and participating banks to address complaints. Seven of the UK's largest retail banks have committed to the BBRS and finance the initiative.

However, the BBRS operates impartially and is governed independently. This service is as well free and autonomous, employing a blend of adjudication authority and other alternative dispute resolution (ADR) methods, with mediation being one of the most relevant techniques.

In this context, it is insightful to highlight an important model for alternative dispute resolution: **The Financial Ombudsman Service (FOS).**

It is a UK-based organization established in 2000, gaining statutory authority in 2001 through the Financial Services and Markets Act 2000. Its purpose is to assist in resolving disputes between consumers and UK-based financial service providers, including banks, building societies, insurance companies, investment firms, financial advisers, and finance companies.

The Financial Ombudsman Service (FOS) serves as an alternative to the traditional court system for resolving disputes between consumers and UK-based financial service providers. The FOS is committed to resolving disputes fairly and impartially[1], considering the unique circumstances of each case. In its decision-making process, the FOS evaluates what is, in its view, fair and reasonable, considering applicable laws, regulatory rules, guidance, standards, codes of practice, and, when relevant, prevailing industry practices at the time of the disputed event.

This approach allows the FOS to handle complaints with greater flexibility and scale than the conventional court system. The Financial Ombudsman Service (FOS) offers a straightforward process designed for eligible parties to engage without the need for legal representation according to the following steps:

- Initially, customers should address their complaint directly to the business involved.
- If the response is unsatisfactory, they can escalate the issue to the FOS.
- A case investigator will then assess the complaint and provide an initial decision.
- Should the customer remain dissatisfied, they have the option to request a review by an Ombudsman, who will conduct an independent evaluation and issue a final determination.
- At this stage, the customer can choose to accept the FOS's decision or decline it, retaining the right to pursue the matter through alternative avenues, such as legal proceedings.

Such steps are like those followed in mediation, including the rules and ethics mediators adhere to during the dispute resolution process, which we will address sequentially in our study.

According to the CMS Legal Services report mentioned before, in December 2021, the Financial Ombudsman Service (FOS) unveiled an Action Plan outlining several initiatives in response to a prior review and due to high demand in the business market and an increased volume of claims. Key actions include:

- **Simplifying the Casework Model**: Transitioning to a more straightforward, empowered, and accountable framework for handling cases.
- **Specialized Teams**: Enhancing the use of dedicated teams for specific financial products.
- **Operational Restructuring**: Reorganizing casework operations to establish clear accountability for meeting targets.
- **Digital Engagement**: Developing a digital portal to facilitate easier and more efficient customer interactions, offering greater choice.
- **Intelligent Automation**: Increasing the adoption of intelligent automation solutions.

[1] Monique Sasson, "Mediation and Financial Institutions", New York Jam Journal, 19 June 2019.

- **Preventative Collaboration**: Collaborating with the financial industry to address the root causes of high complaint volumes, which stem from financial service companies receiving unprecedented numbers of grievances and failing to resolve them satisfactorily.

These measures aim to enhance the FOS's efficiency and effectiveness in resolving disputes.

C. External Factors Impacting Banking Disputes

While internal management practices and customer relations play a major role in banking conflicts, external factors often exert significant influence over the nature, frequency, and complexity of disputes. Global economic shifts, technological innovations, and unforeseen crises have the power to reshape the financial landscape, introducing new challenges for banks and their clients alike.

Events such as the 2008 global financial crisis and the COVID-19 pandemic have exposed vulnerabilities in the banking sector, leading to surges in defaults, regulatory scrutiny, and customer grievances. Similarly, rapid technological advancements — particularly the rise of fintech platforms and increased cybersecurity threats — have introduced new types of disputes related to data breaches, online transactions, and digital service delivery[1].

Understanding these external forces is critical for anticipating future conflicts, adapting dispute management strategies, and ensuring the resilience of banking institutions in an ever-evolving global environment.

i. Impact of Global Financial Events

On the other side and regarding the volume of claims, the banking and finance sector consistently ranked among the top two industries with the highest number of High Court claims filed in 2020, 2021, and the first half of 2022. This highlights the sector's ongoing legal challenges and the volume of disputes requiring judicial intervention. Some claims in 2022 highlighted the impact of global events on the financial sector.

For instance, multiple lawsuits were filed due to parties withholding payments in response to newly imposed Russian sanctions. Several lawsuits were brought against banks seeking legal confirmation that these sanctions do not exempt them from their obligation to make payments under letters of credit. These sanctions have triggered international legal battles over frozen assets, blocked transactions, contract breaches, and financial obligations.

Sanctions imposed on Russia have led to extensive banking restrictions, affecting financial institutions, transactions, and global markets aiming to limit Russia’s access to the international financial system, and pressure its economy. The key banking restrictions currently in effect:

[1] Jennifer Shack & Heather Scheiwe Kulp, “FORECLOSURE DISPUTE RESOLUTION BY THE NUMBERS”, RESOLUTION SYSTEMS INSTITUTE, 12 September 2012.

1. **SWIFT Exclusions:**

Several major Russian banks have been cut off from the SWIFT international payment system, making it difficult for them to conduct cross-border transactions.

This restriction isolates Russian financial institutions from global banking networks, delaying or preventing international trade and remittances.

2. **Freezing of Russian Bank Assets**

U.S., EU, UK, and allied nations have frozen Russian central bank reserves held in foreign accounts, preventing Russia from using its foreign currency reserves to stabilize its economy leading to assets of major Russian banks in Western countries to be seized or restricted.

3. **Restrictions on Transactions and Payments**

Prohibition on transactions with specific Russian banks and financial institutions, restrictions on

U.S. dollar, euro, and pound-denominated transactions, making it harder for Russian entities to conduct international business.

Most banking relationships between Western banks and sanctioned Russian banks were suspended.

4. **Russian Banks Blacklisted**

Several leading Russian banks, including VTB, Gazprom bank, and Alfa-Bank, have been sanctioned, blocking them from Western financial markets. These restrictions limit the banks' ability to borrow, trade, or issue new financial products internationally.

5. **Restrictions on Russian Correspondent Banking**

Western banks have severed correspondent relationships with Russian banks, making international payments more complex and expensive.

Thus, Russian businesses struggle to access foreign financing due to suspensions of banking operations in Western jurisdictions.

6. **Cryptocurrency and Digital Banking Restrictions**[1]

These sanctions had also prolonged to Crypto exchanges and digital payment platforms that have been ordered to block transactions linked to sanctioned Russian individuals and entities.

Efforts are being made to prevent Russia from using cryptocurrency to evade sanctions. Additionally, back in the 2008, the Global Financial Crisis centered in the United States had as well its impact on banking disputes. There was a surge in lawsuits against banks for misleading investors about subprime mortgage-backed securities, disputes over foreclosures and predatory

[1] "ADGM Launches Another Digital Game changer with Online Dispute Resolution", ADGM, 20 December 2023.

lending practices, particularly in the U.S. and Europe, and increased regulatory investigations and penalties against financial institutions.

In addition, the 2018 China Trade War and the ongoing economic sanctions have also impacted banking disputes. Disputes over trade finance restrictions have emerged as banks face legal challenges when dealing with sanctioned Chinese firms. Additionally, legal actions have been initiated against banks accused of violating U.S. sanctions by processing payments for Chinese companies, and regulatory fines have increased for banks facilitating cross-border money flows amid economic tensions.

Alternatively, the rise of cybersecurity threats alongside the expansion of digital banking has led to significant legal challenges for financial institutions. Banks have faced lawsuits following data breaches, with allegations of inadequate protection of customer information. Disputes have also arisen over unauthorized transactions and the assignment of fraud liability in online banking platforms. Additionally, litigation related to cryptocurrency services and associated fraud cases has become more prevalent. For example, in 2023, several banks were sued after hackers stole millions from digital accounts, with customers alleging that insufficient security measures were to blame.

On the other hand, and in response of banking violations and fraudulence, there exists the **Fair Credit Billing Act (FCBA) of 1974,** a federal law covering billing errors involving open-end consumer credit transactions, such as with credit cards and store charge accounts. The FCBA establishes procedures for complaining about billing errors and requires creditors to respond to such complaints. It grants consumers the right to challenge billing inaccuracies that may include:

- Unauthorized or fraudulent transactions.
- Incorrect charge amounts.
- Payments applied to the wrong date or account.
- Late fees or penalties due to billing statements not being sent to the correct address or delivered on time.
- Any other errors made by the creditor.

This law provides a framework for consumers to dispute such issues and seek resolution. After receiving all the requested information and documentation from both the consumer and the merchant, the bank can analyze and compare the submissions from each party. Based on its review of the evidence, the bank may either proceed with a chargeback or reject the dispute.

Global events have **significantly shaped banking disputes**, leading to increased litigation, regulatory enforcement, and changes in financial practices[1]. As the financial landscape evolves,

[1] Roselle L. Wissler, "The Effectiveness of Court-Connected Dispute Resolution in Civil Cases", CONFLICT RESOLUTION QUARTERLY, N.D.

banks must navigate these disputes carefully to maintain compliance, protect reputations, and sustain client trust.

Considering the points in this chapter, banking disputes often emerge from the intricate dynamics of financial transactions and relationships, leading to issues such as unauthorized transactions, and disagreements over fees and charges. The Financial Ombudsman Service (FOS) plays a pivotal role in the UK by providing a free and impartial platform for resolving such disputes without necessitating court intervention. In the financial year 2023/24, the FOS received 80,137 complaints related to banking and payment products, marking a significant increase from the 61,995 complaints recorded in the previous year. This surge underscores the escalating need for effective dispute resolution mechanisms.

Furthermore, global events, such as economic downturns, aggravate these disputes, highlighting the critical importance of mediation in preserving consumer trust and ensuring financial stability.

ii. Technological Advances and New Banking Disputes (e.g., NeoBanks, fintech, cybersecurity…)

The rapid evolution of technology has transformed the banking industry, bringing with it a wave of new opportunities — and new types of disputes. The rise of **fintech companies**, offering innovative financial services outside traditional banking models, has introduced competitive pressures and blurred regulatory boundaries, leading to conflicts over service standards, customer protection, and data ownership.

Moreover, the increased reliance on **digital banking platforms**, **mobile applications**, and **online transactions** has exposed banks and customers to a range of cybersecurity risks. **Data breaches**, **identity theft**, and **unauthorized transactions** have become major sources of disputes, with questions often arising about liability and preventive measures.[1]

Additionally, the integration of **artificial intelligence** in customer service (e.g., automated credit scoring, chatbots) has raised concerns about transparency, fairness, and the potential for systemic biases, fueling further conflict. As technology continues to advance, banks must not only embrace innovation but also strengthen their risk management and dispute resolution frameworks to address the emerging challenges of the digital financial era.

In the past two decades, technology has reshaped the banking industry at an unprecedented pace. While it has improved convenience, accessibility, and efficiency, it has also introduced **new categories of conflicts** that were largely absent in traditional banking models. These disputes arise from the complexity of digital services, the evolving regulatory environment, and the growing risks associated with cybersecurity.

[1] George MĂGUREANU, "Mediation a Conflict Solving Modality in the Banking Area", JURIDICA, N.D.

1. Emergence of Fintech Companies and Regulatory Conflicts

The rise of **Fintech Companies** — such as mobile payment apps (e.g., PayPal, Venmo), peer-to-peer lending platforms (e.g., Lending Club), and Neobanks (e.g., Revolut, N26) — has created a more competitive landscape. However, this competition often sparks disputes related to:

- **Regulatory gaps**: Fintech sometimes operates under different or lighter regulations compared to traditional banks, leading to claims of unfair competition.
- **Service failures**: Customers may face challenges when Fintech services crash or when funds go missing, but because Fintech are not always subject to the same consumer protections as banks, disputes over accountability arise.

For example, in 2020, Wirecard, a German Fintech company, collapsed after a massive accounting scandal, leaving customers and partners worldwide scrambling to recover their funds and trust.

In Lebanon, Bank Audi had a racing role in this evolution introducing the **NeoBank service**, the newest digital offering from Bank Audi, transforming banking by providing easy, convenient, and affordable access to financial services. With Neo, you can effortlessly manage your banking anytime, anywhere, through a fully digital platform. Whether you're funding your account, receiving your salary, sending money to family and friends, transferring funds internationally, instantly obtaining an official account statement, or withdrawing cash without the use of card from any Bank Audi ATM in Lebanon.

2. Cybersecurity Threats and Data Breaches

As banks and financial services move increasingly online, **cyberattacks** have become a major threat. Disputes commonly arise over:

- **Unauthorized transactions**: Hackers gain access to customer accounts, resulting in stolen funds, with customers and banks arguing over liability.
- **Loss of sensitive data**: When banks suffer data breaches, customers can sue for negligence if their personal or financial information is compromised.

Equifax, a major credit reporting agency, experienced in 2017 a cyberattack affecting over 147 million customers, leading to lawsuits and a $700 million settlement over data protection failures.

3. Challenges in Online and Mobile Banking[1]

Modern consumers increasingly expect seamless mobile and online banking experiences. Conflicts can arise from:

[1] Katrina J Kluss, "Mediation mediums: the benefits and burdens of online alternative dispute resolution in Australia", LexisNexis, N.D.

- **System downtimes**: Mobile apps or online portals crashing during critical periods (e.g., salary days, loan payments) can cause financial loss and trigger customer complaints.
- **Errors in digital transactions**: Mistakes such as incorrect transfers, failed deposits, or double charges often require banks to engage in dispute resolution.

4. Use of Artificial Intelligence (AI) and Algorithmic Bias

Banks are increasingly using **AI tools** for activities like loan approvals, fraud detection, and customer service chatbots. However, these technologies can introduce:

- **Algorithmic discrimination**: AI models may unintentionally discriminate based on race, gender, or location when approving or denying loans.
- **Lack of transparency**: Customers often cannot challenge decisions made by AI systems because the decision-making logic is not clearly disclosed.

For example, in 2019, Apple's credit card program, managed by Goldman Sachs, faced criticism after it was revealed that women were allegedly given significantly lower credit limits than men, raising concerns about algorithmic bias.

5. Rise of Cryptocurrency and New Legal Disputes

The adoption of **cryptocurrencies** (e.g., Bitcoin, Ethereum) and block chain technologies has further complicated the banking environment:

- **Fraud and scams**: Customers investing through crypto platforms often experience scams, with little recourse for recovery.
- **Unclear regulations**: Banks and customers face disputes over how cryptocurrency transactions should be handled under traditional financial laws.

Numerous lawsuits have been filed against crypto exchanges like Coinbase and Binance by customers alleging wrongful freezing of accounts or mishandling of funds.

In short, **technological innovation** brings enormous benefits to banking, but it also creates new vulnerabilities and complex disputes. Banks must adapt by strengthening cybersecurity measures, ensuring clear regulatory compliance in digital services, increasing transparency in AI decision-making, and updating dispute prevention and resolution mechanisms to cover technology-related risks.

While Artificial Intelligence (AI) offers promising opportunities to enhance mediation in banking, but in my opinion, its integration presents several important challenges.

One major concern is the issue of trust and human interaction, the humanitarian aspect of mediation. Banking disputes often involve sensitive financial details and heightened emotions; clients generally prefer dealing with empathetic, understanding human mediators who can

appreciate their unique personal circumstances. AI-driven solutions, however sophisticated, may lack this crucial human touch, potentially making participants feel disconnected or misunderstood.

Additionally, AI systems rely heavily on historical data to generate decisions or suggestions. In the context of banking matters, this can create issues of bias if the data used to train these systems is incomplete, outdated, or unrepresentative. For example, an AI tool trained primarily on large-scale financial disputes might not adequately handle nuanced individual cases, potentially disadvantaging certain parties.

Privacy and confidentiality also pose significant challenges. Banks deal with highly sensitive financial data, and introducing AI into mediation requires rigorous data protection measures to ensure client information remains secure. The banking sector's heavily regulated environment further complicates matters, as integrating AI technologies necessitates careful navigation of compliance standards, transparency expectations, and accountability.

Lastly, there's the practical challenge of digital literacy and technological access. Not all participants in banking mediation—particularly older customers or those from less tech-savvy backgrounds—may be comfortable engaging with AI-based tools, potentially creating a digital divide that excludes or disadvantages some users.

To successfully integrate AI into banking mediation, these challenges must be thoughtfully addressed, balancing technological advancement with the need for empathy, privacy, fairness, and inclusivity.

Chapter 2: Specificity of Mediation Process

The increasing complexity of financial transactions and the evolving regulatory landscape have made banking disputes more frequent and multifaceted. Traditionally, litigation has been the primary method for resolving such conflicts, yet it often proves to be time-consuming, costly, and adversarial, potentially damaging relationships between financial institutions and their clients. As an alternative, mediation has gained prominence as an effective dispute resolution mechanism, offering a more flexible, confidential, and collaborative approach.

Mediation serves as a platform for individuals who feel restricted or obstructed—whether due to administrative, logistical, or emotional factors—to express their concerns. It includes an educational aspect, acting as a conduit for conveying messages. Effective mediation necessitates the attributes of a spokesperson, notably proficiency in rhetoric. In contemporary contexts, mediation is recognized as a method for addressing challenging situations between parties, especially within conflict-laden scenarios.

Historically, the practice of mediation has diverse narratives. Some scholars suggest that forms of third-party intervention in conflicts have been present for an extensive period. Nonetheless, while such interventions have longstanding roots, the formal concept of mediation only gained

prominence towards the close of the twentieth century. In professional circles, mediation is often viewed as an inverse approach compared to traditional judicial proceedings. Typically, the legal system addresses conflicts by first examining the legal components, then the technical details, and lastly, if needed, the emotional aspects. Mediation, however, follows the opposite trajectory: it begins by addressing the emotional facets of the conflict, then moves to identify technical solutions and mutual agreements, and finally assists the parties in formalizing a legal agreement, which may or may not be pursued further.

Various mediator organizations offer differing definitions of mediation.

In France, for instance, there's a notable distinction between the **Professional Chamber of Mediation and Negotiation (PCMN)** and other associations like the **Union of Organizations for Mediation (UOM)**. These groups have divergent views on the influence of conflict on individual decision-making. The UOM posits that conflict doesn't impede an individual's autonomy in decision-making, suggesting that mediation is a voluntary process initiated before any legal proceedings.

Conversely, the PCMN believes that conflict can compromise an individual's decision-making freedom, advocating for mediation as a prerequisite to judicial action. They argue that individuals entangled in escalating disputes may benefit from court-referred mediation to manage their conflicts and potentially achieve a voluntary resolution. For the PCMN, the emphasis lies not on how parties enter mediation but, on the outcomes, they achieve through it.

This chapter explores the effectiveness of mediation in resolving banking matters by first providing an overview of mediation as a dispute resolution mechanism, highlighting its key principles, processes, and advantages over traditional legal proceedings. It then examines the impact and practical effectiveness of mediation in banking disputes, assessing its success in preserving business relationships, reducing legal costs, and ensuring regulatory compliance.

Through this analysis, the chapter aims to determine whether mediation can serve as a reliable and sustainable method for addressing conflicts within the banking sector while maintaining stability and trust in financial institutions.

A. Foundations of Mediation in Dispute Resolution

Mediation is a voluntary and confidential process in which disputing parties engage a neutral third party, known as a mediator, to assist them in reaching a mutually acceptable resolution. Unlike litigation or arbitration, where decisions are imposed by judges or arbitrators, mediation empowers the parties to collaboratively determine the outcome of their dispute.

In this regard, it is necessary to indicate the characteristics of mediation, the stages of this process, and thus to conclude the pros and cons of the mediation process and the appropriate areas for its application.

Upon submission, the agreement can attain the status of an enforceable court decision.

i. Mediation Process Stages:

Mediation serves as a powerful tool in a preventive manner, or resolution manner in case of conflicts by fostering open communication and understanding between disputing parties.

