



ARBITER<sub>FOR</sub>  
FINANCIAL  
SERVICES

Strategic Plan &  
Projected Income and  
Expenditure Statement  
2023

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## Abbreviations

Act	Arbiter for Financial Services Act, 2016
ADR	Alternative Dispute Resolution
Board	Board of Management and Administration
CRO	Customer Relations Officer
OAFS/Office	Office of the Arbiter for Financial Services

## Legislation (Malta & EU)

Act XVI of 2016	Arbiter for Financial Services Act, 2016 ( <i>Chapter 555 of the Laws of Malta</i> )
ADR Directive	Directive 2013/11/EU on alternative dispute resolution for consumer disputes (Directive on consumer ADR) <i>OJ L 165</i>

## Requirement to produce a yearly Strategic Plan

On an annual basis, the Act requires the Board to prepare and approve a Strategic Plan in consultation with the Arbiter for Financial Services.

The report is required to specify the objectives of the activities of the OAFS for the financial year concerned; the nature and scope of the activities to be undertaken; the targets and criteria for assessing the performance of the OAFS; and the uses for which it is proposed to apply the OAFS's resources.

A copy of the strategic plan, as approved by the Board, is required to be sent to the Minister for Finance who shall lay it on the Table of the House of Representatives and shall also be made available to the public.

### **Act XVI of 2016, Arbiter for Financial Services Act**

The legislation establishing the Arbiter for Financial Services - [Act XVI of 2016](#) - came into force on 18 April 2016.

Shortly after the coming into force of this Act, Government published Legal Notice 137 of 2017 titled "Arbiter for Financial Services (Designation of ADR Entity) Regulations, 2017". By virtue of this Legal Notice, the Minister for Finance, as the competent authority for the purposes of the ADR Directive, appointed the Office of the Arbiter for Financial Services as the ADR (Alternative Dispute Resolution) entity for financial services in Malta in accordance with the ADR Directive.

### **The Office of the Arbiter for Financial Services (OAFS)**

- Set up by law in 2016 with power to mediate, investigate and adjudicate complaints filed by customers against all financial services providers.
- Composed of the Arbiter for Financial Services and the substitute Arbiter, if any, the Board of Management and Administration (the Board) and of such officers and staff members appointed or employed with the Office.
- The Board is responsible for the Office's day-to-day management. It is not in any way involved in the complaints' handling and decision-making process.

### **The Arbiter for Financial Services**

- Totally independent and impartial of all parties concerned to the complaint and is not subject to the direction or control of any other person or authority.
- Has the authority to determine and adjudge a complaint by reference to what, in his opinion, is fair, equitable and reasonable in the particular circumstances and substantive merits of the case.
- Is required to deal with complaints in a procedurally fair, informal, economical and expeditious manner.
- May, if he thinks fit, treat individual complaints made with the Office together, provided that such complaints are intrinsically similar in nature.
- Can make awards up to €250,000, together with any additional sum for interest due and other costs, to each claimant for claims arising from the same conduct.
- Decisions are binding on both parties but subject to appeal to the Court of Appeal (Inferior Jurisdiction).

### **Complaints handling**

- Natural persons and micro-enterprises may lodge a complaint with the OAFS.
- Complaints may be lodged against all financial services providers, which are or have been licensed or otherwise authorised by the Malta Financial Services Authority or any other financial services law, which offers or have offered financial services in or from Malta.
- The charge for lodging a complaint with the OAFS is €25 which is reimbursable in full if the complainant decides to withdraw his complaint or the parties to the complaint agree on to settle the dispute.
- Before submitting a complaint with the OAFS, a customer has to give a financial service provider reasonable opportunity to deal with a complaint. Supporting evidence to this effect would be requested of the complainant.
- Complaints about the conduct complained of, which are or have been the subject of a law suit before a court, tribunal or ADR entity in any other jurisdiction initiated by the same complainant on the same subject matter, will not be accepted.

## CASE LOAD DURING THE FIRST 10 MONTHS OF 2022

The OAFS operates in a demand-led environment. As such, the number of new cases that may be lodged during the year cannot be projected on the basis of previous years' complaint workload. Unexpected events in financial services or changes to EU and Maltese law may generate an increase in the number of complaints received by the OAFS.