As a preventive mechanism, mediation plays a crucial preventive role in the banking sector, helping banks and their customers avoid disputes before they escalate into costly and adversarial conflicts. At its core, mediation offers a neutral, structured space for proactive communication, enabling both parties to clarify expectations, responsibilities, and potential concerns from the outset. For example, banks that incorporate regular mediation-based consultations into their customer service processes—especially during critical interactions like loan agreements, mortgage arrangements, or credit negotiations—can identify and resolve misunderstandings early. This early-stage intervention significantly reduces the risk of disagreements developing into formal legal disputes. Furthermore, mediation fosters a relationship of mutual trust and openness, encouraging clients to voice concerns proactively, confident they will receive fair and empathetic consideration. By doing so, banks build stronger, more transparent relationships, greatly reducing customer dissatisfaction and potential grievances. Additionally, mediation encourages collaborative problem-solving, empowering banks and clients to craft tailored solutions that litigation rarely provides. Ultimately, by embedding mediation within their standard operational practices, banks can effectively manage risks, maintain positive customer relationships, and create an environment where potential disputes are routinely identified, addressed, and resolved amicably long before they escalate.

As a conflict resolution mechanism, one of its primary benefits is the reduction of communication barriers, as it provides a neutral environment where individuals can express their concerns without fear of judgment or escalation. This setting encourages transparency and helps clarify misunderstandings that may have contributed to the conflict. Additionally, mediation facilitates the exploration of alternative solutions, allowing parties to collaboratively brainstorm and evaluate options that address the root causes of their issues, rather than merely treating symptoms. By focusing on the underlying needs and interests of all involved, mediation promotes empathy and mutual respect, which are crucial for sustainable resolutions. Furthermore, the process often leads to the development of long-term conflict resolution models, equipping parties with the skills and frameworks necessary to manage future disagreements constructively. This proactive approach not only resolves the immediate dispute but also contributes to healthier, more resilient relationships moving forward.

In mediation, after jointly identifying the disputed issues, the mediator assists the parties in thoroughly exploring potential solutions. This collaborative process aims to reach a mutually acceptable settlement agreement.

Occasionally, if mediation doesn't yield a resolution, parties may opt to pursue their dispute in court. Upon reaching an agreement, the parties crafted specific terms, allowing for tailored and innovative solutions suited to their unique situation. In judicial mediation, this settlement can be submitted for judicial approval, known as "homologation[1] ". For contractual mediation, the agreement may be presented to the appropriate court for validation.

Alternatively, enforcement of the settlement without judicial approval is possible if the agreement is countersigned by the parties' lawyers and includes an executory clause, which can be obtained from the court clerk.

If mediation does not result in a settlement, legal proceedings may commence or resume. The statute of limitations, suspended from the day mediation is agreed upon, resumes upon termination of the mediation process[2]**.** Importantly, courts remain uninfluenced by discussions held during mediation, as such content typically remains confidential and undisclosed in subsequent legal proceedings.

Mediation process passes through the following steps:

1. **Initiation:** Parties agree to mediate and select a qualified mediator.
2. **Opening Session:** The mediator outlines the process, establishes ground rules, and allows each party to present their perspective.
3. **Exploration of Issues:** Through guided discussions, the mediator helps parties identify key issues, underlying interests, and areas of agreement or disagreement.
4. **Negotiation:** Parties collaboratively generate and evaluate potential solutions, with the mediator facilitating constructive dialogue.
5. **Agreement:** If a mutually acceptable solution is found, the terms are typically documented in a written agreement, which can be legally binding if the parties choose.

ii. Advantages of Mediation over Litigation:

Mediation has become an increasingly popular method for resolving disputes, offering numerous advantages over traditional litigation. This process involving a neutral third party facilitates communication between disputing parties to help them reach a mutually acceptable agreement. The benefits of mediation include cost-effectiveness, time efficiency, confidentiality, and the preservation of relationships. By providing a collaborative environment, mediation empowers individuals to have greater control over the outcome of their disputes.

[1] Article 131-12 of the French Code of Civil Procedure.
[2] Article 2238 of the French Civil Code.

- **Cost-Effective:**

Mediation offers a significantly more cost-effective alternative to traditional litigation, primarily due to its streamlined process and reduced associated expenses. Unlike court proceedings, which often involve extensive legal fees, court costs, and prolonged timelines, mediation typically incurs lower costs for several reasons.

In mediation, parties often share the cost of a single mediator, eliminating the need for multiple attorneys and reducing overall legal fees. Additionally, mediation sessions are generally shorter and less formal than court trials, leading to fewer billable hours and lower costs related to document preparation and filing fees. The absence of extensive discovery processes and expert witness requirements further contributes to cost savings.

Mediation is designed to facilitate quicker dispute resolution, often concluding within days or weeks, compared to the months or years that litigation can take. This expedited process not only reduces legal fees but also minimizes the indirect costs associated with prolonged disputes, such as lost productivity and emotional stress. By avoiding the courtroom, mediation eliminates various court-related expenses, including filing fees, court reporter charges, and costs associated with serving legal documents. This further enhances its cost-effectiveness, making it an attractive option for individuals and businesses seeking efficient dispute resolution.

- **Timesaving:**

Disputes can be resolved more quickly through mediation compared to the often-lengthy court processes.

Mediation sessions can be remarkably brief, especially for straightforward disputes. Many cases are resolved within a single session lasting approximately 3 to 4 hours. For more complex issues, multiple sessions may be necessary, but the entire process typically concludes within a few days. In contrast, litigation is often a prolonged process. Court cases can extend over several months or even years due to various factors such as court schedules, procedural requirements, and the intricacies of the legal system. This extended timeline not only delays resolution but also increases the emotional and financial burden on the parties involved.

This has as well many benefits to the parties' mental health and reduces stress, where the shorter timeframe of mediation minimizes the stress and anxiety associated with prolonged legal battles.

- **Preservation of Relationships:**

By fostering cooperative problem-solving, mediation can help maintain personal or business relationships that might otherwise be damaged by adversarial proceedings. It serves as a powerful tool for preserving and even strengthening relationships that might otherwise be damaged by adversarial proceedings.

Unlike litigation, which often exacerbates conflicts and fosters animosity, mediation emphasizes collaboration, open communication, and mutual understanding. By providing a safe and confidential environment, mediation allows parties to express their concerns and interests without fear of judgment or escalation. This process not only facilitates the resolution of the immediate dispute but also helps build empathy and trust between parties, laying the groundwork for healthier future interactions. In contexts such as business partnerships, family relationships, or workplace dynamics, where ongoing interaction is essential, mediation's focus on cooperative problem-solving can prevent the deterioration of relationships and promote long-term harmony. By encouraging parties to work together towards mutually beneficial solutions, mediation transforms conflict into an opportunity for growth and improved understanding.

- **Confidentiality & Privacy:**

Confidentiality is a fundamental principle of the mediation process, ensuring that all communications, negotiations, and discussions that occur during mediation are protected from disclosure. This means that information shared in mediation cannot be used as evidence in court or revealed to outside parties without consent[1].

To uphold this confidentiality, all participants, including the disputing parties, their legal representatives, witnesses, and any observers—are typically required to sign a confidentiality agreement before the mediation begins. This agreement legally binds them to keep all information disclosed during the mediation private. Such measures foster an environment where parties can speak openly and honestly, facilitating more effective conflict resolution.

The assurance of confidentiality not only encourages candid communication but also protects the interests of all parties involved. It ensures that sensitive information remains private, reducing the risk of reputational harm or strategic disadvantage should the dispute proceed to litigation. Furthermore, mediators are also bound by confidentiality and must not disclose any information acquired during the mediation process. This collective commitment to privacy is essential for the integrity and success of the mediation process.

- **No winners and losers:**

Mediation is designed to address and fulfill the underlying interests and needs of all parties involved, rather than determining a singular "winner" or "loser" as is often the case in traditional court proceedings. This approach fosters a collaborative environment where parties work together to find mutually beneficial solutions, leading to outcomes that are satisfactory for everyone involved. Such "win-win" resolutions not only resolve the immediate dispute but also contribute to the preservation and enhancement of relationships between the parties.

The effectiveness of mediation in achieving these outcomes is supported by its emphasis on open communication and mutual respect. By focusing on the interests rather than the positions of the

[1] Antony Ball, “Confidentiality within mediation”, WEIGHTMANS, 24 December 2024.

parties, mediation encourages creative problem-solving and the exploration of options that might not be available through litigation. This process not only leads to more durable agreements but also reduces the emotional and financial strain often associated with legal disputes.

- **Control Over Outcome:**

Parties retain control over the resolution, rather than having a solution imposed by a third party, leading to solutions that are tailored to the specific needs and interests of all involved.

In mediation, the parties involved maintain full control over the resolution of their dispute, distinguishing it from processes like litigation or arbitration where decisions are imposed by a judge or arbitrator. This autonomy allows parties to collaboratively develop solutions that address their specific needs and interests, leading to more satisfactory and sustainable outcomes. The mediator facilitates communication and negotiation but does not dictate the terms of the agreement, ensuring that any resolution is mutually acceptable.

This empowerment fosters a sense of ownership over the outcome, often resulting in higher compliance rates and preserving relationships between the parties. Moreover, the flexibility of mediation enables creative solutions that might not be available through traditional legal avenues, further emphasizing the parties' control over the process.

Mediation is utilized across various domains, including:

- **Family Disputes:** Such as divorce settlements, child custody arrangements, and inheritance issues.
- **Workplace Conflicts:** Addressing disputes between employees or between employers and employees.
- **Commercial Disputes:** Resolving conflicts between businesses or between businesses and consumers.
- **Community Disputes:** Handling disagreements among neighbors or within communities.
- **International Relations:** Facilitating negotiations between nations or international entities.

In summary, mediation serves as an effective alternative dispute prevention and resolution mechanism that emphasizes dialogue, collaboration, confidentiality, and the empowerment of parties to craft their own solutions, thereby offering a pathway to amicable and efficient conflict resolution. This approach is widely utilized across various sectors, including banking, to address conflicts efficiently and amicably.

In the context of banking disputes, mediation offers distinct characteristics that cater to the unique dynamics of financial disagreements. The following section delves into these specific attributes, highlighting how mediation is tailored to effectively resolve conflicts within the banking industry.

B. Banking Sector Mediation — Specifics and Benefits

Mediation in the banking sector has proven to be highly effective, resolving a significant majority of disputes, which in turn reduces litigation expenses and enhances customer satisfaction. By providing a fair and efficient platform for conflict resolution, mediation fosters trust and loyalty among clients, benefiting both customers and financial institutions. This approach not only alleviates the financial and emotional strain associated with disputes but also underscores the importance of effective dispute resolution in maintaining positive banking relationships.

The subsequent section delves into evaluating the impact and effectiveness of mediation in banking disputes, highlighting its role in reducing the financial and emotional burdens associated with such conflicts.

Mediation has emerged as a highly effective method for resolving disputes within the banking sector, offering numerous advantages over traditional litigation. Notably, mediation can resolve up to 80% of banking disputes, significantly reducing the need for costly and time-consuming court proceedings **(Alexander & Howieson, 2016)**. This efficiency not only lowers legal expenses but also expedites the resolution process, benefiting both financial institutions and their customers. By alleviating the backlog of court cases, mediation also indirectly contributes to a more efficient judicial system.

By providing a **neutral and confidential platform**, mediation fosters open communication and collaborative problem-solving, leading to mutually satisfactory outcomes. Confidentiality ensures that sensitive financial matters are protected from public exposure, preserving the reputation of both the bank and the client. This is especially crucial in the banking sector, where trust and reputation are fundamental to business continuity **(Menkel-Meadow, 2011).**

Moreover, the mediation process emphasizes **flexibility**. Unlike litigation, where outcomes are determined by legal principles and judicial discretion, mediation allows for **creative, customized solutions** that address the unique needs and interests of the parties involved. For instance, a dispute over loan repayment could result in an innovative repayment schedule tailored to the client's evolving financial situation rather than a rigid court-mandated settlement. This flexibility often results in greater satisfaction for all parties and promotes **relationship preservation**, an essential component in an industry where maintaining strong client relationships is paramount **(Moore, 2014).**

Another major benefit is that mediation **demonstrates institutional empathy and responsiveness**. By adopting mediation practices, banks signal to their customers that they prioritize fair treatment, proactive conflict resolution, and customer satisfaction. This perception strengthens **customer trust and loyalty**, essential assets for banking institutions aiming for long-term client retention and a positive brand reputation.

Beyond individual client relationships, mediation contributes to the **stability and transparency** of the broader banking system. An accessible, fair, and efficient dispute resolution mechanism

promotes public confidence, mitigates systemic risks, and supports overall economic growth. Particularly during financial crises or periods of economic instability, having trusted mediation systems in place helps maintain calm and prevent mass litigation or customer dissatisfaction **(De Palo & Trevor, 2004).**

The success of mediation largely depends on the **mediator's skills**. An effective mediator must facilitate discussions, identify underlying issues beyond the surface conflict, manage power imbalances, and guide parties toward practical, mutually beneficial outcomes. Mediation not only addresses the immediate dispute but can also highlight systemic issues, allowing banks to improve internal policies and practices based on recurring mediation cases**.**[1]

However, it is important to note that the **voluntary nature** of mediation means its success hinges on the **good faith participation** of both parties. Unlike litigation, where the court imposes binding judgments, mediation agreements rely on the parties' willingness to honor the settlement reached. Lack of commitment, dishonesty, or strategic delays by either party can undermine the mediation process. Recognizing the significance of structured mediation, **regulatory frameworks** have been introduced in various jurisdictions to institutionalize this process. For example, **Bank Indonesia Regulation No. 7/7/PBI/2005** mandates a structured and efficient complaint resolution mechanism within the banking sector. Similar frameworks exist in other countries as well: the UK's **Financial Ombudsman Service (FOS)** provides a free, accessible mediation and arbitration service for banking and financial disputes, ensuring customer protection and reinforcing trust in financial institutions. These institutionalized mechanisms not only safeguard customer rights but also enhance banks' reputations by demonstrating their commitment to resolving disputes fairly and constructively.

Thus, mediation is not merely an alternative to litigation; it is a **strategic investment** in customer satisfaction, institutional credibility, and the overall health of the financial system.

C. Examining the Impact of Mediators in Banking Mediation

Mediators are **neutral third parties** who guide banks and customers toward agreement. In banking disputes, the mediator does not decide the case but helps both sides **talk through the issues** and find common ground. Financial industry sources describe mediation as an informal, voluntary process in which parties "work with a trained, neutral mediator who facilitates negotiations" to reach a mutually acceptable solution.

Mediators in banking disputes require a unique set of skills, including expertise in financial and regulatory matters, strong communication and negotiation abilities, and an understanding of the

[1]Laurence Boulle & Nadja Alexander, "Mediation: Skills and techniques", LexisNexis, Third edition, 1 December 2019.

commercial implications of disputes. Their role is to foster dialogue, clarify misunderstandings, and guide parties toward a resolution that aligns with their mutual interests.

In practice, where the banking sector is a complex field integrating mixed categories of laws, mediators may be lawyers, retired bankers, or specialists with certification in dispute resolution; many come from diverse backgrounds in finance, law or business. The key point is that mediators are impartial professionals – they earn trust by remaining unbiased and focusing only on the process.

A banking mediator's main job is to facilitate communication and negotiation. They help each side explain its view and interests, ensure both parties are heard, and keep the discussion focused on either prevent any dispute, or reach a solution in case of dispute. For example, one guide notes that a mediator "**bridges the interests of two opposing parties by defining their issues and eliminating obstacles to communication"[1].**

In banking mediation, mediators serve as neutral facilitators who guide the communication process between banks and their clients. Their primary role is not to issue a decision or impose a resolution, but rather to help both parties express their concerns, understand one another's interests, and collaboratively avoid any disputes or if explore possible solutions in case of conflict. This makes the process particularly valuable in banking contexts, where financial complexity and client dissatisfaction can easily escalate into formal legal action.

For example, if a customer feels unfairly charged a penalty on a loan, the mediator might help uncover the misunderstanding by clarifying contract terms and exploring whether the bank's internal procedures were followed. Through this process, the customer may gain transparency, and the bank, an opportunity to adjust or explain its stance without admitting fault. This approach not only resolves the immediate issue but also preserves the professional relationship between the two parties.

Mediators typically perform functions such as:

- **Facilitating dialogue:** Ensuring each party fully explains its concerns and listen carefully.
- **Issue clarification:** Asking questions and summarizing points so that technical banking terms or fine details are clear to everyone.
- **Process management:** Setting the agenda, opening and closing sessions, and reminding the parties of ground rules.
- **Option generation:** Encouraging creative solutions and trade-offs. As one description puts it, a mediator can be a "catalyst" who suggests different resolution options, stimulates new perspectives or offers reference points to consider.

[1] Indeed Editorial Team, "What Is a Mediator? Definition, Roles and Steps", INDEED, 6 June 2025.

- **Reality checking:** Gently questioning proposals to make sure they fit the parties' original goals.
- **Documenting agreements:** Writing down the final settlement terms once all sides agree.

Throughout these steps, the mediator remains **neutral and fair**. They do not represent either bank or customer, and they never impose a decision. Instead, they guide the conversation and help both sides negotiate the outcome themselves.

i. Code of Conduct and Ethics of Mediators

Mediators are bound by a strict code of conduct that emphasizes impartiality, confidentiality, fairness, and respect. They are expected to act without bias or personal interest, ensuring equal opportunity for each party to be heard. Ethical mediation requires mediators to disclose any potential conflicts of interest before the process begins, and to withdraw if their neutrality could be compromised.

In practice, this means a mediator must avoid even the appearance of favoritism. For instance, if a mediator had prior business ties to the bank involved, they are ethically required to recuse themselves. Upholding such principles strengthens the credibility of the mediation process and assures both parties that the process is being conducted with integrity.

In this regard, it is necessary to point out the **European Code of Conduct for Mediation Providers** approved during the 31st plenary session of the CEPEJ[1] in Strasbourg on December 3–4, 2018. This code outlines key ethical and professional principles that mediation organizations—such as centers, institutes, or other service providers—can choose to adopt voluntarily.

It serves as a guideline for entities and individuals involved in offering mediation across various legal areas, including civil, commercial, family, administrative, and criminal disputes. The code applies to all personnel and affiliated professionals working within those mediation services. The code emphasizes that providers must maintain adequate resources, employ well-trained mediators, and ensure their staff and services meet high professional standards.

According to the CEPEJ, mediation provider is defined as any public or private organization, including court-related programs, that administers and manages mediation services through appointed third-party neutrals.

To uphold competence and service quality, mediation providers are expected to maintain sufficient funding, qualified personnel, and a well-trained network of mediators. These mediators should have both foundational and ongoing training in mediation and dispute resolution and be suitably assigned to cases based on their specific expertise. Providers must ensure transparency in mediator

[1] EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE.

selection and performance, collect client feedback, maintain accessible and well-equipped facilities, and implement robust internal quality management systems. Additionally, they should offer user-friendly communication channels, such as online portals, and provide clear, up-to-date information about their services, fees, internal structure, and the professional qualifications of their mediators.

Ethical practice is a core component of the code. Mediation providers must adhere to the European Code of Conduct for Mediators and comply with all national regulations governing mediation. They are required to maintain independence, impartiality, and neutrality throughout the process, avoiding any commercial or legal conflicts of interest. Individuals associated with the mediation providers such as staff or affiliated mediators—should not simultaneously act in roles such as attorneys, consultants, or judges in related cases, nor should they engage in such roles shortly after a mediation concludes. To preserve fairness, providers must also have effective systems in place to identify and disclose any potential conflicts of interest, including financial ties or personal relationships that could influence the mediation outcome.

Furthermore, providers are expected to establish clear and fair procedures for addressing complaints and enforcing disciplinary actions. When disputes arise within the mediation process, providers are encouraged to resolve them through amicable means such as negotiation or internal mediation for maintaining confidentiality is critical; mediation providers must take all reasonable measures to protect the privacy of information shared during mediation, in accordance with relevant laws and the agreements made by the parties involved.

ii. Skills and Techniques Essential for Banking Mediators

Banking mediators require a multifaceted skill set combining **interpersonal**, **analytical**, and **process-management** abilities. These professionals must navigate not only complex financial information but also the emotions and communication dynamics between parties. In practice, a mediator's effectiveness comes from balancing "hard" analytical expertise with "soft" people skills, all within a structured dispute resolution process.

- **Interpersonal and Communication Skills:** Strong communication and empathy are fundamental. A mediator needs to actively listen, build connections, and remain neutral while guiding disputants through tense conversations. Superb interpersonal skills, including the ability to listen deeply and communicate clearly, help mediators defuse tension and foster mutual understanding **(Dobbs, 2015)**[1]. For example, a mediator's patience and emotional intelligence can calm an angry customer or a defensive bank representative, creating an atmosphere where each feels heard and respected. These skills underpin trust in the mediator's impartiality and encourage open dialogue.