During the first 10 months of 2022, 133 new complaints were registered, which is slightly lower than the 145 complaints that were registered in 2021 over the same period. The majority of incoming-complaints are investments related (62 cases) of which 31 are pensions-related and 20 relate to crypto/virtual assets. The remaining complaints are equally distributed between insurance and banking complaints (35 cases). Over 67% of the submitted cases were lodged online via the OAFs portal. The majority of the cases (74) were lodged by complainants residing outside Malta.

Other than those cases which have been referred to mediation, all cases have been called for a first hearing and only a few remain to be called for a second hearing.

As at end of the same reporting period, the Arbiter issued decisions on 71 cases. Sixty cases were final decisions and 11 were interim or clarifications. As in the previous year, there has been an encouraging increase in the number of cases resolved at mediation, most of which relate to insurance complaints.

Besides formal complaints, the OAFS also processes enquiries and minor cases which may either require the provision of information or informal intervention with the financial provider concerned. Up until end of October, the number of enquiries and minor cases amounted to 547 cases, a drop of around 26% compared to the number of enquiries and minor cases lodged during the first 10 months of 2021. A large proportion of these enquiries relate to banking issues (224), followed by insurance and investment issues.

The 2022 Annual Report will contain detailed graphical interpretations of the OAFS complaints' workload during the year, apart from a summary of the Arbiter's decisions delivered during the year.

## The OAFS : principles, core objectives and priorities

The OAFS is an out-of-court redress mechanism that is established in terms of EU legislation on consumer ADRs (the ADR Directive). It provides redress to eligible customers in disputes lodged against financial services providers authorised in Malta subscribing to the principles of accessibility, fairness, transparency, accountability, and independence as are enshrined in the directive and which today are the foundations of any reputable extra-judicial redress mechanism irrespective of the sector in which it has competence or jurisdiction in which it operates.

Since it has been set up, the OAFS has committed itself to provide a public service of excellence and repute by delivering a high standard of service, ensuring transparency and supporting staff capability. The OAFS will continue to build on these objectives, but it will focus on *visibility* and *efficiency* as its two most important priorities for the coming year, its seventh year since it has been setup.

## Priorities for 2023 and beyond

### IMPROVING VISIBILITY AND ACCESSIBILITY TO CUSTOMERS

*As a redress mechanism for financial services consumers, it is imperative for the OAFS to consistently disseminate information about its services and provide the necessary infrastructure for consumers to reach out to the OAFS in the knowledge that assistance, information, and redress are provided as required.*

Consumers may become aware of the OAFS services from various sources. Other than word of mouth or the occasional radio or TV programme hosting officials from the OAFS, some consumers may come across the OAFS through an internet search, or after calling any public authority helpline which would relay our contact details. Consumers are also likely to become aware of their right to lodge a complaint with OAFS when the provider formally provides its written response to a consumer complaint, in which case details of the OAFS is provided.

However, the OAFS believes that there is greater scope to increase its visibility and further promote its services to consumers. Many financial redress bodies across the world, similar to the OAFS, are set up to enable consumers seek redress for their conflicts in an informal and low-cost environment (compared to the Courts). They also provide information to consumers who would want to



pursue such mechanisms in the knowledge that their dispute can be heard and resolved fairly, expeditiously, and informally.

The OAFS acknowledges the efforts it has made over these past years, but it needs to explore other ways to successfully achieve its aims and encourage more consumers to its informal redress mechanism. To this end:

- i. The OAFS will employ and commit further resources to enhance its visibility across the media, statutory bodies, customer bodies, lawyers, financial sector representative bodies and general public. This will be achieved through various stages, using traditional (such as newspaper articles, radio and TV participation) and social media, as appropriate platforms for this purpose.
- ii. It will also seek to augment information on its website about its processes and to share insights from the various cases that it has come across over these years. The online searchable database of the Arbiter's decisions is a significant tool for researchers, policymakers and other stakeholders. The OAFS will add further functionalities to assist users when searching the database. One feature that the OAFS will explore is the inclusion of case summaries, along with the Arbiter's decisions, to render insights from complaint outcomes more accessible to consumers.
- iii. Some consumers may choose not to be represented when lodging a complaint with the OAFS. The OAFS will ensure that such consumers will not be disadvantaged or discouraged from accessing its redress mechanism which has been designed to deal with complaints in a procedurally fair, informal, economical and expeditious manner. Short informational videos explaining the complaint process will be prepared and made available via the OAFS portal.
- iv. The OAFS is mindful that there are many consumers who are not online, vulnerable, or who prefer to talk to someone in person. The Office understands that the ability to talk through a problem with another human being, rather than a screen, can be very important, and therefore accessibility, including the ability of complainants to communicate with its Customer Relations Officers through their chosen method, will remain a key value which will inform the technological changes that are made. The OAFS will also enable the use of social media communication tools for consumers to reach out to the OAFS for informal cases and to ask questions.
- v. As the OAFS has retained arrangements for all mediations and hearings to be held online, additional informative sections will be added to the website to explain the use of the application that is used for such hearings to take place. Pursuant to its goal of rendering the OAFS more accessible to the public, OAFS staff will provide the necessary assistance in regard to the use

of online video conferencing software as and if necessary and this to ensure that complainants do not feel uneasy when using such applications.

## INCREASING EFFICIENCY THROUGH FURTHER DEPLOYMENT OF ENHANCEMENTS TO THE CASE AND FILE E-SOLUTION SYSTEM

*The deployment of the case and file e-solution management system at the start of 2021 has been a success. The system has been enhanced through various additional features and functionalities to improve the system's accessibility, for both front-end (users using the website to lodge a complaint) and back-end (OAFS staff). However, the system needs to continue improving for the OAFS to maintain a professional and accessible service.*

The Case and File e-Solutions system went live on the turn of the year in 2021. The system is an integrated solution, specifically built for the OAFS, that combines a front-end for consumers to lodge enquiries and complaints online through a portal, and a back-end module that enables OAFS staff to handle, manage and process the entire complaint process from registration to case closure. The portal also provides information about the OAFS complaint process and a searchable database of the Arbitrator's decisions. At back-end, OAFS staff are able to manage incoming enquiries and complaints, automating circulars to complainants and providers, uploading and updating of case documents and managing other related information (such as keeping the database of financial providers updated).

The system is web-based and all data is hosted on the cloud in a secure environment. Deployment of enhancements and bug fixing are thus rendered less time-consuming, apart from the fact that it is coded in open source software ensuring that security upgrades are always up-to-date. More importantly, the system is built in modules, allowing for additional components to be added as required. To this end:

- i. The online user experience, especially during the complaint lodgement stage will be reviewed in 2023, and enhancements to the OAFS website, which is adaptive for different screens, will be made as necessary.
- ii. A major enhancement to the system is being planned for complainants and financial services providers to be able to upload and access case documentation securely through the same case management system, thus eliminating the exchange of documents via email. Parties to the complaint will thus be able to receive updates and be alerted of new documents posted to their online case docket through email and SMS notifications.
- iii. Further improvements to the overall system will be made and staff will be provided with the necessary training.

## Core objectives

*The aspiration to increase the OAFS' visibility and enhance its efficiency for 2023 and beyond is driven by the organisation's core objectives that it will continue to pursue over the long term.*

### PROCESSING COMPLAINTS IN ACCORDANCE WITH BEST PRACTICE AND THE HIGHEST STANDARDS OF CUSTOMER SERVICE

*As the handling of complaints is at the very heart of the OAFS's public service function, highest standards of customer service – including courtesy, timeliness, confidentiality and impartiality – are a priority. The OAFS seeks to resolve disputes using mediation, investigation and adjudication at various stages, thus giving parties all possible opportunities for disputing parties to reach solutions in a manner that they deem appropriate.*