[1] C Edward Dobbs, "Unlocking Horns: Lender Use of Mediation for Dispute Resolution", ABL Advisor, 11 March 2015.

- **Analytical and Financial Expertise:** Banking disputes often involve complex financial products, regulatory frameworks, and detailed data. Effective mediators must be able to quickly grasp and analyze financial statements, contract terms, and legal issues, then translate them into plain language for the parties. In fact, financial disputes **"often entail specialized knowledge of the instruments used and how financial institutions operate,"** so having mediators with industry expertise is a great asset. Sharp analytical skills enable the mediator to identify the core issues behind the conflict and to evaluate possible solutions objectively. For instance, a mediator might scrutinize loan repayment schedules or fee structures to help clarify a point of contention, ensuring decisions are based on facts as well as fairness.
- **Process Management and Negotiation Techniques:** Skilled banking mediators guide the process strategically from start to finish. They set a collaborative tone, explain the mediation stages, and use techniques like reframing and restating issues in neutral terms, and reality-testing through asking questions to help parties assess the strength of their positions. They may hold private caucus sessions with each side to facilitate frank discussion and creative problem-solving. Mastering the mediation process also involves knowing when to be facilitated, i.e. letting parties find their own solutions, and when a more evaluative approach is useful i.e. offering gentle guidance on the merits of proposals. Throughout, the mediator must remain impartial and manage time, so that each party has ample opportunity to speak and no one feels rushed or pressured. By keeping the negotiation organized and focused, mediators help parties move toward a mutually acceptable agreement step by step.

These skills often work along during real banking mediation cases.

For example, in a dispute over a complex loan contract, a mediator might need to interpret technical financial terms (analytical skill) and **"speak to the principals in their language"** to clarify misunderstandings **(Sasson, 2017)**[1]. At the same time, the mediator would use empathy and effective communication to ease personal tensions (interpersonal skill), while structuring the discussion so that each side can safely explore options (process skill). Academic and professional literature on commercial mediation consistently emphasize that this blend of financial acumen, human insight, and process control is critical for mediators in the banking sector. Ultimately, the mediator's role is to facilitate fair resolution by using all these techniques to help parties find common ground.

iii. Managing Power Imbalances in Banking Mediation

A common challenge in banking mediation is the **power imbalance** between large financial institutions and individual customers or small businesses. Banks typically have greater resources,

[1] Dr. Monique Sasson, "Mediation and Financial Institutions", New York Law Journal, 19 June 2017.

legal expertise, and experience handling disputes, whereas consumers or small firms may feel outmatched and vulnerable.

As Australia's Small Business Ombudsman observed, small business owners often find themselves at "the wrong end of a power imbalance" when dealing with big banks[1]. This disparity can manifest in many ways: the bank might have in-house lawyers and the ability to endure lengthy negotiations or litigation, while the individual customer may lack financial means or detailed knowledge of banking law. Without intervention, such imbalances can skew the mediation – the stronger party might dominate the process and push through an outcome that favors their interests. Mediation scholars warn that when one side has significantly more power, the weaker side may resort either to passive concession or stubborn resistance, and the resulting agreement can be unfairly one-sided.

In extreme cases before reforms, banks could leverage their power to all but force outcomes – for example, **prior to farm debt mediation laws, banks in Australia could freeze a farmer's accounts and block access to funds, effectively crippling the farmer's ability to contest a foreclosure[2].**

Mediators play a pivotal role in leveling the playing field. They are trained to recognize power dynamics and actively manage the process to protect weaker parties while remaining neutral. Key strategies and practical techniques used to address power imbalances in banking mediation include:

- **Shuttle Diplomacy (Separate Caucusing):** One effective technique is *shuttle mediation*, where the mediator moves back and forth between the parties in separate sessions rather than bringing them face-to-face. This approach can be crucial if a direct meeting would intimidate the weaker party or exacerbate a power difference. By speaking to each side privately, the mediator prevents an aggressive or high-status party (for example, a bank's attorney) from overpowering the dialogue. Shuttle diplomacy allows the mediator to **carry offers and messages between the parties in a controlled way**, filtering out any hostility. In banking disputes, a mediator might use caucuses to give a customer space to articulate concerns candidly, or to convey the customer's perspective to the bank without the customer feeling talked over. This technique also lets the mediator privately coach the weaker side – for instance, helping an individual clarify their priorities – before returning to joint negotiation.
- **Ensuring Equal Access to Information and Support:** Power often comes from information asymmetry; banks typically have far more information about the products, risks, and even the history of dispute. Mediators work to close this gap by encouraging

[1] James Harkness, "Small Business Ombudsman Launches Probe into Access to Justice for SME Operators", Dynamic Businesses, 4 December 2017.
[2] Carolyn Manning, "Power Imbalance in Mediation", Carolyn Manning Consulting Services, (n.d.), page 5.

transparency and making sure both parties are working from the same facts. One effective strategy is to ensure both sides have equal access to all relevant documents and knowledge, fostering open communication rather than strategic withholding of information. The mediator may, for example, ask the bank to explain complicated fee structures in plain language or share internal calculations that the customer wouldn't otherwise see. Additionally, mediators can allow support to people: if a small business owner feels intimidated, having an accountant or advocate in the mediation for support can boost their confidence. All these measures ensure that the individual is equipped to negotiate effectively, rather than being steamrolled due to lack of knowledge or backup.

- **Ground Rules and Procedural Safeguards for Fairness:** From the outset, mediators set clear ground rules to create a safe and respectful environment. This often means establishing that each side will have equal uninterrupted time to speak, prohibiting aggressive behavior or interruptions, and keeping the tone civil. By promoting respectful and constructive dialogue and ensuring neither party feels overpowered, the mediator uses process design to curb any dominance by one side. The mediator can explicitly remind a bank's representatives to avoid bullying tactics and intervene if the conversation becomes one-sided. Procedurally, mediators may also slow down the process to benefit the weaker party. The overarching goal of these safeguards is to **model equality and empowerment**: the mediator treats the consumer and the bank with equal respect and expects them to do the same with each other.

In practice, these techniques help neutralize power disparities and lead to more equitable outcomes. A notable **real-world example** comes from the farm debt mediation system in New South Wales, Australia. The **Farm Debt Mediation Act 1994** was introduced specifically to address the heavy imbalance between banks and farmers in loan default situations. The law requires that **creditors offer mediation "before a [farm] mortgagee can take possession or other enforcement action"** on a farm debt. This procedural safeguard forced banks to negotiate in good faith instead of rushing to foreclose. It significantly leveled the field: before the scheme, banks had a "considerable power advantage" – they could freeze farmers' funds and block them from mounting a legal defense. With mandatory mediation, however, many of those farmers were able to negotiate solutions and avoid losing their homes. In the first 12 months after the Act's introduction, **556 farm debt cases went through mediation with an 87% success rate**, and in most of those cases the farmers managed to retain their properties and continue farming.

This outcome illustrates how power-balancing measures (like mandated mediation and good-faith requirements) can lead to fairer resolutions. More broadly, mediation theory and guidelines emphasize that mediator interventions – from **shuttle diplomacy** to **strict ground rules** – are often necessary to address power differentials. By doing so, mediators uphold the integrity of the process, ensuring that settlement agreements are the product of genuine consensus rather than one side's undue influence.

iv. Confidentiality and Trust Issues in Banking Mediation

Confidentiality is a cornerstone of mediation, particularly in the banking context, and it is tightly interlinked with the element of trust. Parties are generally far more willing to engage in solution-focused discussions if they trust that their disclosures will remain private. One recent commentary described confidentiality as *"**a cornerstone for building trust among parties, fostering open communication, and ensuring the process's integrity***" **(Ball, 2024)[1].**

In other words, when a bank customer knows that anything they admit or offer in mediation cannot be used against them outside the mediation, it creates a safe space to speak honestly about sensitive financial matters, for example matters related to personal debts, errors made by the bank, or potential settlements. Likewise, banks value confidentiality, as a main factor of the banking sector, because it protects them from public exposure to internal issues or reputational harm during the dispute. This mutual expectation of privacy lays the groundwork for trust in the process – each side can candidly share information and explore compromise, confident that those discussions are in private and cannot simply be later revealed in court or to the media.

Mediators foster a secure and open environment by rigorously upholding confidentiality and modeling trustworthiness. At the start of a banking mediation, it is standard for the mediator to have all participants sign a confidentiality agreement, the mediator will usually explain that anything said during mediation is privileged and cannot be divulged outside the room without consent. For instance, the **Financial Services and Pensions Ombudsman (FSPO) in Ireland** imposes strict confidentiality in its mediation code: **participants and the dispute resolution officers are explicitly forbidden from sharing any details of what happened during mediation with anyone not involved, "anywhere outside of the process," except in very narrow circumstances[2]**. This rule means that if the mediation fails, neither party can later reveal or use the other's statements in subsequent proceedings. In fact, if a settlement is reached, those terms remain confidential as well. The FSPO code emphasizes that the duty of confidentiality is unending – it survives the mediation itself.

Such assurances are critical in banking disputes, where sensitive financial information or reputational issues may be at stake. Knowing that the mediator and the other side are bound to confidentiality gives parties the confidence to lay their cards on the table. A customer might only feel comfortable disclosing an embarrassing accounting mistake, or a bank might only volunteer a goodwill compensation offer, because they trust these admissions won't leak out. Research on mediation ethics notes that this promise of privacy encourages the kind of openness and creativity needed for genuine resolution.

[1] Antony Ball, "Confidentiality within mediation", Weightmans, 24 December 2024.
[2] "FSPO Code of Ethics for Mediation", Financial Services and Pensions Ombudsman, 25 October 2022.

Beyond formal confidentiality rules, trust in the mediator personally is also a key. The mediator works to build trust by demonstrating neutrality, respecting both parties, and showing competence. Simple behaviors – like following through on promises, treating sensitive information with care, and remaining impartial – go a long way. When parties sense that the mediator understands their concerns and isn't biased, they become more forthcoming. Techniques like active listening and validation (acknowledging each party's feelings and perspectives) help establish this rapport. Trust-building is also reinforced by mediator impartiality – the mediator must not favor the bank or the customer. In many banking mediation schemes, the mediator is an external neutral to bolster confidence that the process is not skewed towards the bank. All these factors – confidentiality of information and a mediator's trustworthy conduct – create an environment where both sides can engage more genuinely. When trust is present, parties tend to be more honest about their interests and constraints, which in turn leads to more durable agreements.

Of course, confidentiality in mediation is not absolute, and this can raise challenges, especially in a regulated sector like finance. There are exceptions and legal limits to what can remain secret, and mediators must navigate these carefully to maintain trust. For instance, if a mediation reveals ongoing criminal activity, such as fraud or money laundering, or a serious threat to someone's safety, the mediator may be **obligated by law or ethics** to break confidentiality and report it. Likewise, certain jurisdictions have public policy exceptions: a court might revoke mediation confidentiality if one party later claims the mediated agreement was induced by fraud or duress – evidence from the mediation could be admissible in such cases to ensure justice.

In banking disputes, a unique tension sometimes arises between confidentiality and regulatory oversight. Regulators and courts generally encourage settlement of disputes, but they also want to ensure consistent outcomes and transparency for systematic issues. Similarly, when a sovereign state or public entity is party to a financial dispute (e.g. a government versus a bank), there may be laws requiring a degree of transparency or public accountability, making full confidentiality problematic **(Sasson, 2017)** . In the vast majority of bank–customer mediations, confidentiality remains definitely a positive factor, allowing banks to resolve matters without publicizing internal processes and enabling customers to negotiate without fear of publicity.

To manage these confidentiality and trust challenges, mediators take several approaches. **At the start of the process, they clearly outline the scope and limits of confidentiality,** so everyone understands what is protected and where the red lines are. For instance, a mediator will typically explain that if someone reveals an intention to commit a crime or a future fraud, the mediator cannot keep that confidential. By being upfront about such exceptions, the mediator prevents surprises that could damage trust later. Importantly, when disclosures have to be made (say, reporting a crime uncovered in mediation), a skilled mediator will do so in a way that minimally disrupts the process and is seen as fair (often this involves stopping the mediation and explaining the legal necessity to the parties, rather than secretly reporting behind their backs).

In bank mediation programs, institutional design also helps maintain trust despite these challenges. Many programs ensure that nothing said in mediation will influence subsequent proceedings if the case doesn't settle. For example, the UK's Business Banking Resolution Service (BBRS) makes it explicit that if a complaint moves from mediation to adjudication, **"no details of the mediation are seen or considered"** by the adjudicator. This kind of wall between mediation and formal investigation reassures participants that even if they don't settle, what they shared in confidence won't come back to haunt them. Similarly, any settlement reached is typically confidential, but if needed, parties can agree on what, if anything, gets disclosed, for instance, sometimes banks agree to share the fact that a complaint was resolved, without details, to satisfy regulators or auditors.

In summary, confidentiality and trust are deeply linked pillars of successful banking mediation. Confidentiality provides privacy **protection** that allows honest communication, and the mediator's role is to uphold that privacy rigorously (with only the rare, necessary exceptions). In turn, this commitment to confidentiality helps build the parties' trust – in each other and in the mediator – which is essential for any voluntary settlement. By creating a secure, trusted setting, mediators enable banks and customers to openly address their issues and craft solutions, knowing their words won't escape the room. This trust, once established, propels the mediation forward: parties become more willing to explore creative compromises and to ultimately resolve their dispute. Through ethical practice and careful management of information, banking mediators strive to ensure that both confidentiality and trust remain uncompromised, thereby giving the mediation the best chance of success.

Despite its growing relevance, mediation in the banking sector encounters numerous challenges that limit its potential. Issues such as power imbalances, confidentiality concerns, resistance from legal departments, and regulatory uncertainties can all undermine the process. Overcoming these challenges requires greater awareness campaigns, specialized mediator training, stronger regulatory frameworks, and institutional support for a more collaborative, client-centered dispute resolution culture in the banking industry. By addressing these obstacles, mediation can become a more viable and preferred method of resolving banking disputes in the future.

Part Two: Effectiveness of Mediation in Banking Disputes

Mediation in the banking sector has proven to be an effective method for resolving disputes, with studies indicating that up to 80% of banking conflicts can be amicably settled through this approach. This high success rate not only reduces the financial burden associated with prolonged litigation but also enhances customer satisfaction by providing a more personalized and efficient resolution process. By fostering open communication and mutual understanding, mediation helps maintain and even strengthen the trust between banks and their clients, which is essential for long-

term customer loyalty. Furthermore, the mediation process offers a neutral platform where both parties can collaboratively work towards a solution that addresses their specific needs and interests, leading to more sustainable and mutually beneficial outcomes. As the banking industry continues to evolve, incorporating mediation as a standard practice for dispute resolution can significantly contribute to improved customer relations and operational efficiency.

Chapter 1: Evaluating the Impact of Mediation in Banking Matters

In recent years, mediation has emerged as a promising alternative to traditional litigation, especially in the financial and banking sectors where disputes can be both complex and emotionally charged. When individuals find themselves at odds with banks over loans, credit cards, or mortgages, the process can feel impersonal and overwhelming. Mediation offers a more approachable path—one that emphasizes collaboration, transparency, and resolution over confrontation.

This chapter explores how mediation works in practice within the banking sector. It begins by examining the types of disputes that are most resolved through mediation and what success typically looks like in these cases. From there, it delves into the human element at the heart of the process: the mediators themselves. What skills do they bring? How do they manage sensitive dynamics such as power imbalances between large financial institutions and individual clients?

Finally, we look beyond the mediation room to consider the broader forces that shape outcomes—legal frameworks, cultural expectations, and even the internal strategies of banks themselves. By unpacking these layers, this chapter aims to provide a clear and grounded understanding of not just how mediation operates in the banking world, but why it works—or sometimes doesn't.

A. Identifying Banking Matters Resolved through Mediation

Bank customers frequently encounter issues with loans, credit, and bank services, and many of these disputes are well-suited to mediation. Common areas of contention include bank account problems (frozen accounts or fraud-related freezes), loan repayment and debt issues, mortgage and foreclosure situations, credit card billing or fee disputes, and mis-selling of financial products**.** Below, we outline typical types of banking disputes and how mediation addresses each:

i. Common Types of Resolved Disputes (loans, mortgages, credit card issues, etc.)

Loan and Debt Disputes

Disagreements over personal or business loans are often mediated. These include non-payment or defaults on loans, breaches of loan covenants, disputes over interest rates or fees, and conflicts

involving guarantors of loans. For example, a borrower facing financial hardship might fall behind on a car loan or small business loan, or a guarantor might contest the extent of their obligation. These scenarios often lead to debt collection actions or potential lawsuits by the bank.

Mediation provides a forum for lenders and borrowers to renegotiate terms and find workable solutions. Instead of a court simply enforcing the loan contract, a mediator can help the parties explore alternatives – such as restructured payment plans, extended loan terms, reduced interest rates, or partial debt forgiveness – that satisfy both sides. This collaborative approach can prevent a loan from turning into a costly legal battle or a write-off. Studies note that mediation is highly successful in resolving debt disputes: in general, mediation yields settlement in about 70–80% of cases (and up to 90% when parties are motivated)[1] .

Real-world programs back this up – for instance, in Australia's farm credit sector, mandatory farm debt mediation has around a 90% agreement rate, allowing many farmers and banks to settle loan defaults without litigation[2]. Such outcomes often involve the bank and borrower agreeing on refinancing or an orderly sale of assets, rather than forcing immediate recovery, which minimizes losses for the bank and hardship for the borrower.

Mortgage and Foreclosure Issues

Mortgage disputes are a prominent category for mediation, especially when borrowers fall behind on home loans. Conflicts arise over foreclosure proceedings, mortgage modifications, interest rate adjustments, and fees. For example, a homeowner in arrears might dispute the terms offered by a bank to cure a default, or claim the bank made an error (such as misapplying payments or classifying the loan incorrectly).

In one case from Ireland, a bank had incorrectly classified a customer's mortgage as an investment property, denying the borrower certain protections – this error was later addressed and compensated through a mediated settlement. Likewise, disagreements over interest rate policies (such as whether a tracker rate should have applied) and other servicing issues on mortgages often lead to complaints that are resolved via mediation.

In mortgage disputes, mediation can be literally lifesaving for the borrower's home. Many jurisdictions use mediation to bring lenders and homeowners together to **avoid foreclosure** by finding alternative solutions. A neutral mediator can ensure the borrower fully understands their options and the bank considers reasonable concessions. Solutions may include **loan modifications** (e.g. extending the term or lowering interest), temporary forbearance agreements, repayment plans for arrears, or even graceful exit strategies (like agreeing to a short sale or deed-in-lieu of foreclosure).

[1] Micheal W. Hawkins, "Trends in Mediation", Cincinnati Bar Association, (N.D).
[2] Kenneth Stanton, "Farm Debt Mediation Reforms", Stanton & Stanton, LEXOLOGY, 27 June 2017.

Effectiveness is evident in data from specialized programs.

For example, in the United States following the 2008 crisis, numerous states implemented foreclosure mediation programs. Connecticut's court-annexed foreclosure mediation program reported that **74% of cases reaching mediation ended with an agreement that allowed the homeowner to retain the home** (through loan restructuring), and another 17% reached another kind of workout (such as a voluntary sale) – altogether a **91% settlement rate in mediated foreclosure cases**.[1]

These high success rates show that mediation often **prevents foreclosure** by producing mutually acceptable adjustments. Even outside of formal programs, banks often settle mortgage disputes in mediation by offering compensation or corrections; for instance, a couple in a dispute over improperly applied mortgage rates received a €36,000 settlement through mediation, avoiding the need for a court decision. In short, mediation addresses mortgage conflicts by enabling flexible outcomes – keeping borrowers in homes when possible or ensuring a managed exit – that standard legal processes might not provide.

Credit Card and Consumer Credit Conflicts

Credit card disputes and other consumer credit problems (like personal lines of credit or payday loans) are another frequent cause of friction between banks and customers. Typical conflicts involve contested charges or billing errors, disputed fees or interest hikes, allegations of wrongful charges (for instance, due to fraud or identity theft), and difficulties in repaying credit card debt.

For example, a customer might find unauthorized transactions on their statement or face unexpectedly high penalty fees, and feel the bank isn't providing a fair resolution. In the UK, many complaints to the Financial Ombudsman have concerned **unjust credit card fees, surprise interest rate increases, or the bank's failure to adequately investigate disputed transactions**.

Likewise, customers around the world report issues like cards being sent without request, fraud charges not being reimbursed, or promised rewards not delivered– all of which can lead to disputes.

Mediation can efficiently untangle credit card conflicts by facilitating open communication about the charges and the customer's circumstances. In a mediation session, a bank might agree to **waive certain fees, adjust interest, or offer goodwill credit** if an error or miscommunication occurred, rather than risk losing the customer or facing a formal complaint ruling. If the issue is unauthorized charges or fraud, the mediator can help parties share evidence (for example, whether the customer safeguarded their PIN, or whether the bank's fraud detection was timely) in a non-adversarial setting, often leading the bank to at least partially reimburse the customer as a compromise. Many such disputes are resolved at early stages. For instance, India's banking ombudsman reports that a

[1] Patrick L. Carroll, "Ezequiel Santiago Foreclosure Mediation Program", State of Connecticut Judicial Branch, 1 March 2021, page 12.

significant portion of complaints about credit cards (which made up about **14% of banking complaints** in 2023) are settled through mutual agreement or mediation without needing further action.

Real-world case studies show what mediation can achieve: one customer who faced fraudulent withdrawals on his account (initially met with unsatisfactory bank response) was able to get the bank to refund about €1,500 and acknowledge the service lapse after a mediation by the ombudsman. Similarly, for **debts on credit cards**, mediation offers a chance to negotiate repayment plans or lump-sum settlements (sometimes accepting a reduced payoff) that the bank might agree to in lieu of lengthy collections – a win-win that allows the customer to avoid bankruptcy and the bank to recover a portion of the debt. In summary, mediation addresses credit card disputes by encouraging pragmatic solutions – correcting billing errors, providing fair compensation, or arranging manageable repayment – thereby resolving issues quickly and preserving customer trust.

Other Financial Disagreements (Fees, Fraud, and Mis-Selling)

Beyond loans and cards, banks and their clients encounter a range of other disputes that are commonly resolved via mediation or similar alternative dispute resolution (ADR) methods:

- **Bank Account and Fee Disputes:** Customers frequently clash with banks over **account fees, overdraft charges, or account closures**. While a decade ago many bank account complaints were about high fees, today a lot involve **fraud and scams** – for example, money stolen via online banking fraud or accounts frozen due to suspected fraud.

  Mediation or ombudsman intervention can help determine a fair outcome – the bank might agree to refund part of the lost funds or expedite the unfreezing of an account once the facts are clarified. By talking through the issue, banks often realize the value of a goodwill settlement (to preserve reputation and customer relations) and customers get a quicker remedy than going through court.

- **Mis-Selling of Financial Products:** Banks sometimes mis-sell products like insurance add-ons (e.g. payment protection insurance) or investment products that are unsuitable for the client. These mis-selling scandals have led to waves of disputes. Mediation is effective here by allowing the customer to obtain redress without the bank formally admitting legal liability in court. For instance, banks in the UK and EU have used ADR schemes to compensate customers for mis-selling insurance or complex products. A mediator can help the bank understand the customer's loss and negotiate compensation or product adjustments in confidence. In fact, "improper sales or disclosure" issues are a noted category in banking mediation. By agreeing on a settlement (such as refunding premiums or adjusting a product's terms), both sides avoid protracted litigation, and the bank often retains the customer's business. In France, the **Autorité des Marchés Financiers (AMF)** actively promotes mediation as a systematic and accessible solution for clients who have

experienced mis-selling of financial products. Through the **AMF Ombudsman (Médiateur de l'AMF)**, the institution offers a free, impartial, and confidential mediation service that helps retail investors resolve disputes with financial institutions without resorting to lengthy legal proceedings[1]. The AMF requires financial service providers to inform clients of their right to mediation and encourages early resolution of complaints through this channel. The mediator reviews cases involving unclear or misleading product information, inadequate risk disclosures, or advice that was not suited to the client's profile.

- **Trust and Fiduciary Claims:** Some disputes involve banks in a fiduciary role – for example, as trustees or executors – or handling client assets. Mediation can address claims of mishandling or negligence by enabling an expert discussion of what went wrong. These cases can be technical, so mediation allows the inclusion of specialists or creative solutions (like reconstructing an account or paying equitable compensation) that a court might not fashion. Given the sensitive nature (often involving family estates or lifelong savings), private mediation is often preferable to a public trial for all parties.
- **Regulatory and Compliance Issues:** Occasionally, a conflict arises not directly from a contract but from a bank's regulatory duties – say a bank accused of violating consumer protection laws in how it treated a client's loan or data. Some regulators encourage mediation in such circumstances as well, to reach a settlement that might include the bank changing practices or providing restitution. While the core of banking mediation is typically the bank-customer relationship, having a mediator can also help when a customer's complaint edges into a regulatory complaint – ensuring the customer feels heard and the bank takes steps to resolve the issue, possibly avoiding fines or enforcement action.

In all these "other" disputes, mediation's hallmark **is flexibility**. The mediator can shuttle between the bank and customer to find a tailored fix – whether that's a sum of money, an apology, a correction to a credit report, or simply a clarification that clears up a misunderstanding. The **Financial Ombudsman Service in the UK, for example, handles hundreds of thousands of varied complaints (from fraud to fees to loans) and manages to settle approximately up to 90% of them at early informal stages** through mediation techniques, without ever issuing a formal decision.

This underscores that regardless of the specific issue – big or small – mediation has a proven track record in resolving diverse financial disputes in a way that leaves both the bank and the customer better off than if they fought to the bitter end.

[1] Madeleine Guidoni, "2009 Ombudsman's Report", AMF, page 32, (n.d.).

ii. Success Rates and Settlement Patterns in Banking Mediation

Data from around the world show that mediation in banking disputes tends to be highly effective, with a strong majority of cases ending in agreement. Both **court-annexed mediation programs** (those connected to the litigation process) and **private or ombudsman mediation mechanisms** report notable success in settling bank-client conflicts. Below global examples, illustrating settlement rates and outcomes in different settings:

Court-Annexed and Mandatory Mediation Programs

Courts and legislatures in many jurisdictions have integrated mediation into the resolution of banking disputes, often with impressive settlement rates. A prime example is the response to mortgage foreclosure crises. In the United States, several states implemented court-annexed foreclosure mediation programs to address the wave of defaults after 2008. These programs, often mandatory for lenders before they can proceed with a foreclosure sale, achieved striking results. **Connecticut's Foreclosure Mediation Program** is one of the most successful: over its multi-year span, about **14,918 foreclosure cases went through mediation, and agreements were reached in 91% of them**.

Notably, about 74% of mediated cases resulted in the homeowner keeping their home through some form of loan workout, and another 17% ended with an agreed transition (such as a short sale or graceful exit). This means only a small fraction proceeded to foreclosure without agreement – a huge win for both sides, as banks avoided costly foreclosures and borrowers avoided losing their homes. Other U.S. jurisdictions saw similar outcomes: for instance, Nevada's foreclosure mediation program (in a non-judicial foreclosure context) reported settlement rates in the 80–90% range as well, and local court programs (like one in Cuyahoga County, Ohio) also boasted high resolution rates. The pattern in these programs is that **mediation frequently produces loan modifications or repayment agreements** that prevent foreclosure. The success has been so notable that it's influenced policy – showcasing that even when participation is compelled by law, as long as outcomes are voluntary, mediation works effectively.

Another sphere of court-connected mediation is in **debt recovery and small business banking disputes**. In Australia, for example, several states have **mandatory Farm Debt Mediation** laws that require banks to mediate with farmers before enforcing a loan default. The long-running scheme in New South Wales (since 1994) consistently saw very high settlement rates. Between 1995 and 2016, about **1,659 farm loan mediations were held and 1,487 resulted in agreements – roughly a 90% success rate**. These agreements often involve restructuring the debt or giving the farmer time to sell the property on better terms, rather than the bank immediately seizing assets. Such outcomes illustrate a broader settlement pattern: in mediated debt cases, the parties often agree on a **workout plan or compromise** that is more practical and humane than a court judgment. Australian courts in general have embraced mediation for civil disputes, with judges noting that even reluctant parties often become willing to settle when ordered into a mediation session. Across

various Australian mandatory mediation programs (from retail leasing disputes to financial cases), settlement rates tend to exceed 80% **(Morek, 2025).** This aligns with global observations that when courts refer cases to mediation – whether consumer banking issues or commercial finance disputes – **roughly two-thirds or more end in voluntary settlement** rather than returning to litigation.

It's worth noting that not every court-annexed mediation yields an agreement, especially if one side feels they have little incentive to compromise. Some programs report more moderate success; for example, in Hong Kong's courts, mediation in civil cases (including finance disputes) has achieved about a 40% settlement rate in recent years. However, specialized financial dispute schemes tend to do better, likely because the parties see value in a quick resolution. Overall, the evidence from court-annexed mediation in banking matters – from U.S. foreclosure dockets to Australian farm loans – shows **consistently high settlement rates (often 70–90%)**, demonstrating the impact of mediation in resolving cases that would otherwise clog courts and strain creditor-debtor relationships.

Private and Ombudsman-Led Mediation Mechanisms

Outside the courts, the banking industry and regulators worldwide have established a variety of ADR mechanisms to handle customer complaints. These typically involve **ombudsmen or mediation services** that attempt to settle disputes informally, and they too exhibit strong track records in resolving issues between banks and clients.

One of the largest such systems is the **Financial Ombudsman Service (FOS) in the United Kingdom**, which handles consumer complaints against banks and financial firms. FOS emphasizes resolving matters through informal mediation/conciliation by case handlers, only issuing a formal ombudsman decision if needed. In practice, **around 90% of disputes brought to the UK Financial Ombudsman are settled at these early informal stages without requiring an ombudsman's final ruling**. This means most hundreds of thousands of complaints each year (covering everything from mis-sold insurance to unauthorized transactions) end in a mutually agreed outcome or a complaint being withdrawn after mediation. The "uphold" rate in formal decisions hovers around 30–40% according to the Financial Ombudsman Service's reports, but that understates the real success of the process – many complaints are resolved by agreement or redress long before a decision, often to the customer's satisfaction.

The pattern in the UK echoes elsewhere: most advanced financial markets have similar ombudsman schemes. For example, **Ireland's Financial Services and Pensions Ombudsman (FSPO)** reported that in 2019 it resolved **2,154 complaints through its Dispute Resolution Service using informal mediation**, without needing to escalate them to investigation. In the same year, the number of complaints that went all the way to a binding decision was only 439 – meaning the bulk were settled earlier. Of those mediated outcomes, many involved the bank providing redress or clarification: **983 complaints resulted in monetary compensation or redress for the customer, and hundreds more were resolved with some non-monetary agreement or explanation**. This shows that through mediation, customers obtained remedies in roughly five

times as many cases as those who required a formal ruling, underscoring the effectiveness of the consensual approach.

Asian countries have likewise embraced mediation in banking disputes, often through regulator-sponsored ombudsman programs. **India's Integrated Banking Ombudsman Scheme**, operated by the Reserve Bank of India (RBI), provides free mediation/conciliation for bank customers. The latest annual report (FY 2023–24) indicates that out of a flood of ~934,000 complaints, **57.07% of the maintainable complaints were resolved through mutual settlement, conciliation, or mediation**. (Most of the remainder were resolved by dismissal of unfounded cases or formal rejection when no service deficiency was found.) This is a striking volume: over half a million disputes across India ended in an amicable settlement facilitated by the ombudsman in one year. The categories span everything from loan disputes (which comprised about 29% of complaints) to mobile banking and digital payment issues (19%) and credit card issues (14%). The high settlement rate shows that even with the scale of India's banking system, mediation is managing to settle the majority of valid complaints – often in the form of the bank offering the customer a resolution once the ombudsman opens a dialogue. Other countries in the Asia-Pacific report similarly positive patterns.

Hong Kong's Financial Dispute Resolution Centre (FDRC), a mediation and arbitration scheme for financial customers, has consistently achieved settlement in a large majority of cases. In its first five years, FDRC saw an approximately 84% success rate in mediations (e.g. in one period, 94 out of 112 mediated cases settled).

These settlements covered retail banking disputes and investment disputes up to a certain claim limit, demonstrating the appetite of both consumers and banks to resolve matters privately. **Australia's Financial Complaints Authority (AFCA)**, which handles tens of thousands of banking and insurance disputes, similarly relies on methods like mediation (often by phone conciliation conferences) to settle most complaints. While exact percentages vary by product, the trend is that only a minority of cases require a formal decision; most are settled or withdrawn after mediation, thanks in part to regulatory pressure on firms to resolve issues. For instance, it's noted that banks in Australia have strong incentives to settle once a complaint is filed with AFCA, both to avoid fees and because AFCA's process encourages negotiated outcomes (the banks know that protracted fights can result in binding decisions against them if they don't find a middle ground).

Settlement patterns in these private/ombudsman mediations often involve the bank providing some remedy to the customer – which could be a refund, a loan adjustment, a waiver of charges, or other corrective actions – but usually less than what a customer initially demanded, reflecting a compromise. For example, the Irish FSPO reported various mediation settlements: a bank paid €28,000 in interest adjustments and €18,000 compensation to one mortgage customer for a classification error; another case led to €15,000 of loan arrears being written off and the remainder restructured when interest charges were disputed. These illustrate how mediated settlements tend

to **split the difference**: the customer obtains significant relief, and the bank, while paying or conceding something, often preserves the overall loan or customer relationship.

In credit card or fraud disputes, a common pattern is the bank agreeing to cover a substantial portion of the loss as a gesture of goodwill, even if not admitting fault, leaving the customer responsible for a smaller share – a pragmatic outcome that a mediator can help craft. Importantly, mediation also tends to resolve cases faster. Many ombudsman schemes aim to resolve complaints in a few months or less, whereas court litigation could drag on for years. This speed benefits both sides and is reflected in **high satisfaction rates** – for instance, surveys by the American Arbitration Association found over 75% of parties were satisfied with mediated financial dispute outcomes.

Global trends: The global shift toward mediation in banking is also encouraged by regulators and international bodies. The EU's Directive on consumer ADR (2013) led to the establishment of financial ombudsmen or mediation bodies in all member states, standardizing high settlement rates across Europe. In the Asia-Pacific, industry ombudsmen (like in Malaysia and Singapore) and even specialized mediation centers (like Vietnam's nascent financial mediation initiatives) are providing avenues for dispute resolution outside courts. Banks themselves often prefer these channels – they are private, typically cheaper than litigation, and help defuse customer anger.

As a result, many large banks have internal ADR or early resolution teams to engage in mediation as soon as a complaint escalates. The cumulative effect is that **the majority of bank-client disputes worldwide never reach a court verdict – they are settled through mutual agreement**, either in a formal mediation setting or through facilitated negotiation by an ombudsman.

In conclusion, mediation has proven to be an effective and impactful means of resolving banking disputes across loans, mortgage, credit card, and other financial issues. From avoiding home foreclosures in the US to handling everyday bank complaints in Europe and Asia, mediation and related ADR processes show high success rates in delivering fair outcomes. The trend globally is toward even greater use of mediation – with notable programs demonstrating that when banks and customers sit down with a skilled mediator, they can often find a solution that saves time, money, and relationships. The statistics and cases from different countries all point to the same conclusion: **banking mediation works**, and it has become a key component of modern financial dispute resolution, benefiting consumers, banks, and the justice system alike.

B. Challenges and Limitations of Mediation in Banking

Mediation is increasingly promoted as a cost-effective, time-efficient, and confidential method for resolving disputes in the banking sector. Nevertheless, despite its many advantages, mediation in banking faces significant challenges that can undermine its effectiveness. Understanding these challenges is crucial for improving the accessibility, fairness, and outcomes of mediation processes in financial contexts.

1. **Lack of Awareness and Understanding**

One of the primary obstacles to the successful use of mediation in banking is the limited awareness among clients and even banking staff about mediation as a dispute resolution option. Many individuals continue to associate dispute resolution exclusively with litigation or arbitration and are unaware of the potential benefits of mediation **(Alexander & Howieson, 2016).** For example, a customer facing a loan dispute may immediately seek legal representation instead of considering mediation, leading to increased costs and prolonged conflict.

2. **Power Imbalances Between Parties**

Banking disputes often involve significant disparities in bargaining power between large financial institutions and individual customers. Clients may feel intimidated by the bank's authority, financial resources, and legal expertise, which can affect their willingness to negotiate openly or assert their interests during mediation (**Nolan-Haley,2012).**

For instance, a small business owner disputing a credit line termination may fear retaliation or future credit denials if they oppose the bank during mediation.

3. **Confidentiality Concerns**

Although mediation is prized for its confidentiality, parties in banking disputes may hesitate to fully disclose sensitive financial information due to concerns about possible misuse or leaks **(Menkel-Meadow,2011).**

In cases involving corporate clients, the disclosure of financial vulnerabilities during mediation could potentially affect stock prices, market reputation, or business negotiations outside the mediation setting.

4. **Resistance from Legal Departments**

Internal legal teams in banks may resist the use of mediation, preferring litigation which they perceive as offering more control, predictability, and precedent-setting opportunities **(Wissler, 2004).**

For example, a legal department might discourage mediation because a public court victory could serve as a deterrent to future claims, while a private mediation settlement remains confidential and does not create legal precedent.

5. **Difficulty in Reaching Binding Agreements**

Although the goal of mediation is to reach a mutually acceptable settlement, agreements are not always achieved. Even when an agreement is reached, enforcement depends on the voluntary commitment of the parties **(Moore,2014).**

For example, if a bank agrees in mediation to adjust a loan's terms but delays implementation, the customer may have limited legal recourse compared to having a court-ordered judgment.

6. **Cultural and Institutional Barriers**

Cultural factors can significantly influence the success of mediation. In some organizational cultures, particularly those with rigid hierarchies, admitting fault or compromising may be seen as a weakness **(Boulle, 2005).**

In banking institutions where decision-making must pass through several hierarchical levels, reaching an agreement during mediation sessions may be difficult without direct authority present.

7. **Costs and Time Considerations**

Although generally more cost-effective than litigation, complex banking mediations can still become expensive and time-consuming, especially when technical experts, financial analysts, or external consultants are required (**De Palo & Trevor, 2004).** For example, resolving disputes involving complex derivatives or syndicated loans might require several expert consultations and multiple mediation sessions, which means increasing the process's costs.

8. **Lack of Specialized Mediators**

Effective mediation in banking disputes requires specialized knowledge in finance, law, and banking practices and operations. However, the pool of mediators with both mediation skills and deep sector-specific expertise remains limited (**Alexander & Howieson, 2016).** A mediator without sufficient knowledge of regulatory banking frameworks may fail to grasp crucial aspects of the dispute, leading to ineffective negotiation outcomes.

9. **Regulatory and Policy Constraints**

In some jurisdictions, the regulatory framework may not fully support or recognize mediation agreements in banking disputes, creating uncertainty for both banks and customers **(Nolan-Haley, 2012).**

For example, if the law does not explicitly enforce mediation settlements, parties might be reluctant to rely solely on mediation without parallel legal action.

10. Emotional Factors

Banking disputes, particularly those involving personal finances, foreclosures, or bankruptcy, can be emotionally charged. Emotional distress can impede rational decision-making and make constructive negotiation difficult **(Nolan-Haley, 2012).** For instance, a customer facing foreclosure may feel anger, betrayal, or anxiety that affects their ability to assess settlement offers objectively during mediation.

C. External Factors Influencing Mediation Outcomes

Mediation outcomes in the banking sector are not determined solely by the parties' willingness or the mediator's skill, they are also profoundly shaped by external factors. This section examines three major external dimensions: **(i) Regulatory Environment and Legal Frameworks**, and **(ii) Impact of Institutional Policies (Bank Strategies on Mediation)**. These factors operate at the systemic and societal level, influencing how frequent mediation is used in banking disputes and how successful it can be in resolving them.

i. Regulatory Environment and Legal Frameworks

National laws, court systems, and regulatory structures establish the governing rules for banking mediation. A supportive legal framework can greatly enhance the uptake and success of mediation, whereas gaps or barriers in law may hinder it. In the context of banking, regulators often encourage or mandate Alternative Dispute Resolution (ADR) to protect consumers and reduce court caseloads. This section analyzes how different jurisdictions incorporate mediation into their legal systems, with global comparisons and examples of court-annexed or mandatory mediation schemes.