- i. The OAFS will continue to provide an efficient and responsive service for all the processes it employs for informal and formal cases. To this end, it will employ those tools that are necessary to ensure that complaints and financial services providers are fully aware of the stage at which their enquiry or complaint has arrived, and what action is lacking or expected for the process to commence or continue.
- ii. The submission of electronic complaint forms and documents through a secure online environment has facilitated the processing of complaints especially for the increasing number of non-residents of Malta who are lodging complaints with the OAFS. The online submission functionality will be enhanced further to allow for the submission of joint complaints (see above).
- iii. The OAFS continuously interacts with both complainants and providers aiming towards a faster and effective resolution of minor disputes. When such early intervention initiatives do not lead to a satisfactory resolution, the Office's Customer Relations Officers will provide information to the consumer about its complaints procedure to enable them to lodge a formal complaint.
- iv. The law requires the OAFS to attempt the resolution of complaints by way of mediation. The OAFS observes an increase not only in the number of cases that are referred to mediation but also in the success rate of cases that are resolved at that stage. Mediation can provide a faster, easier and more satisfactory way to resolve complaints. The OAFS will strive to continue nurturing this encouraging trend, mindful that it also requires the willingness of the parties to the dispute to

pursue such redress technique. Further training on mediation skills will be provided.

- v. If mediation is not successful (or refused), the OAFS will continue to deploy its extensive powers under the law to review cases in an informal, economic, fair and impartial manner. The OAFS will strive to issue decisions within a reasonable time after the case investigation has been concluded, mindful that a number of cases may be more complex than others and that the quality of decisions should not be compromised. The Arbitrator's decisions are legally binding on both the complainant and on the financial service provider, subject only to an appeal to the Court of Appeal (Inferior Jurisdiction).

### EXECUTING THE OAFS'S ROLE AND INDEPENDENT FUNCTIONS IN A MANNER THAT IS TRANSPARENT AND ACCOUNTABLE AND TO LEAD BY EXAMPLE

*The OAFS is a public body, and the requirements of accountability and transparency are essential if it is to retain the confidence of the public. The OAFS' organisational structure will be continuously reviewed to ensure that it supports good internal and external communications, as well as the co-ordination of its activities, in order to achieve effective and optimal outcomes.*

- i. The Arbitrator's decisions, now surpassing 550 in number, are available online on the OAFS' website ([www.financialarbiter.org.mt](http://www.financialarbiter.org.mt)). Users can narrow down decisions through a range of search criteria. The online database of decisions also indicates whether cases have been appealed, in which case, the Court of Appeal (Inferior Jurisdiction) reference number is also provided. The name of the complainant(s) is (are) pseudonymised. A free text search feature will also be introduced.
- ii. In terms of the ADR Directive, the OAFS is obliged to provide detailed information about its operations to the Minister for Finance and Employment, as competent authority in terms of and for the purposes of this Directive. The OAFS will discharge its duties under the Directive, as well as its obligations under its operative law, in its annual reports.

### DEVELOP THE CAPABILITIES, SKILLS AND COMPETENCE OF STAFF SO AS TO ENSURE CONTINUED IMPROVEMENT IN ORGANISATIONAL PERFORMANCE

*The quality of the OAFS's service to the public is crucially dependent upon the capacity, performance and motivation of its staff. Moreover, if staff are expected to give their utmost to the OAFS, the OAFS must in turn encourage and show commitment towards the development of its staff. In particular, the OAFS*

*must make sure staff have opportunities to participate in internal and external training and development on a regular basis.*

- i. The OAFS will continue to keep abreast of changes in the wider financial services and legislative environment to enable it to respond to an ever-evolving landscape.
- ii. To support and encourage continued staff training and development, the OAFS will organise induction and support programmes and encourage participation at external courses.
- iii. Regular staff briefings will be held to keep staff informed of general developments in financial services and customer service standards.
- iv. Further books and other technical materials will be acquired for internal use.