- **United States:** The U.S. lacks a singular federal law mandating mediation in banking disputes, but many courts and agencies have embraced mediation through rules and programs. For instance, the **Alternative Dispute Resolution Act of 1998** requires every federal district court to provide an ADR program (often including mediation). At the state level, courts commonly order or encourage mediation in civil cases. A notable example arose from the 2008 financial crisis: several states introduced **foreclosure mediation programs** to address the surge in mortgage defaults. These court-annexed schemes compelled lenders and borrowers to meet with a neutral mediator before foreclosure could proceed. Outcomes were positive – in Philadelphia's mandatory program, roughly 85% of homeowners who participated were still in their homes 18 months later, indicating that mediation helped avoid foreclosure in a large majority of cases[1]. Similarly, Nevada's

[1] Alon Cohen, "Foreclosure Mediation Going Forward", Center for American Progress, 6 April 2011.

program achieved high settlement rates, demonstrating that **forced or automatic mediation can yield better results than voluntary referral**, likely because it brings reluctant parties, like banks, to the table[1]. These experiences led policymakers to view mediation as a valuable tool for financial disputes; bills in the U.S. Congress even proposed grants to expand state foreclosure mediation programs, citing settlement rates above 50% in "mature" programs. Outside of foreclosures, U.S. financial regulators also support ADR – for example, the Financial Industry Regulatory Authority (FINRA) offers mediation for securities and investment disputes (though participation is voluntary).

Overall, the U.S. approach is decentralized: **mediation is widely available but not uniformly mandatory**, its use shaped by local court rules and the preferences of the parties or regulators involved.

- **European Union:** In Europe, a more top-down approach has emerged via directives and national implementations. The **EU Mediation Directive 2008/52/EC** promoted mediation in civil and commercial matters (albeit mainly for cross-border disputes), requiring member states to ensure mediated settlements can be enforced and to uphold confidentiality, among other provisions. More directly relevant to banking is the **EU Directive 2013/11/EU on Consumer ADR**, which obliges member states to make free or low-cost ADR available for consumer disputes in sectors including financial services. In practice, this led to the creation or enhancement of financial ombudsman and mediation schemes across Europe.

For example, **Italy** instituted the Banking and Financial Ombudsman (***Arbitro Bancario Finanziario*, or ABF**) in 2009 – an out-of-court dispute resolution system for bank customers. Italian law actually goes further: **Legislative Decree 28/2010** makes mediation *mandatory* for certain disputes (such as those involving banking and finance contracts), meaning parties must attempt mediation before proceeding to court. This mandatory mediation requirement, coupled with the consumer ADR scheme implementing the EU directive, created a dual framework in Italy[2]. Other EU countries have adopted their own models: **France** and **Germany** encourage mediation (and comply with the ADR directive via ombudsmen), while **UK** banks are subject to the Financial Ombudsman Service (FOS) for retail complaints. The UK has not made mediation compulsory in court, but courts can impose cost sanctions for unreasonable refusal to mediate, indirectly pushing parties (including banks) toward ADR. In sum, Europe's regulatory environment actively supports banking mediation through **legislative mandates (in some jurisdictions), EU-wide standards**, and the establishment of permanent ADR bodies.

[1] Jennifer Shack, "Foreclosure Dispute Resolution by the Numbers", RESOLUTION SYSTEMS INSTITUTE, 14 February 2013, page 6.
[2] "Mandatory mediation and ADR for consumers: possible concurrence?", Zunarelli Studio Legale Associato, 16 March 2016.

- **Australia:** Australia is often cited as a leader in integrating mediation into its legal system. Since the 1980s, Australian courts and tribunals have used mediation and conciliation at various stages of disputes. In the banking sector, Australia created a robust external dispute resolution infrastructure. All banks and financial firms are required by the regulator Australian Securities Investments Commission to **implement Internal Dispute Resolution (IDR) procedures and belong to an External Dispute Resolution (EDR) scheme**. Until 2018 the main EDR for banks was the Financial Ombudsman Service; now it is the **Australian Financial Complaints Authority (AFCA)**, a nation-wide scheme handling consumer financial disputes. AFCA uses a mix of methods – negotiation by case managers, facilitated mediation conferences, and if needed a binding decision. The regulatory mandate is clear: a bank **must** attempt to resolve a complaint internally and, if the customer remains unsatisfied, the bank **must participate** in the external mediation/ombudsman process[1]. This pro-ADR regulatory environment has made mediation and settlement an expected part of banking conflict resolution in Australia. Additionally, Australian courts (state and federal) frequently order mediation in litigation. The result is a culture where **going to court is a last resort** and regulatory policy actively steers banks and customers toward mediated outcomes.

In addition to formal laws, the success of mediation is influenced by standards and guidelines that ensure quality and consistency. Internationally, frameworks like the **UNCITRAL Model Law on Mediation (2018)** and the **UNCITRAL Mediation Rules (2021)** provide a template for countries to regulate mediation proceedings[2]. The **International Mediation Institute (IMI)** and other professional bodies have developed mediator competency criteria and codes of conduct that many jurisdictions adopt or reference. For example, the **EU Code of Conduct for Mediators** mentioned before and various national accreditation schemes set baseline ethical and practice standards.

In the banking arena, regulators may issue guidelines urging fair conduct in mediation – e.g. requiring that bank representatives in mediation have sufficient authority to settle, or that customers receive clear information about the process. These standards do not directly force parties to settle, but they create trust in the mediation process (through confidentiality protections, mediator neutrality, etc.) and thus indirectly improve outcomes. When parties know that mediation is supported by a strong legal framework, that their discussions won't be used against them in court, and any agreement can be made enforceable, they are more willing to participate earnestly.

In summary, the regulatory environment, from hard laws to soft guidelines, shapes mediation's role in banking disputes. Jurisdictions that mandate or actively support mediation (through ADR schemes, court referrals, or legal incentives) tend to see higher utilization and often higher

[1] "Dispute resolution", Australian Securities Investments Commission.
[2] Shahla Ali, "Aspirations and Limits of Mandated and Voluntary Court Mediation Programmes from a Multi-Jurisdictional Perspective", Comparative Procedural Law and Justice CPLJ, November 2024.

settlement rates in bank-related cases, whereas those with adversarial procedures and no mediation culture see fewer mediated outcomes.

ii. Impact of Institutional Policies (Bank Strategies on Mediation)

The internal policies and dispute resolution philosophies of banks themselves are a critical external factor influencing mediation outcomes. Banks differ in how they approach conflicts with customers or other stakeholders. Some banks proactively embrace mediation as part of customer service and risk management, while others may be more combative or legalistic. Below we will discuss how a bank's strategy, shaped by its corporate culture, size, and business model (traditional vs. digital) – affects its engagement in mediation and the flexibility it shows in negotiations. We also explore variations between large financial institutions and smaller community banks, and highlight real-world examples of banks that have adopted or resisted mediation programs.

- **Proactive ADR Policies vs. Litigation-Oriented Approaches**

Banks that view disputes through a **reputational lens** often integrate mediation into their standard practices. These institutions see customer disputes not just as legal problems but as moments to rebuild trust and satisfaction. For example, some large international banks have **internal Ombudsman or mediation units** dedicated to resolving customer complaints before they escalate. A case in point is **Bank of America**, which in the past established an Office of the Ombudsman to handle high-level complaints impartially (signals of an ADR-friendly approach), and many Canadian banks likewise have internal ombudsmen who attempt mediation once normal complaint channels are exhausted[1].

Such banks typically train their customer service and legal teams in negotiation skills and authorize them to settle disputes in mediation when reasonable. The internal policy might state that litigation is a last resort, to be avoided if an amicable settlement is possible. **Risk management strategies** play a role here: from a risk perspective, mediation can save legal costs, avoid uncertain jury verdicts, and keep disputes confidential, thus protecting the bank's reputation. A bank with a strong ADR philosophy will explicitly weigh these benefits.

In fact, after the 2008 financial crisis, there was a noted shift – pressured by heavy litigation caseloads, many traditionally conservative financial institutions began to consider expanded use of ADR to handle claims related to debt collections, foreclosures, and mis-selling of products. A 2016 report by the International Chamber of Commerce (ICC) on Financial Institutions and ADR underscored advantages like confidentiality, specialized neutrals, and preservation of inter-party relationships.

[1] Andrew Teasdale & Harvey Naglie, "CONSUMER PERSPECTIVE DISCUSSION", Consumers Council of Canada, November 2018.

Banks that internalized these lessons adopted policies encouraging mediation for suitable cases. For such banks, when a mediation occurs, their representatives often come with a problem-solving mindset and sufficient settlement authority, which greatly enhances the prospects of a successful outcome. A **real-world example** is **Citigroup**, an American multinational investment bank and financial services, which in the wake of numerous consumer disputes, implemented an early dispute resolution program that funneled many complaints into mediation or arbitration before litigation – reportedly reducing legal expenses and cycle time for dispute resolution. Another example on a smaller scale: **community credit unions**, which are non-profit financial institutions offering banking products, and other financial services. It sometimes has a culture of "members first" and will mediate even minor disputes (like a fee complaint) to maintain goodwill, empowered by policies that allow frontline managers flexibility to compromise.

On the other hand, some banks adopt a more litigation-oriented or adversarial outlook due to institutional culture or policy. Historically, certain large banks (especially in the U.S.) included **mandatory arbitration clauses** in their customer agreements to preclude class-action lawsuits – a strategy which often sidestepped mediation and went straight to binding outcomes, arguably to the customer's detriment[1]. For instance, many credit card issuing banks in the 2000s had arbitration policies that effectively shut the door on mediation or court, until public pressure and regulatory scrutiny led some to drop these clauses. A bank that internally instructs its lawyers to "fight every case" or not offer any apology/acknowledgment in disputes creates a climate where mediation is perfunctory at best – it might only occur when mandated by a court or regulator, and even then, the bank's negotiators might be inflexible. Such resistance can stem from a **concern about setting precedent** (e.g., if we forgive one loan in mediation, will many others stop paying?) or a belief that the bank's legal position is ironclad so there's no need to compromise. Real-world illustrations include episodes like the early phase of foreclosure mediation programs in the U.S., where some major banks sent junior representatives without settlement authority, leading to low success rates initially. In some jurisdictions, banks have resisted industry mediation schemes.

In **Canada**, a few large banks withdrew from the national banking ombudsman in favor of private ADR providers, a move critics say was to avoid being too limited by an independent mediator's recommendations. This kind of resistance generally leads to poorer mediation outcomes (or none), since the spirit of good-faith negotiation is missing. However, over time, even hardline institutions often moderate their stance due to external pressure or seeing the financial sense of settlements. It's worth noting that **regulators can strongly influence bank policies**: if a central bank or supervisory authority makes cooperative dispute resolution a part of compliance expectations, banks are more likely to soften their policies and engage sincerely in mediation.

[1] Erik Moller, Elizabeth Rolph, Patricia Ebener, "Private Dispute Resolution in the Banking Industry", RAND, (N.D).

- On another note, it is important to compare how mediation is being utilized within **traditional vs. digital Banks; large vs. community banks.**

Traditional banks might have more bureaucratic processes for handling disputes, often a sequential escalation (branch level, then corporate customer care, then legal). They may rely on formal letters and legal departments, which can either help or hinder mediation. On one hand, established banks often have dedicated and compliance units that understand the costs of litigation and thus may readily approve mediation to avoid court. On the other hand, bureaucracy might make it hard to get quick settlement authority or creative solutions, as everything needs higher approval. Traditional banks also worry about **reputation in the community**; a highly publicized lawsuit can damage their brand, so in some cases they use mediation to quietly resolve issues. Community relations philosophies thus affect mediation engagement: a bank that markets itself as "customer-friendly" is incentivized to actually resolve disputes amicably to uphold that image[1]. Some large banks have even made public commitments which essentially encourages mediated solutions.

In contrast, **digital banks or "neobanks"** and fintech platforms bring a different dynamic. These online-only banks attract customers with convenience and often promote superior customer experience. When disputes arise, digital banks aim to fix it fast – partly because an unresolved issue can go viral on social media, harming their tech-savvy brand. Digital banks often use automated systems and AI for first-line dispute handling[2], but for more complex matters, they may engage in virtual mediation. Some digital banks have experimented with **Online Dispute Resolution (ODR)** tools – essentially, mediation via chat or video conference with the help of technology. Their policies might be more flexible in offering refunds or accommodation quickly, to avoid protracted fights. Aforementioned, being newer entrants, some fintech also include strict terms in user agreements to limit legal exposure. The net effect is mixed: digital banks strive for swift resolution (which aligns with mediation principles), but their reliance on predetermined rules or algorithms could make personalized mediation less common unless the issue escalates to a human level. As digital banks mature, we see some adopting a hybrid approach – resolving routine complaints via algorithms, but if a customer is dissatisfied, offering a session with a specialist, or to a mediator, to talk through the problem and propose solutions. This is essentially an internal mediation step, reflecting a customer relations philosophy that a happy customer retained is worth the cost of a concession.

When comparing **large vs. small institutions**, differences emerge in mediation usage. **Large banks** (multinational or national banks with millions of clients) have volume to consider they might face thousands of similar disputes in fees, credit card charges, loan modifications etc.... To

[1] Evi Susanti, "Complaints Handling Satisfaction mediates between Complaints Handling to Customer Loyalty for the Indonesian Banking Industry", International Journal of Digital Entrepreneurship and Business, 17 August 2021, Vol.2, No.2.

[2] Andrea Faggiano and others, "Resolving Customer Complaints in the Digital Era", Arthur D. Little, 1 December 2019, page 4.

handle this, large banks often prefer standardized processes – which can include batch settlements or framework agreements resulting from mediated negotiations. For instance, after a scandal involving improper charges, a big bank might enter a mediated settlement with a regulator or a class of customers to provide redress across the board. Big banks also tend to have more **legal firepower** and may initially posture aggressively in disputes, but they have the resources to participate in lengthy mediations when needed (e.g. participating in multi-day mediation with dozens of stakeholders in a complex financial case). Their risk management committees typically require evaluating the litigation risk vs settlement value, so if mediation can reliably save money, policy will tilt that way. Indeed, a survey of financial institution legal departments found that many view mediations favorably for certain cases – especially those involving **reputational risk or long-term client relationships** – because it allows private and nuanced resolutions.

Large banks may also use **tiered dispute clauses** in contracts (for example, first negotiation, then mediation, then arbitration) to signal a corporate policy of attempting amicable resolution before fighting. In contrast, **community banks and credit unions** (smaller, locally focused institutions) operate in an environment where personal relationships are paramount. A community bank's president might personally know major clients and will be motivated to resolve disputes without alienation.

As a result, community banks often handle conflicts informally – a face-to-face meeting (which is essentially mediation without the label) with the customer might be arranged to talk things out. Their internal policy might not call it "mediation," but the ethos of personal engagement serves a similar role. Because community banks have fewer layers of approval, they might actually be more flexible in mediation: a branch manager might have discretion to, say, forgive an overdraft fee or renegotiate a loan on the spot during a conversation, whereas a teller at a mega-bank cannot do so without higher sign-off. However, small institutions might lack in-house legal expertise, so when disputes get complex, they may defer to lawyers who could push for litigation if they think the bank is clearly in the right. A real-world case study from Ireland's Financial Services Ombudsman (FSO) showed that smaller banks and credit unions engaged very constructively in mediation, often settling complaints to retain member goodwill, whereas a few larger entities took longer and more formal routes.

In conclusion, a bank's internal policies and culture significantly influence mediation outcomes. **When banks integrate mediation into their dispute resolution approach – by empowering staff to negotiate, setting up ADR mechanisms, and prioritizing customer relationships – disputes are more likely to end in mutually satisfactory settlements.** The flexibility and good faith that come from such policies often mean the mediator can help parties find creative solutions such as loan restructuring, goodwill payments, confidentiality agreements to address reputational concerns, etc. Conversely, **if a bank's attitude is inflexible or purely legalistic, mediation can become stalemates**, or parties may not attempt mediation at all. The trend in the banking industry is toward greater use of mediation/ADR, driven by both practical benefits and regulatory

expectations. Banks large and small are learning that mediated outcomes – when done under the right external frameworks and cultural understandings – can preserve customer loyalty, reduce costs, and even enhance the institution's image as fair and human-centered.

Chapter 2: Analyzing Mediating Banking Disputes in Lebanon

In Lebanon, mediation has slowly begun to gain recognition as a practical and constructive way to resolve disputes outside the traditional court system. While the concept is not entirely new, formal mediation practices remain relatively underdeveloped compared to other countries, especially in specialized fields like banking. However, with growing awareness of the benefits of alternative dispute resolution—such as saving time, reducing costs, and preserving business relationships—there is increasing interest in integrating mediation into the Lebanese legal and financial landscape. In the banking sector, where disputes often involve complex financial matters and emotionally charged disagreements between institutions and individual clients, mediation offers a more collaborative and human-centered approach. It allows for open dialogue and flexible solutions that might not be possible through litigation. As Lebanon continues to navigate economic and institutional challenges, exploring and investing in mediation—particularly in the financial sector—could offer a more accessible and balanced path to justice.

A. Examining Banking Disputes Cases

Before exploring specific case studies of banking disputes resolved through mediation, it is essential to first understand the key mediation centers in Lebanon, as these institutions serve as the primary venues through which such disputes are addressed and resolved.

i. Lebanese Mediation Centers as Primary Venues for Banking Disputes

Despite the timid application of mediation processes, Lebanon has developed several key mediation institutions that can address banking and financial disputes alongside other conflicts. The main centers include:

- **Lebanese Arbitration and Mediation Center (LAMC)** – An Alternative Dispute Resolution institution established under the Chamber of Commerce, Industry and Agriculture of Beirut and Mount Lebanon (founded as an arbitration center in 1995, and then with mediation services added in 2012). LAMC administers arbitration and **commercial mediation** proceedings for businesses, banks, and government entities, providing trained neutrals and facilities for dispute resolution.

  Through an International Finance Corporation IFC-backed initiative in 2012, LAMC began promoting mediation to settle business disputes efficiently, aiming to save parties the cost and delay of court litigation. It offers mediator appointments, logistics, and model clauses,

positioning itself as a hub for resolving commercial and banking conflicts outside the courts.

- **Lebanese Association for Mediation and Conciliation (LAMAC)** – An NGO and mediation center dedicated to spreading a "culture of peace" and dialogue in Lebanon. LAMAC (also known as the Lebanese Center for Mediation and Conciliation) provides mediation services and training across various fields – **including banking disputes** – emphasizing win-win solutions. Founded by Mona Hanna (an attorney at Law registered at the Beirut Bar Association and mediator) in partnership with Sagesse University, LAMAC focuses on capacity-building through certifying mediators, workshops on communication and negotiation, and public awareness campaigns.

  By promoting mediation in family, commercial, financial, and even school conflicts, LAMAC seeks to embed mediation in Lebanese society as a first resort rather than a last resort.

- On the other hand, there are some **University-based Mediation Centers** – Academic institutions that have pioneered mediation in Lebanon. Notably, Saint Joseph University (USJ) in Beirut established the **Centre Professionnel de Médiation (CPM)** in 2005. This was one of the first modern mediation centers in Lebanon, created to train professional mediators and offer mediation services. The USJ-CPM helped introduce mediation post-civil war as a way to foster dialogue and resolve disputes amicably with cohorts of mediators skilled in commercial, family, and social mediation. University-led initiatives like the USJ CPM – and similar programs at other universities – have been instrumental in developing local mediation expertise and even partnering with industry.

  For example, USJ's CPM partnered with **Banque BEMO** through launching the first in-house **Banque Bemo Mediation Unit** in Lebanon. Such collaborations bridge academia and practice, making mediation accessible for financial disputes. Mediation centers like the USJ CPM and LAMC have since been **approved by the Ministry of Justice** as go-to venues for court-referred or voluntary mediations.

Additionally, the Lebanese government has begun integrating mediation into the justice system. In 2018, Parliament enacted **Law No. 82/2018** introducing **Judicial Mediation** for the first time. Under this law, litigating parties can, by mutual consent, refer their case to mediation even after a lawsuit is filed. A judge may suspend court proceedings and refer the parties to a certified mediation center or mediator for a renewable 30-day period to seek settlement. The Ministry of Justice was tasked with accrediting mediation centers and setting criteria for mediators, to build a roster of approved centers to which courts can confidently refer cases. This reform, supported by

earlier pilot programs with the **IFC/World Bank**, aimed specifically at commercial disputes, including banking conflicts, to ease court backlogs[1].

Banking disputes – which usually involve contractual obligations or financial claims – are generally **within the scope of mediation**, since they involve pecuniary rights that parties can transact or compromise. For instance, a lawsuit by a bank to recover a loan or by a depositor to claim funds could be considered for mediation, given that such cases revolve around payment obligations and can be settled through negotiated agreement. According to Article 4 of this Law, the referral to judicial mediation can occur in three ways:

- **Judge-Proposed:** The trial judge may propose mediation in a case **on their own initiative**, typically during a court hearing, **but it takes effect only if all parties consent** to try mediation.
- **Party-Requested:** Any party to the litigation may **request mediation**, and the court can refer the case if it deems mediation appropriate. In practice, even if one party files a mediation request, the referral will usually require at least the acquiescence of the other side (since mediation is voluntary in spirit). However, the law's wording allows a proactive party (say, a bank facing numerous depositors' lawsuits) to initiate the mediation route.
- **Contractual Clause:** If the parties had **a prior mediation agreement or clause** in their contract (often called a mediation clause or multi-tier dispute resolution clause), the court must refer the case to mediation in application of that agreement. Notably, any referral to mediation **cannot be appealed** by either party (Article 4). This rule prevents delay tactics – neither a bank nor a customer can stall the process by litigating the referral decision itself, ensuring that the mediation attempt proceeds without procedural wrangling. During the mediation period, the court may still take urgent measures to safeguard the parties' rights if necessary (for example, preserving assets or evidence), but it will not move forward with adjudicating the merits until mediation is concluded.

  At mediation's end, two outcomes are possible: either the parties reach a settlement, or they do not. If no agreement is reached, the case simply resumes before the court from where it left off (no rights are lost by trying mediation). If a settlement is reached, **the court will ratify the agreement in an order called an enforcement order**, making it legally binding and directly enforceable like a final judgment. It is **not subject to appeal** by the parties. This gives clients and banking institutions confidence that a mediated settlement (say, a loan restructuring or a payout schedule for a deposit) cannot be easily undone. In effect, the mediated agreement, once approved by the judge, has res judicata effect, and the parties are expected to comply just as they would with a court verdict. This feature – immediate enforceability – mirrors international best practices and encourages parties to commit to the mediation outcome, knowing it has legal finality. Besides, Article 8 of the

[1] Centre for Effective Dispute Resolution, "IFC and the Lebanese Justice Ministry announce court-referred mediation program", EU Monitor, 8 July 2013.

law requires that **mediators sign a statement of impartiality and independence** and abide by ethical rules. Annex 1 of the law provides a code of conduct for mediators – e.g. they must treat parties equally, keep information confidential, avoid conflicts of interest, and refuse any gifts or bribes. These safeguards are crucial in the banking context: they reassure individual clients that the mediator (even if perhaps a finance expert who might know banks) will be neutral, and assure banks that the mediator will act professionally and keep sensitive financial information private.

Despite the promise of Law No.82/2018, there have been significant practical limitations in its implementation, which is particularly relevant when considering its usefulness for financial and banking disputes. The main gap has been the slow rollout of the necessary infrastructure and regulations to make judicial mediation functional. The Council of Ministers was supposed to issue **implementation decrees** during that period to establish the accreditation process for mediation centers and the list of mediators. In practice, however, these decrees were **significantly delayed**. As of late 2020, and even by 2021, observers noted that no mediation centers had yet been officially approved by the government, and not a single judicial mediation referral had occurred. Basically, the law remained **dormant** due to administrative inaction – it was "still in the theoretical realm" **(Tohme, 2020).** This meant that even if a judge or parties in a banking case were willing to try mediation, there was no operational framework (no certified centers or mediator lists) to execute that referral.

However, in April 2022, Lebanon expanded the legal framework with **Law No. 286/2022** on **"Conventional Mediation,"** which formally recognizes out-of-court mediation agreements. While **Law No. 82/2018** addresses mediation after a lawsuit is filed (judicial mediation), Lebanese lawmakers recognized the need for a complementary framework governing mediation by the parties' agreement **before or outside** court. This prompted the enactment of **Law No.286/2022** on **"Conventional Mediation"**, which was published on April 14, 2022. Conventional mediation (also called **contractual or voluntary mediation**) refers to any mediation that parties engage in by mutual consent, without a direct court referral. The rationale was to legally support ADR at an even earlier stage, giving effect to mediation clauses in contracts and encouraging disputants to seek amicable solutions **instead of going to court in the first place.** Article 1 of **Law No.286/2022** defines conventional mediation as **"an amicable conflict resolution process that gives the parties the possibility to solve their current or future disputes by appointing a mediator to help them reach an agreement, while taking into consideration imperative rules and public order."** In simpler terms, this means any dispute resolution effort facilitated by a neutral mediator, based on the parties' mutual consent (whether given in advance by contract or after a dispute arises), is now governed by this law. **Law No.286/2022** places strong emphasis on **confidentiality**, similar to Law No.82/2018 where Article 8 of the law obliges **both the mediator and the parties** to maintain absolute confidentiality of the mediation communications. This confidentiality is vital in bank-client mediations: it encourages candor. A bank might be more willing to discuss an internal mistake or a client's debt restructuring options if it knows these talks won't become public

or prejudice its legal stance if mediation fails. Likewise, a client can speak freely about their financial capacities or even admit partial responsibility without fear of those words being later quoted in court. The law gives an injured party a cause of action if the mediator violates confidentiality or impartiality through seeking compensation and disciplinary measures.

The government's encouragement from the 2013 IFC-backed court mediation pilot to joining the **United Nations Convention on International Settlement Agreements Resulting from Mediation** on 2020 also known as the Singapore Convention which facilitates cross-border enforcement of mediated settlements underscores a policy commitment to make mediation (including for banking disputes) a pillar of dispute resolution in Lebanon. Joining the Convention means that a mediation settlement involving international parties could be enforced in Lebanon (and vice versa) without needing a fresh lawsuit. For example, if a Lebanese bank mediates with a foreign creditor and signs a settlement, the foreign party could directly enforce that settlement in Lebanon through a simplified procedure under the Convention, rather than suing the bank again in Lebanese courts. Likewise, a Lebanese customer who mediates with an international bank could enforce the deal abroad. **Law No.286/2022** complements this by providing the domestic framework for what a "mediation" and "settlement agreement" entail, and by ensuring mediators and processes meet certain standards – which is relevant because the Convention allows courts to refuse enforcement if the mediation seriously violated mediator standards or public policy.

ii. Case Studies of Banking Mediation Outcomes in Lebanon

Mediation in banking disputes is still emerging in Lebanon, but a few notable examples illustrate its potential. One pioneering case is **Banque BEMO's Mediation Initiative**. In 2010, Banque BEMO (a Lebanese commercial bank) launched the first-ever **Banking Mediation Unit** in the country. In partnership with USJ's CPM, BEMO set up this unit to amicably resolve conflicts with its clients and suppliers outside of court. According to the bank's announcement, this was a groundbreaking step "since it is the first Banking Mediation Unit in the country," aimed at finding mutually agreeable solutions for disputes involving the bank. The unit's mandate covered a range of banking conflicts, from customer complaints and account issues to disagreements with vendors, using professional mediators to facilitate dialogue. BEMO's initiative not only resolved specific cases but also created a model for banking-sector ADR. For instance, disputes over loan repayment terms and deposit withdrawals at BEMO have been handled through this mediation channel, with the mediator helping the customer and bank reach compromise arrangements (such as restructured payment plans) in a confidential setting rather than through protracted litigation. BEMO's management has publicly championed this approach; Chairman Riad Obegi noted that banks should "encourage mediation, which might solve 20 to 30 percent of the problems [which otherwise would end in court]"[1]. This statement reflects real experience that a significant share of bank-client conflicts – e.g. small loan defaults, fee disputes, or delays in fund transfers – can be

[1] Thomas Schellen, "Q&A with Riad Obegi, chairman of Banque BEMO, on banking sector challenges", EXECUTIVE Magazine, 28 May 2020.

settled through facilitated negotiation, preserving relationships in the process. BEMO even **revived and expanded** its mediation program in 2020 amid Lebanon's financial and economic crisis, explicitly to help address the surge in conflicts. In a 2020 press release, Banque BEMO declared "2020 is the year of courage" and reaffirmed its commitment to mediation as a socially responsible way to handle the fallout of the crisis[1]. The bank's Mediation Initiative, in cooperation with professional mediators, was intended to ease the burden on the community by **peacefully resolving disputes** aggravated by the financial turmoil. This included not only internal bank disputes but also an educational outreach to promote mediation nationwide as a tool for financial conflict resolution.

Beyond the BEMO example, other banking disputes in Lebanon have occasionally been resolved through mediation on a case-by-case basis. Most mediated settlements remain confidential, but mediators report that some **commercial banking cases** have found success outside court. For instance, the Lebanese Arbitration and Mediation Center (LAMC) has facilitated settlements in disputes such as a business suing a bank over a frozen credit line and disagreements over loan guarantees. In one representative case, a small enterprise struggling to repay a bank loan engaged a mediator through LAMC; the mediation process allowed the borrower and bank to candidly discuss financial constraints and led to a **restructured loan agreement** (extending the repayment period and adjusting interest) that satisfied both sides. The mediated outcome averted a default and lawsuit, and the business was able to continue operating – an outcome that litigation might not have achieved. Another example involved a depositor and a bank in dispute over blocked foreign currency funds. Rather than endless court motions, the parties (with a mediator's help) negotiated a compromise for the bank to release a portion of the deposit immediately, with the remainder converted to a term instrument, giving the customer some liquidity while allowing the bank to manage its cash flow. Such mediations, while not common, illustrate how **flexible solutions** can emerge outside the strict win/lose framework of court judgments. They also highlight the parties' positive experience: in these cases, bank officials and customers often report that the mediation process – being informal, confidential, and guided by an impartial expert – helped rebuild a measure of trust. Clients feel heard, and bank representatives can explore creative solutions (like payment scheduling, partial settlements, or alternative security) that a court might not be empowered to impose. This often results in faster resolution (many commercial mediations conclude within a day or two of meetings) and lower legal expenses **(Fernaini, 2012)** [2].

It should be noted, however, that comprehensive data on mediated banking disputes in Lebanon is limited, given that the practice is relatively new. By contrast, some neighboring countries have institutionalized banking mediation. Lebanon has not yet reached that volume of mediated cases. Still, the case studies and initiatives to date, from BEMO's mediation unit to ad hoc settlements via LAMC or court-referred mediations, demonstrate a growing awareness that alternative dispute

[1] "Banque BEMO revives its "Mediation Initiative", The Bulletin by EXECUTIVE, 20 May 2020.
[2] Carine Fernaini, "Lebanon Initiates Mediation", LE COMMERCE, 28 March 2012.

resolution can play a constructive role even in the tense arena of bank–depositor and bank–business conflicts. Parties who have tried mediation in financial disputes often emerge with more **sustainable solutions** and an intact working relationship, which is particularly valuable in Lebanon's closely-knit banking community. These early outcomes are building confidence in mediation as a viable path for resolving banking disputes, setting precedents that others may follow.

iii. Institutional Challenges in Lebanese Banking Mediation

Despite its promise, the mediation of banking disputes in Lebanon faces significant institutional and cultural hurdles. Key challenges include:

- **Low Awareness and Cultural Resistance:** A major barrier of Banking Mediation in the Lebanese business community is the lack of public and professional awareness about mediation as an effective dispute resolution tool. For decades, contentious issues, including bank-related disputes, were seen as matters for the courts, and the concept of formal mediation is still new to many Lebanese. While Lebanon has a rich tradition of informal dispute settlement (the "Sheikh al-Sulh" conciliator and other community mediation customs), modern mediation faces skepticism. Many bank customers and even some lawyers are unfamiliar with the mediation process or view it with distrust, fearing it may force unwanted compromise. Mediation centers have recognized this gap: LAMAC, for example, explicitly aims to spread the awareness of mediation through trainings and outreach. Similarly, early ADR programs had to **"sensitize"** stakeholders – in 2007, an IFC project began contacting the Association of Banks in Lebanon and local businesses to explain mediation's benefits. These efforts indicate that awareness is not yet widespread. Culturally, there can be a reluctance to air financial disputes outside of court or to show "weakness" by agreeing to negotiate. Overcoming the litigation mindset and building trust in neutral mediators will take time.
- **Inconsistent Buy-in from Banks:** On the institutional side, not all banks in Lebanon have embraced mediation, leading to inconsistent participation. While a forward-looking bank like BEMO set up a mediation unit early on, most Lebanese banks have not established internal ADR mechanisms for customer disputes. Banks often prefer to rely on their legal departments and the slow court process to deter claimants, especially in the ongoing **deposit withdrawal crisis** (since 2019 many banks have restricted withdrawals, spawning thousands of lawsuits). In such cases, banks have generally resisted mediation or collective settlement talks, fearing that agreeing to one mediated deal could set a precedent for others. The result is that mediation is unutilized for related disputes (e.g. frozen accounts, loan defaults) where it could be most useful. Even court-annexed mediation remains rare – for a judge to refer a case, the bank (and all parties) must consent, and banks often decline in favor of litigating or simply stalling. The **voluntary nature** of mediation thus becomes a hurdle when one side (frequently the bank) calculates it has more to gain by holding out.

- **Legal and Structural Obstacles:** Though Lebanon has passed mediation laws, practical implementation lags behind. **Law No.82/2018** (Judicial Mediation) has not been fully executed. The multiple disturbance (economic collapse, political vacuums, the 2019 protests and 2020 Beirut blast) diverted government attention and delayed setting up mediation offices in the courts[1]. Another issue has been the enforceability of mediated agreements. Prior to recent reforms, if a bank and customer reached a settlement through mediation, there was uncertainty about how to **legally enforce** it if one party reneged. Parties could sign a settlement contract, but turning it into a final judgment required an additional step (for instance, having a judge homologate it, or pursuing a new lawsuit for breach of contract). This extra hurdle weakened enthusiasm for mediation, especially for high-stakes banking disputes. The 2022 Conventional Mediation Law and Lebanon's decision to join the Singapore Convention are positive steps to address this through providing a clearer framework for recognizing and enforcing mediated settlements, at least for commercial cases. Still, these mechanisms are very new and untested in Lebanese banking conflicts. Until parties see that a mediation settlement with a bank can be **as binding as a court judgment**, they may be hesitant to invest effort in the process. Additionally, the cost and logistics can be an obstacle – hiring a professional mediator entails fees, and without a widespread culture of mediation, parties may balk at sharing these costs or may prefer to wait out a court decision (especially if they think time is on their side, as some banks do in the deposit freeze cases). The lack of legal aid or insurance coverage for mediation in financial disputes also means only those parties who can afford the mediator's fees may consider it, limiting access for smaller claimants.
- **Limited Judicial Support and Enforcement:** The judiciary's role is crucial in normalizing mediation, yet many judges in Lebanon have been slow to integrate it. Some judges are themselves unfamiliar with mediation or unconvinced of its efficacy for banking disputes. Others, while supportive, face structural inactivity – without established court mediation centers or clear protocols, referring a case to mediation adds procedural complexity. The result is that judicial referrals remain **very infrequent**. A recent commentary urges the Ministry of Justice to *"encourage judges to refer to judicial mediation more often [and] make a norm out of it."*[2]. This highlights that so far, mediation is the exception rather than the rule in court disputes, including those against banks. Furthermore, when settlements are reached, integrating them into the judicial process can be tricky. For example, if a depositor and bank settle via a mediator, they might want the court to mark the case as settled and enforce the terms. Judges vary in their willingness to endorse mediated settlements; some may insist on reviewing fairness or simply lack a procedure to ratify the agreement, thus causing delays.

[1] Rabih Sfeir, "Médiation au Liban: la résurgence d'un consensus traditionnel", International Mediation Campus, 24 March 2023.
[2] Carine Tohme, Nour Abi Rached and Mariam El Meer, "Lebanon Judicial Mediation Law", TOHME LAW FIRM, (n.d.).

There is also the challenge of **legislative gaps**: Lebanon's mediation laws exclude certain matters like bankruptcy and rights under public order, which could include some banking issues (e.g. if a bank is under liquidation, mediation might not be allowed). This can create ambiguity about which banking disputes are mediatable. Finally, Lebanon's ongoing financial crisis poses an external challenge: the sheer scale of the banking disputes (tens of thousands of aggrieved depositors) might overwhelm the current mediation infrastructure. Mediation thrives on a case-by-case, cooperative approach, but when an entire sector is in dispute with its customers, individual mediations might not solve systemic issues.

B. Banking Disputes During Crisis Periods

i. COVID-19 Pandemic and Its Effects on Banking Disputes

In March 2020, authorities imposed a general lockdown because of COVID-19 pandemic in order to curb the virus, which included closing most institutions. Banks were officially exempted as "essential" services, yet many still shut their doors or sharply limited operations to protect their employees. This reduced access to financial services virtually, and customers struggled to withdraw cash or contact bank branches, forcing a sudden shift toward ATMs and online banking.

Physical bank closures and limited hours led to **emerging disputes** over basic transactions. For example, during lockdown some ATMs ran out of U.S. dollars, and banks would only dispense Lebanese pounds at unfavorable rates – effectively devaluing customer deposits. Clients complained on social media that banks were using the pandemic "as an excuse" to tighten informal capital controls and block access to their savings.

Loan servicing became another flashpoint, where the Central Bank issued **Circular 547** in spring 2020, allowing borrowers to defer loan payments for several months in the process of avoiding mass defaults[1]. But with all published circulars of **Banque du Liban** banks always win. Some borrowers reported disputes over whether interest accrued or how quickly banks processed the deferments. Additionally, the rush to digital banking brought **technical glitches and service issues**. Many Lebanese who had rarely used online platforms were suddenly dependent on them, leading to problems such as account access errors and slower customer support response times. Banks' call centers and apps were stretched thin, and less tech-savvy customers felt left behind.

These strains **impacted dispute resolution mechanisms** as well. Court operations slowed dramatically under COVID-19 restrictions – most hearings were suspended or put on hold in early 2020, except for urgent matters. This meant that any lawsuits or formal complaints against banks faced new delays. In response, judges tried to keep urgent cases moving remotely (e.g. via online sessions), but such measures were limited because of the institutional challenges mentioned before.

[1] Nada Mora, "The Coronavirus Loan Intervention is a Step in the Right Direction", The Lebanese Center for Policy Studies LCPS, 27 April 2020.

Banks and customers thus had to resolve many issues informally. In some cases, internal bank solicitors and the central bank's directives filled the gap, encouraging negotiation rather than litigation.

In response to Lebanon's ongoing economic crisis, **Law No. 237/2021** was introduced suspending temporarily various legal, judicial, and contractual deadlines, including the repayment schedules for bank loans and other financial obligations. Published officially in the Gazette on July 22, 2021, this law aimed primarily at providing relief to borrowers, both individuals and businesses, who faced difficulties meeting their financial commitments due to the prevailing economic hardship.

Law No. 237 extended similar measures previously introduced by **Law No. 199/2020**, which had already halted certain deadlines and provided exemptions relevant to banking fees and taxes. Initially set to run from July 1 until December 31, 2021, this suspension was further extended by Law No. 257, prolonging it until March 31, 2022.

While this legislation was essential in reducing immediate financial pressure on bank customers, particularly those struggling with loan installments, it also raised concerns within the banking sector. Banks worried about the implications for liquidity and their ability to maintain financial stability, highlighting the importance of balancing immediate economic relief measures with the long-term health and functionality of the banking system. Moreover, this law represented a step toward broader financial reforms, supporting efforts to establish improved social security and pension frameworks as part of Lebanon's financial recovery strategy.

Overall, the pandemic strained customer–bank relationships in Lebanon: clients expected flexibility and support in crisis, while banks struggled to operate under unprecedented brakes. The result was a spike in complaints starting from **loan payment deferrals and fee waivers to problems with digital transfers,** and a need for creative, cooperative dispute resolution in an era when traditional courts and offices were often inaccessible.

ii. Economic Crisis and Financial Instability

Since 2019 and Lebanon is ongoing economic collapse. This has been the main cause for an explosion of banking disputes. After the revolution of October 2019, local banks restricted severely cash withdrawals, blocked most foreign transfers, and essentially froze U.S. dollar accounts. These unilateral actions trapped citizens' savings and destabilized the customer–bank relationship leading to high breakdown of the trust between customers and banking sector. Courts soon witnessed a significant rise in lawsuits by depositors against banks, challenging the unlawful freeze of their funds. Depositors pursued every available route to get their money back through filing urgent cases in Lebanese courts, triggering a handful of early judgments in their favor; suing banks in foreign jurisdictions like the UK (where some judges ordered Lebanese banks to transfer funds

abroad)[1]; and even petitioning to declare banks bankrupt in extreme instances where litigations to get money back didn't come to an end.

Specific disputes in this crisis often centered on **frozen deposits and blocked transfers**. For example, some Lebanese won initial court orders in late 2019 and early 2020 forcing banks to release their dollar funds or execute outgoing transfers for education and medical purposes. However, banks routinely appealed these rulings, blocking its enforcement. By 2022–2023 as the economy worsened and the public frustration towards banks grew, confidence in the banking sector had completely eroded reaching only about 3% of Lebanese who still express faith in financial institutions[2] , and many people stopped even expecting courts to deliver justice . Instead, **some depositors resorted to direct action**: in numerous incidents, ordinary people entered bank branches armed (often with toy guns) to demand their own savings at gunpoint. This fact underscored how desperate the situation became highlighting the breakdown of trust and normal dispute channels during the crisis.

The **erosion of public trust** in banks has fundamentally altered customer-bank disputes. Clients no longer view banks as partners or service providers, but often as adversaries withholding their life savings. By 2023, banks faced an escalation of lawsuits and judicial investigations into their practices. In fact, banks collectively went on strike in February 2023 to protest what they viewed as hostile court actions – including judges ordering asset freezes and pursuing money-laundering probes against big creditors[3]. The strike further hurt customers by shutting banks entirely for weeks. Meanwhile, Lebanon's judiciary has been paralyzed by its own crises: judges have periodically stopped work due to political interference and collapsing salaries, causing *hundreds of cases* (including against banks) to stall indefinitely. This overlap of circumstances means that formal dispute resolution – through lawsuits – has become painfully slow and uncertain when it is most needed.

In light of this, recognizing the overload on courts, Lebanon's Parliament enacted the **Judicial Mediation Law** in 2018 (just before the crisis) to encourage settling civil disputes more swiftly and amicably. The reason was that litigation is costly and slow, whereas mediation could provide "a solution that fits both parties' needs" in a confidential, efficient manner. During the banking crisis, however, mediation remains underutilized – partly because rooted power imbalances, especially within the Lebanese community, make negotiated settlements difficult. Banks fear setting precedents by voluntarily releasing funds, and depositors are unwilling to accept haircuts (losses) on their deposits in a private deal.

[1] OBEID & PARTNERS, "LEBANON: An Introduction to Dispute Resolution", Chambers AND PARTNERS, (N.D).
[2] Benedict Vigers & Mohamed Younis, "Lebanon Ill-Equipped for Further Instability", GALLUP News, 12 January 2024.
[3] Mohamed Azakir, "Lebanon banks put off strike for another week", Reuters, 3 March 2023.

Legal experts suggest that a **mediated framework** – perhaps supervised by a neutral committee or ombudsman – could help. Unlike court judgments (which banks often appeal or ignore), a mediation agreement would require mutual engagement from both bank and customer, potentially rebuilding a measure of trust. In cases of smaller disputes (such as a wrongly frozen transfer or unfair fee), mediators could step in to propose a fair resolution faster than the court system. While not a total cure, expanding mediation and other ADR mechanisms could alleviate pressure on the judiciary and yield more creative, mutually acceptable outcomes during the ongoing financial instability.

iii. Cybersecurity, Digital Banking, and Mediation of Tech-Related Disputes

Even before the economic crises, Lebanon's banking sector was gradually into digitizing, it was accelerated by pandemic lockdowns and the need for remote access to accounts. Today, more customers rely on **online banking, mobile apps, and electronic payments**, but this progress comes with new kinds of insecurities and challenges. Cybersecurity incidents and technical failures have affected banks worldwide, and Lebanon is no exception. Common technology-related conflicts include fraud (such as online banking scams or hacked accounts), electricity problems leading to service outages and errors in digital transactions.

For example, phishing scams have targeted Lebanese bank customers via SMS and email, tricking some into revealing passwords or OTP codes. Victims who lose money often blame the bank's security measures, while banks argue the customer was duped into an "authorized" transaction – creating a thorny dispute over liability.

Mediation offers a practical approach to these tech-related disputes by focusing on quick, expert-assisted resolution. Banks may contend that the client failed to safeguard their credentials. Rather than prolonged litigation over who bears the loss and liability, a mediator can help bridge the gap. A recent discussion by professional mediators noted that these cases benefit from flexibility and the human touch, a neutral mediator can acknowledge the client's distress while also probing the bank's protocols, guiding both sides toward a compromise.

In one reported mediation case, a small business whose employee was tricked into transferring funds to a scammer negotiated with its bank via a mediator. The mediator helped the business owner convey the impact of the fraud and the due diligence they did attempt, while also examining whether the bank's warnings were sufficient[1]. The result was a settlement where the bank and customer shared the loss, avoiding a protracted court fight.

Besides fraud, **service and technology failures** can be one of the most familiar tech-related disputes to be handled through mediation or other ADR channels in Lebanon. If a bank's mobile

[1] Jeffrey Grubman & Peter Kamminga, "When Scammers Strike: How Mediation Can Help Resolve Consumer Fraud Claims", JAMS, 7 May 2025.

app went down for several days, for instance, customers might claim damages for late bill payments or lost opportunities. A mediator with technical understanding could assess these claims more adeptly than a judge, and suggest practical remedies (such as fee waivers, compensation for specific losses, or guarantees of system upgrades). Importantly, mediation in tech disputes can be less adversarial, preserving a working relationship between the client and bank. This is crucial in a small market like Lebanon where customers may have limited banking alternatives. By collaboratively resolving digital-service issues – perhaps in a confidential mediation rather than blasting the issue on social media – banks can also protect their reputation and learn from the incident.

To make mediation effective in tech-related cases, some adaptations are needed. Lebanese mediators must be trained to **cybersecurity and IT expertise**, or else the parties should agree to involve independent experts. The legal framework is still catching up: Lebanon has been working on stronger cyber laws, but in disputes over e-banking fraud, clear regulations on liability are lacking.

In response to a growing wave of cyber threats in Lebanon's financial system, Banque du Liban issued **Basic Circular No. 144 on November 28, 2017 about Cybercrime Prevention**, aimed at fortifying the banking sector's defenses and enhancing customer awareness. The circular mandates that all banks and financial institutions must adopt comprehensive cybersecurity policies, including **two-factor authentication**, secure **end-to-end encryption**, and robust protection for email and online banking channels[1]. Institutions are required to allocate appropriate budgets to implement these technical safeguards and to secure insurance coverage for potential cybercrime losses.

Beyond technical requirements, **Circular 144** emphasizes the importance of **client education**. Banks must proactively raise customer awareness of cyber risks—such as phishing, malware, and fraud—by distributing and explaining a dedicated guide developed in collaboration with the banking sector and internal security authorities. Clients are instructed to notify their bank promptly, in writing, if they suspect electronic fraud or unauthorized access, enabling the institution—and potentially the Special Investigation Commission (SIC)—to respond quickly and mitigate damage.

In essence, Circular 144 introduces a **dual approach**: requiring banks to bolster their internal cyber resilience while making customer education and proactive reporting core pillars of the disaster-prevention strategy. This combination helps reduce the incidence of cybercrime and ensures that clients are prepared and empowered to act swiftly if they face a security threat.

[1] Carlos Abou Jaoude & Souraya Machnouk, "In brief: banking regulatory framework in Lebanon", LEXOLOGY, 30 March 2021.

iv. Prospects: Online Dispute Resolution (ODR) for Banking Conflicts

In the wake of these overlapping crises, **Online Dispute Resolution (ODR)** has emerged as a promising avenue for Lebanon's banking sector. ODR refers to the use of technology, especially internet platforms, to facilitate the resolution of disputes outside traditional courts. This can include negotiation via web portal, mediation by video conference, and even mediation outcomes delivered electronically. The concept is particularly relevant when physical meetings are difficult or when disputes are numerous and small – both of which apply to Lebanon's situation, either during COVID-19 pandemic and the lockdown restrictions, or during the economic and financial collapse. Over the past few years, Lebanese courts have faced extreme delays as per the above mentioned circumstances and infrastructure challenges (power outages, outdated IT systems)[1]. ODR offers a way to sidestep some of these hurdles by handling conflicts remotely and efficiently.

The **potential of ODR in Lebanon's banking conflicts** is significant. Consider the huge volume of issues: nearly every depositor has been affected by withdrawal limits, and many have small-value claims (hundreds or a few thousand dollars). It is impractical for courts to adjudicate each one quickly, yet these are exactly the kind of disputes ODR can address at scale. Through an ODR platform, a bank and customer could, for example, negotiate a partial repayment schedule via an automated process. If they reach an agreement, it becomes a binding settlement without ever filing a lawsuit. If not, a professional mediator could be engaged online to conclude the matter.

For Lebanon, implementing ODR will require some groundwork. On a **technical level**, a secure and user-friendly platform must be established. Encouragingly, there are regional examples to draw from. In late 2023, the Abu Dhabi Global Market (ADGM), a financial free zone in the UAE, launched a fully digital ODR platform that guides parties through negotiation and mediation online. This system allows disputants all over the world to have access to this platform, log in, submit their case, negotiate via structured offers, and involve an e-mediator if needed.

While ADGM's context is international commercial disputes, the same technology could be adapted for Lebanese banks and their clients. An ideal ODR platform for Lebanon would support Arabic, French, and English, have mobile-friendly access, given that many rely on smartphones nowadays, and most importantly to cope with internet instability. It should also address power imbalance – perhaps by providing **ODR coaches** or support for unrepresented customers, ensuring that a skilled bank does not overpower a less-experienced user in an online negotiation.

Besides, legal and institutional support is equally important. The Lebanese judiciary and regulators would need to formally endorse ODR outcomes. For instance, if a bank and customer reach a settlement through the platform, courts should readily ratify it to make it enforceable (or the Central Bank could require banks to honor such agreements). The good news is Lebanon has

[1] Najia Houssari, "Lebanon's Courthouses Suffer from Judicial Paralysis", ARAB NEWS, 28 November 2022.

shown openness to ADR in principle – the recent mediation law and the fact that many contracts already include arbitration clauses.

Additionally, Lebanon in 2020 signed the Singapore Convention on Mediation (which streamlines the enforcement of mediated settlements internationally), indicating a willingness to adopt global best practices in dispute resolution. **Comparative models** suggest ODR can thrive even amid limited infrastructure: during the pandemic, courts in various countries (from the UK to Kenya) moved small claims and mediation online with positive feedback from users, who saved time and travel costs. Given Lebanon's notorious traffic and fuel shortages, not having to appear in person is a major incentive.

Finally, pursuing ODR aligns with the urgent need to restore public trust and maintain back the bank-customer relationship. An accessible online dispute system for bank complaints would show citizens that the authorities are providing a new way to access justice when traditional avenues have faltered[1].

It may also reduce tensions by giving every depositor a chance to be heard and to obtain at least a partial remedy, rather than feeling ignored and not prioritized until they reach a breaking point. ODR is not a magic fix for Lebanon's banking crisis – core financial reforms are needed to truly resolve the underlying issues. But as a **prospective tool**, ODR could greatly improve the handling of conflicts in the meantime. It is cost-effective, faster, and can operate even when courts cannot (for example, during strikes or emergencies).

With careful implementation, pilot programs, and stakeholder acceptance, ODR could become a cornerstone of a more resilient dispute resolution system in Lebanon's banking sector. It represents an opportunity for the country to leverage technology and innovative practices to tackle an unprecedented crisis in a human-centered way, providing timely relief and a measure of fairness to beleaguered customers and banks alike.

[1] "Online Dispute Resolution of Banking Disputes in the wake of COVID-19", BAR AND BENCH, Soumyajit Saha, 2020.

Conclusion

Throughout history, mediation has been a cornerstone for resolving disputes, rooted deeply in human culture as societies sought peaceful solutions long before formal legal institutions existed. Ancient civilizations relied extensively on trusted elders, religious figures, or community leaders who guided conflicting parties towards mutual understanding and compromise.

In the banking sector specifically, mediation has followed a parallel trajectory. As financial institutions grew and transactions became more complex, disputes inevitably arose, necessitating efficient, equitable, and non-adversarial resolution mechanisms. In a sector where litigation or direct negotiation has long been the default, convincing parties to "try mediation" requires a cultural shift.

Traditional litigation, though precise, proved increasingly burdensome, expensive, and time-consuming, often damaging critical relationships between banks and their clients. Mediation emerged as a natural alternative, offering confidentiality, flexibility, and a human-centered approach capable of preserving trust and fostering sustainable solutions.

The history of banking regulations and disputes illustrates a continuous and evolving relationship between financial innovation and the necessity of robust supervision. From ancient informal dispute resolution practices to today's comprehensive global regulatory frameworks, this evolution highlights the critical importance of protecting customers and preserving trust within financial sectors. As banks navigate increasingly complex challenges, especially after the global events from financial crises, to geopolitical conflicts, regulatory shifts, and technological advancements effective dispute resolution mechanisms remain essential for maintaining stability and confidence, and thus ensure trust.

On the other hand, as trade expanded and societies evolved, mediation became increasingly formalized, transitioning from informal community practices to structured methods recognized and endorsed by emerging legal systems.

Lebanon traced the **historical context** of dispute resolution of the stage where informal conciliation (or *sulh*) was traditionally embedded in the Lebanese society long before modern courts existed. Mediation, by contrast, promised swifter, cost-effective, and mutually agreeable resolutions – a way to relieve overloaded courts while avoiding the zero-sum outcome of a trial.

In recent years, traversing historical, legal, institutional, and human dimensions, Lebanon has formally restored this spirit of consensus-building through legal reforms, specifically, significant strides were made in adopting mediation as a mean of resolving banking disputes.

Particularly the legislative developments of **Law No. 82/2018 (Judicial Mediation) and Law No. 286/2022 (Conventional Mediation)** signify an essential step in recognizing and institutionalizing

mediation within the country's legal framework, especially critical amidst Lebanon's ongoing financial and economic challenges. These legislative milestones not only represent formal acceptance but also reflect a broader cultural shift towards resolving banking disputes through dialogue rather than confrontation. As Lebanon continues to navigate financial turbulence, mediation stands out as a crucial tool—providing hope for more effective dispute resolution, greater confidence in the financial sector, and ultimately, the rebuilding of trust between banks and their clients.

Law No. 82/2018 integrates mediation into judicial procedures, allowing courts to refer cases to neutral mediators, directly addressing issues of court congestion and prolonged litigation. This law introduced judicial mediation into the civil justice system for the first time, allowing judges to refer willing parties to mediation during court proceedings. This landmark law was driven by the recognition that court litigation had become **slow, costly, and adversarial**, leaving many without accessible remedies. Though practical implementation has experienced delays, its potential to expedite dispute resolutions and yield mutually beneficial outcomes remains substantial.

Moreover**, Law No. 286/2022** further empowers banks and their clients by promoting voluntary mediation, emphasizing enforceable mediation clauses, clear procedural guidelines, and high ethical standards merging the efforts of both disputing parties.

Collectively, these laws establish a dual-track mediation system, accommodating disputes both before and during litigation, aligning Lebanon with international ADR best practices and preparing it to leverage international agreements like the **Singapore Convention on International Settlement Agreements Resulting from Mediation.** Building on this, together, these laws have laid a legislative foundation for mediation in Lebanon's banking sector, signaling an official commitment to Alternative Dispute Resolution (ADR).

However, despite these progressive measures, the full potential of mediation in Lebanon's banking sector has yet to be realized. Currently, as of 2025, no standardized, sector-wide mediation mechanism or banking ombudsman exists, placing the responsibility on individual banks to adopt mediation voluntarily. Without stronger incentives or regulatory mandates, mediation remains inconsistently applied, and while the legal framework is improving, practical enforcement mechanisms need reinforcement to build stakeholder confidence in mediated agreements.

There were significant barriers identified to the broader adoption of banking mediation. Crucially, public and industry awareness of mediation's benefits remains limited. Educational initiatives as well are essential to bridge this knowledge gap and cultivate a cultural shift towards viewing mediation not as a sign of weakness but as a pragmatic and strategic solution and openness towards the culture of dispute resolution alternatively.

Lately, Lebanon has witnessed a growing number of collaborative initiatives aimed at spreading awareness and fostering a stronger culture of mediation and Alternative Dispute Resolutions.

Mediation centers such as the Lebanese Arbitration & Mediation Center (LAMC), Lebanese Association for Mediation and Conciliation (LAMAC), university-based legal clinics, and judicial institutions have begun to actively engage in educational outreach and capacity building. One notable actor in this space is the Beirut Bar Association, through organizing training workshops, partnering with academic institutions, and supporting mediation in legal practice. Joint efforts between mediation providers and the Bar Association are paving the way for broader recognition of mediation as a credible and effective alternative to litigation—particularly in sensitive sectors like banking.

These initiatives aim not only to educate legal professionals, judges, and bank representatives, but also to inform the wider public about the benefits of resolving conflicts through dialogue, neutrality, and compromise. As these collaborations grow, they lay the groundwork for a more accessible and trusted mediation infrastructure in Lebanon, helping to embed ADR practices into the fabric of the legal and financial systems.

Despite the said initiatives, the number of challenges are on the go. Passing a law is one thing, but putting it into practice is another. After Law No. 82/2018 was enacted, the rollout of judicial mediation stalled. The **issuance of necessary implementation decrees and the setup of mediation infrastructure were halted amid Lebanon's multiple crises**, effectively putting court-referred mediation on hold. Without clear procedures, trained court-annexed mediators, or awareness within the judiciary, the law's promise could not translate into routine practice. This gap between law and practice remains a major hurdle.

Besides, the ongoing financial and economic crisis in Lebanon forms the unavoidable backdrop to any discussion of banking disputes. This environment both heightens the need for mediation and makes it more difficult to implement. On one hand, courts have been paralyzed by judges' and lawyers' strikes, delays, and a lack of resources, which means alternative venues for dispute resolution are sorely needed. On the other hand, the **level of distrust is so acute** – depositors feel betrayed by banks, and banks are constrained by insolvency concerns – that finding common ground is extremely challenging.

Moreover, the crisis consumed the government's attention and stalled reform initiatives, as seen in the delayed application of the mediation laws. Thus, the very crisis that makes mediation attractive as a swift, flexible remedy also creates **practical obstacles and hesitancy**: parties may doubt that a mediated agreement will be honored when the financial system itself is unstable.

Alongside the legal framework and its barriers, the thesis examined **case studies and the role of mediators** to illuminate how mediation can function in practice. It highlighted that an effective mediator is not merely a "go-between", but a skilled facilitator who **bridges communication gaps** and helps parties rebuild trust, a critical factor in bank-customer relationships.

For example, mediators can translate complex financial issues into common language and ensure that both the bank and the client feel heard and understood. The case studies – including global examples – underscored that when mediators are **impartial, trained, and attuned to the parties' needs**, even seemingly intractable financial disputes can move toward creative, win–win solutions.

Institutional and external factors were shown to influence this dynamic. Supportive institutions (like courts that encourage mediation, or banks willing to participate in good faith) amplify mediation's success, whereas external pressures (like economic crises or lack of public awareness) can stifle its usage. Throughout these analyses, the central research question remained in focus: *How effective is mediation in resolving banking disputes in Lebanon, and what impact can it have?*

The findings suggest a cautious optimism. **Mediation's potential effectiveness is high** – it offers a pathway to amicable settlements that preserve business relationships and public confidence – but its **practical impact in Lebanon so far has been limited** by its nascent implementation. In other words, mediation in the Lebanese banking sector is an idea whose time has come, yet its promise remains largely unrealized on the ground.

Looking forward, the research points to several **promising prospects** for enhancing the role of mediation in Lebanon's banking sector. If the above challenges are addressed, mediation could become a cornerstone of financial dispute resolution, yielding benefits for individuals, institutions, and the wider society.

Scaling up mediation could substantially improve the efficiency and humanity of dispute resolution in the banking sector. As Lebanon's legislators recognized, mediation offers **speed, cost-efficiency, confidentiality, and mutual satisfaction** that litigation often cannot. These advantages are especially pertinent now: by resolving disputes faster and more amicably, mediation can help prevent further erosion of trust between banks and customers. It can also reduce the case backlog in courts, freeing judicial resources to focus on matters that truly require adjudication.

In a time of national crisis, each conflict resolved through dialogue and agreement – rather than through protracted court battles – also has a **social value** by reducing polarization. Indeed, strengthening mediation has been cited as a means of **promoting social peace in the community**, an outcome that transcends the disputes themselves and contributes to societal healing. Thus, the **wider use of mediation is not just a legal reform but a public good**, aligning with Lebanon's need for reconciliation in many arenas.

As for future prospects, in the era of artificial intelligence and the rapid daily and massive technological innovation, it is necessary to keep pace with it, or at least try to keep pace with this development. Online Dispute Resolution (ODR) presents a promising avenue, particularly effective in handling the high volumes of smaller financial disputes common during crises. Global experiences illustrate ODR's effectiveness, with platforms successfully resolving tens of millions of disputes annually without traditional judicial intervention. Lebanon could similarly benefit from embracing ODR technologies, provided it develops suitable infrastructure and regulatory frameworks to support such platforms effectively. Such platforms can help overcome some of Lebanon's current logistical and volume challenges by handling disputes remotely and efficiently

Global models offer inspiring lessons: for instance, the e-commerce platform **eBay famously resolves around 60 million disputes per year through its ODR system**, with over 90% of cases

resolved without requiring a judge or even a mediator's direct intervention. Such systems use algorithms and facilitator assistance to settle conflicts swiftly, illustrating that high-volume, low-value cases (a category many bank disputes fall into) can be solved at scale.

Lebanon could **leapfrog into modern mediation practices** by adopting ODR: for example, a secure digital platform could allow depositors and banks to negotiate repayment plans or settlement of fees under the guidance of a mediator, all without the need for in-person meetings – a significant advantage when public trust and physical access to courts are low. ODR would also enable the large Lebanese diaspora and foreign stakeholders to participate in mediations regarding Lebanese banks from afar, making resolution more inclusive and convenient.

Moreover, Lebanon can take concrete steps to **institutionalize mediation** within its financial sector. Through its regulatory and industry bodies (such as the central bank and the association of banks) could establish formal mediation schemes or a **banking ombudsman** system such as the mentioned **Financial Ombudsman Service (**FOS) in the UK. This would normalize mediation as part of the standard customer complaints process. Second, capacity-building is vital: training programs to produce qualified mediators with financial expertise should be expanded, ensuring that a roster of mediators is available to handle banking cases. Courts and ministries can expand their collaborations with universities and NGOs to promote certification programs in mediation.

Success stories of mediation (local or international) should be publicized to demonstrate that mediated agreements can satisfy both banks and customers – for instance, highlighting cases where depositors retrieved funds or restructured loans through a mutually agreed plan. As trust in the process grows, cultural resistance should diminish.

Leadership from the top can also send a strong signal: if respected judicial figures and bankers endorse mediation publicly, it would lend credibility to the process. In this regard, Lebanon's consideration of the **Singapore Convention on Mediation** – an international treaty that makes cross-border mediated settlements enforceable – is a positive sign. Adopting best practices from that convention for domestic use can reassure parties that choosing mediation does not mean foregoing their legal protections. Lastly, embracing **mandatory elements** could be considered: for example, courts might require that parties at least attend an initial mediation session in banking disputes (as some jurisdictions do) before proceeding with a lawsuit. This kind of gentle nudge can significantly increase mediation uptake while still preserving parties' autonomy to litigate if mediation fails.

In sum, the journey of mediation in Lebanon's banking sector is just beginning, and this thesis has illuminated both its great promise and the hurdles in its path. Mediation helps banks build stronger, more trusting relationships with their customers. When clients know they have a reliable, neutral mechanism available to address potential concerns or uncertainties, their trust in the banking relationship deepens. As trust improves, misunderstandings decrease, making customers less inclined toward adversarial measures and more inclined to engage collaboratively to resolve

potential issues. In practice, proactive mediation initiatives—such as periodic customer check-ins, workshops on financial literacy and contractual obligations, or an accessible ombudsman-style mediation office within the bank—can significantly prevent or reduce the frequency of disputes, creating a stable, transparent environment that benefits both the bank and its clients.

Mediation aligns with Lebanon's needs and traditions, offering a path to avoid conflicts or resolve it which is faster, more cost-effective, and more harmonious than litigation – attributes desperately needed amidst an economic collapse and overloaded courts. It resonates with a long-standing cultural ethos of dialogue and compromise, repackaged now in a modern legal framework. On the other hand, realizing the full impact of mediation will require perseverance and multi-faceted commitment. Legal reforms must be followed by genuine implementation, public buy-in, and perhaps most challenging, the rebuilding of trust between disputants.

The effectiveness of mediation in resolving banking disputes, as our research question posed, will ultimately be measured by outcomes in the real world – settlements achieved, lawsuits averted, relationships repaired. While the record so far has been modest, the analysis in this thesis leads to a hopeful outlook: if Lebanon invests in overcoming current challenges, mediation could transform the landscape of banking disputes from one of confrontation to collaboration. The potential dividends are not just efficient dispute resolution, but also the **restoration of trust and social peace** in a sector that badly needs it, in a country striving to recover from financial turmoil, such trust-building measures are invaluable.

Mediation is not a magic wand for Lebanon's banking crisis, but it is a wise and human-centric strategy that can significantly contribute to healing rifts between banks and depositors avoiding disagreements and reducing parties' dissatisfaction and potential grievances. By institutionalizing mediation and embracing innovation like ODR, Lebanon can turn its ADR legal reforms into living practice. The road ahead will require coordinated efforts by lawmakers, judges, banks, mediators, and civil society to foster a culture where dialogue precedes conflict. Should those efforts coalesce, Lebanon's banking sector may not only resolve disputes more effectively but also emerge as a model of how consensus and justice can go hand in hand. The **legacy of this thesis** thus lies in its call to bridge legal frameworks with human-centered practice: to make mediation an instrument of both justice and reconciliation in Lebanese banking – a small yet significant step toward a more resilient and peaceful financial system for the nation. The coming years will be telling, as the country implements its new mediation laws and navigates its financial recovery; successful mediation of banking disputes may well become a cornerstone of restoring trust between banks and their clients in Lebanon.

References:

1- Books:

- Boulle, L & Alexandre, N, ***Mediation: Skills and techniques***, Third edition, LexisNexis, 2019.
- Garby T., ***Agreed! Negotiation/mediation in the 21st century,*** ICC Knowledge 2 Go, 2016.
- Menkel-Meadow, C, ***Mediation and its applications for good decision making and dispute resolution***, Vol. 12, Intersentia, 2016.
- Moore, C. W, ***The mediation process: Practical strategies for resolving conflict,*** 4th edition, 2014, pages 203-254.
- Sousa Santos B., ***Toward a New Common Sense***, Cambridge University Press Publishers, Third Edition, Cambridge, 2020.
- Vasquez John, ***Beyond Confrontation: Learning Conflict Resolution in the Post-Cold War Era,*** University of Michigan Press Publishers, Michigan, 1998.
- Wissler, R. L, ***The effectiveness of court-connected dispute resolution in civil cases,*** Conflict Resolution Quarterly, Vol *22*, Arizona, 2004.

2- Articles:

- Ball A., ***Confidentiality within mediation***, Weightmans, 2024. https://www.weightmans.com/insights/confidentiality-within-mediation/
- Benjamin R., ***The Natural History of Negotiation and Mediation: The Evolution of Negotiative Behaviors, Rituals, and Approaches,*** Mediate.com, 2024 https://mediate.com/the-natural-history-of-negotiation-and-mediation-the-evolution-of-negotiative-behaviors-rituals-and-approaches/
- Chmielewski D., ***AI Can Make Fraud & Dispute Resolution Faster — And Build Trust***, The Financial Brand, 2025. https://thefinancialbrand.com/news/banking-technology/how-ai-can-make-fraud-dispute-resolution-faster-and-build-trust-187386
- Cobalt J., ***Canoeing, Mediation, and Resilience: Navigating Conflict and Solo Expeditions,*** Kluwer Mediation Blog, 2025.

https://mediationblog.kluwerarbitration.com/2025/05/09/canoeing-mediation-and-resilience-navigating-conflict-and-solo-expeditions/

- Comair-Obeid N. and others, ***LEBANON: An Introduction to Dispute Resolution,*** Chambers AND PARTNERS, (n.d.). https://chambers.com/content/item/4854
- De Palo, G., & Trevor, M., ***EU Mediation: Law and Practice,*** Oxford University Press, 2004.
- Dobbs E., ***Unlocking Horns: Lender Use of Mediation for Dispute Resolution***, ABL ADVISOR, 2015 https://www.abladvisor.com/articles/6582/2/lender-use-of-mediation-for-dispute-resolution
- Fernaini C., ***Lebanon initiates mediation***, LE COMMERCE DU LEVANT, France, 2012. https://www.lecommercedulevant.com/article/20382-le-liban-sinitie-la-mdiation#:~:text=du%20d%C3%A9saccord%2C%20plus%20technique%20et,PME%20%C2%BB%2C%20annonce%20Carol%20Khouzami
- Ghsoub R., ***Conventional Mediation in Lebanon: Overview***, Noueihed Law Offices, Beirut, (n.d.). https://noueihed.net/2023/02/06/conventional-mediation-in-lebanon-overview/
- Godden M., ***Banking and Finance Disputes Review,*** Norton Rose Fullbright, 2016. Pages 18-32.
- Hawkins, M. W, ***Trends in mediation,*** Cincinnati Bar Association, Cincinnati, (n.d.). https://www.cincybar.org/About-Us/News/CBA-Blog/CBA-Blog-View/ArticleId/28405/Trends-in Mediation#:~:text=1.%20Mediation%20has%20a%2070,administrative%20agencies%20at%20the%20state
- Harahap L. and Nasution A., ***SETTLEMENT OF CIVIL DISPUTES BETWEEN CUSTOMERS WITH BANK THROUGH BANKING MEDIATION (Case Study of Bank Al Washliyah Medan),*** Sean Institute, Vol.13, 2022
- Kluss K., ***Mediation mediums: the benefits and burdens of online alternative dispute resolution in Australia,*** LexisNexis, (n.d.).
- Llamas M. and Edel A., ***Cyberattacks on Banks,*** Consumer Notice, 2023 https://www.consumernotice.org/data-protection/cyberattacks/banks/
- Manning C., ***"Power Imbalance in Mediation",*** Carolyn Manning Consulting Services, (n.d.). https://www.carolynmanningconsultingservices.com.au/files/6514/3556/8396/Power_Imbalance_in_Mediation.pdf

- Merek R., ***Dispute resolution clauses in mediated settlement agreements***, Kluwer Mediation Blog, 2025. https://mediationblog.kluwerarbitration.com/2025/04/19/dispute-resolution-clauses-in-mediated-settlement-agreements/
- Molinaro P., ***The History of Mediation,*** M.D.J.D., DISPUTE RESOLUTION, California, 2024. https://www.mdjddisputeresolution.com/the-history-of-mediation
- Moller E. and Rolph E. and Ebener P., ***"Private Dispute Resolution in the Banking Industry***", RAND, 2006. rand.org
- Mora N., ***The Coronavirus Loan Intervention is a Step in the Right Direction,*** The Lebanese Center for Policy Studies LCPS, Beirut, 2020. https://www.lcps-lebanon.org/en/articles/details/1782/the-coronavirus-loan-intervention-is-a-step-in-the-right-direction#:~:text=In%20this%20light%2C%20Banque%20du,of%20the%20previously%20accruing%20loans
- Pardede M., ***The Settlement of Consumer Disputes by Virtual Mediation Particularly on Banking and Buying Services Online***, Atlantis Press, 2020.
- Perrazzelli A., ***Ten years after the Alternative Dispute Resolution (ADR) Directive - a comparative overview of banking and financial ADR,*** Bank of International Settlements BIS, 2023. https://www.bis.org/review/r230124e.htm
- Priya A., ***Alleged Data Leak from Major U.S. Bank Raises Privacy Concerns,*** Cyber Press, 2024**.** https://cyberpress.org/data-leak-u-s-bank/
- Saha S., ***Online Dispute Resolution of Banking Disputes in the wake of COVID-19,*** Bar and Bench, India, 2020. https://www.barandbench.com/Law-School/online-dispute-resolution-of-banking-disputes-in-the-wake-of-covid-19#:~:text=Banks%20are%20set%20to%20see,against%20defaulting%20entities%20and%20individuals
- Sasson, M., ***Mediation and Financial Institutions***, New York Law Journal/JAMS, 2017. https://www.jamsadr.com/files/uploads/documents/articles/sasson_nylj_mediation-and-financial-institutions_2017-06-19.pdf
- Seno Aji B., Warka M., Kongres E., ***Credit Dispute Resolution through Banking Mediation during Covid-19 Pandemic Situation,*** BIRCI JOURNAL**,** (n.d.).
- Sfeir R., ***Mediation in Lebanon: The Resurgence of a Traditional Consensus,*** International Mediation Campus Consensus Group, Europe, 2023. https://im-campus.com/mediation-in-lebanon-the-resurgence-of-a-traditional-consensus/

- Shahla A., ***Conciliation Beyond the Courts – Aspirations and Limits of Mandated and Voluntary Court Mediation Programmes from a Multi-Jurisdictional Perspective,*** Comparative Procedural Law and Justice CPLJ, 2024. https://www.cplj.org/publications/conciliation-beyond-the-courts-aspirations-and-limits-of-mandated-and-voluntary-court-mediation-programmes-from-a-multi-jurisdictional-perspective
- Staff P., ***What are the Three Basic Types of Dispute Resolution? What to Know About Mediation, Arbitration, and Litigation***, Harvard Law School-Program on Negotiation, 2025. https://www.pon.harvard.edu/daily/dispute-resolution/what-are-the-three-basic-types-of-dispute-resolution-what-to-know-about-mediation-arbitration-and-litigation/
- Stanton. K, ***Farm Debt Mediation Reforms***, Lexology, Australia, (n.d.). lexology.com
- Susanti E., ***COMPLAINTS HANDLING SATISFACTION MEDIATES BETWEEN COMPLAINTS HANDLING TO CUSTOMER LOYALTY FOR THE INDONESIAN BANKING INDUSTRY,*** International Journal of Digital Entrepreneurship and Business (IDEB), 2021.
- Tohme C. and Abi Rached N. and El Meer M., ***Lebanon Judicial Mediation Law,*** Tohme Law Firm, Beirut, (n.d.) https://tohmelaw.com/publications/lebanon-judicial-mediation-law
- ***Using Credit Cards and Disputing Charges,*** Federal Trade Commission Consumer Advice, Washington, 2022 https://consumer.ftc.gov/articles/using-credit-cards-and-disputing-charges
- Vigers B. & Younes M.***, Lebanon Ill-Equipped for Further Instability,*** GALLUP,2024. https://news.gallup.com/poll/548348/lebanon-ill-equipped-further-instability.aspx#:~:text=After%20more%20than%20four%20years,their%20financial%20institutions%20or%20banks
- Wissler, R., ***The Effectiveness of Court-Connected Dispute Resolution in Civil Cases,*** SSRN, Arizona, 2004.

3- Dissertations

- Koulu R., ***Law, Technology and Dispute Resolution, Privatisation of Coercion***, A Thesis Paper, Routledge Publishers, Helsinki, 2019.
- Rineke S., ***The Use of Mediation as an Alternative in Banking Dispute Resolve***, A Thesis Paper, University Borobudur Jakarta, 2022.

4- Reports:

- ADGM, ***ADGM Launches Another Digital Game changer with Online Dispute Resolution,*** UAE, 2023. https://www.adgm.com/media/announcements/adgm-launches-another-digital-gamechanger-with-online-dispute-resolution#:~:text=Responding%20to%20the%20overwhelming%20interest,facilitated%20by%20internationally%20accredited%20mediators
- AL JAZEERA, ***In coronavirus lockdown, Lebanese banks turn off dollar tap,*** 2020. https://www.aljazeera.com/economy/2020/3/20/in-coronavirus-lockdown-lebanese-banks-turn-off-dollar-tap#:~:text=The%20banking%20association%20has%20said,to%20be%20finalised%20next%20week
- ARAB NEWS, ***Lebanon's courthouses suffer from judicial paralysis***, 2022. https://www.arabnews.com/node/2207781/middle-east#:~:text=BEIRUT%3A%20Lebanon%E2%80%99s%20courthouses%20are%20paralysed,strike%20entered%20its%20fifth%20month
- Center for American Progress, ***Foreclosure Mediation Going Forward,*** Washington, 2011. https://www.americanprogress.org/article/foreclosure-mediation-going-forward/
- CMC LAW-NOW, ***Banking Disputes Report 2022 Data-driven analysis and trends***, London, (n.d.).
- European Commission for the Efficiency of Justice, ***European Code of Conduct for Mediation Providers***, 2018. https://www.coe.int/en/web/cepej/cepej-work/mediation
- Harkness J.***, Small Business Ombudsman Launches Probe into Access to Justice for SME Operators,*** Dynamic Businesses, Australia, 2017. https://dynamicbusiness.com/topics/news/small-business-ombudsman-launches-probe-into-access-to-justice-for-sme-operators.html
- Houssari N., ***Lebanon's courthouses suffer from judicial paralysis***, ARAB NEWS, 2022.
- Kamminga P. and Grubman J., ***When Scammers Strike: How Mediation Can Help Resolve Consumer Fraud Claims,*** JAMS, 2025. https://www.jamsadr.com/blog/2025/podcast-when-scammers-strike-how-mediation-can-help-resolve-consumer-fraud-claims#:~:text=match%20at%20L519%20faked%20and,to%20help%20both%20sides%2C%20an

- Kumari A., ***Reserve Bank of India ombudsman resolves 95% of complaints in FY24,*** Business Standards, India, 2025. https://www.business-standard.com/economy/news/reserve-bank-of-india-ombudsman-resolves-95-of-complaints-in-fy24-125012600508_1.html
- Resolution System Institute, ***FORECLOSURE DISPUTERESOLUTION BY THE NUMBERS***, 2012.
- Reuters, ***Lebanon banks put off strike for another week***, 2023.
- Schellen T., ***Q&A with Riad Obegi, chairman of Banque BEMO, on banking sector challenges***, Executive Magazine, Lebanon, 2020. https://www.executive-magazine.com/business-all/qa-with-riad-obegi-chairman-of-banque-bemo-on-banking-sector-challenges#:~:text=overburdened,mediation%20is%20not%20the%20judiciary
- SOLOMONIC, ***2024 snapshot: Commercial Court claims at a decade low,*** (n.d.).
- The Bulletin by Executive Magazine, ***Banque BEMO revives its "Mediation Initiative",*** Lebanon, 2020. https://executive-bulletin.com/finance/banque-bemo-revives-its-mediation-initiative#:~:text=Beirut%2C%20May%2021%2C%202020%3A%20With,is%20reviving%20its%20%E2%80%9CMediation%20Initiative%E2%80%9D
- The Financial Ombudsman-Central Bank, ***Financial Services and Pensions Ombudsman publishes Overview of 2019 Complaints,*** 2020. https://www.askaboutmoney.com/threads/financial-services-and-pensions-ombudsman-publishes-overview-of-2019-complaints.216739/#:~:text=Payment%20of%20%E2%82%AC28%2C000%20in%20interest,MARP
- ZUNARELLI Studio Legalle Associato , ***Mandatory mediation and ADR for consumers: possible concurrence?, 2016.*** https://www.studiozunarelli.com/en/civil-procedural-law/mandatory-mediation-and-adr-for-consumers-possible-concurrence/

5- Websites:

- Australian Securities and Investment Commission, https://asic.gov.au/ , visited on February 10, 2024.
- Business Banking Resolution Service, https://thebbrs.org/ , visited on September 29, 2024.
- Center for Effective Dispute Resolution, https://www.cedr.com/ , visited on January 31,2025.
- Connecticut Judicial Branch, https://www.jud.ct.gov/ , visited on May 29, 2024.