## Other operational and administrative objectives

*The redress mechanism that the OAFS provides is not dissimilar to those which are set up in all EU member states and many jurisdictions around the world. No mechanism is identical. Yet their legal and cultural diversity and adherence to recognised principles – such as independence, impartiality, effectiveness, and accessibility - is what renders such extra-judicial complaints' fora such unique mechanisms for consumers to access and achieve justice informally and inexpensively, without in any way reneging of their right to refer their case to the Court if they wish to. The OAFS has drawn from the experience in other jurisdictions, and it has also played a part in influencing knowledge and standards to financial services, especially in the private retirement schemes' sector where the Arbiter's decisions have been quoted and referred to by sectoral bodies in other jurisdictions. Its international participation will, thus, continue to be pursued. Its local presence will also be emboldened upon its relocation to newer offices which should complement its priority for the OAFS brand to be more visible.*

## EU AND INTERNATIONAL OBLIGATIONS

*The OAFS will continue to keep abreast with international developments in financial services and customer services to ensure that its techniques remain current and service standards primed to modern expectations.*

The OAFS is an active member FIN-NET, the financial dispute resolution network of national out-of-court complaint schemes in the EU.

It is also a member of the International Network of Financial Services Ombudsman Schemes (INFO Network). The INFO Network is the worldwide association for financial services ombudsmen and other out-of-court dispute resolution schemes entrusted with resolving financial consumer Complaints.

The OAFS will continue working in close collaboration with FIN-NET and the INFO Network to further enhance best practices in the resolution of financial services complaints.

## PLANNED RELOCATION OF THE OAFS OFFICES

The OAFS will be relocating to new offices in Msida as there are plans for the Ministry to embark on urgent maintenance works of the building in which we have been housed since 2016. It is now expected that the OAFS will transition to such new offices some time in 2023, depending on the completion of all conversion works and commissioning of equipment that necessarily had to be installed.

## Income and Expenditure Statement for 2023

The provision of a professional and efficient service to all stakeholders who deal with the OAFS at any stage is a primary objective. For the OAFS to do so, it must have the appropriate financial resources.

Annex 1 outlines the financial plans for the OAFS for 2023. Circumstances may require changes and the Board shall ensure that these plans are kept under constant review for their relevance and effectiveness.

### EXPLANATORY NOTES

#### **Legal basis**

In terms of article 9(2)(a) of the said Act, the Board of Management and Administration is required to prepare and approve a statement with estimates of income and expenditure relating to the OAFS for the year 2023.

The Board has approved the projected income and expenditure for 2023 (as featured in Annex 1 to this document).

In terms of article 9(2)(c) and pursuant to article 9(2)(d), the OAFS's estimates for 2023 are being submitted to the Honourable Minister for Finance and Employment for his consideration.

#### **Assumptions**

##### ***Income***

The OAFS is financed by means of subventions made available by Government.

The subvention requested of Government for 2023 is in line with that which the OAFS received in 2021 and 2022.

The OAFS has set aside funds derived from Government subventions to be utilised for any necessary expenditure that will be incurred upon relocation to new offices in 2023 and additional expenditure relating to the OAFS objectives set out earlier in this strategy.

##### ***Expenditure***

A major part of the OAFS's budget is allocated to salaries and benefits to staff. Other than the Arbiter for Financial Services (whose salary is reimbursable from the Consolidated Fund) and the chairman of the Board, the current staff complement of the OAFS is composed of the following officials:

- Two Case Analysts
- Two Customer Relations Officer
- One Officer in charge of mediation
- One PA and Registrar to the Arbiter
- One Administrative Assistant
- One Support Staff
- One Driver

## Annex 1 - REVISED Projected Income and Expenditure (2022) and PROJECTED Income and Expenditure (2023)

	Revised Forecast 2022	Forecast 2023
Government subvention	675,000	675,000
Complaint Fees	3,000	3,000
<b>Total Projected Income</b>	<b>€ 678,000</b>	<b>€ 678,000</b>
Salaries and Wages	480,000	500,000
Hospitality	1,000	1,000
Office Maintenance & Upkeep	8,000	8,000
Office Services	16,000	16,000
Membership & subscription	1,700	1,700
General Expenses	30,000	30,000
Vehicle, Leasing and Fuel Expenses	20,000	22,000
Professional Fees	15,000	7,500
Travelling Expenses	6,000	8,000
Rent	--	7,500
Software Maintenance and Support	5,000	5,000
Training	1,000	1,500
Utilities	--	7,500
Depreciation Charge	15,000	15,000
<b>Projected General Expenditure</b>	<b>€ 598,700</b>	<b>€ 630,700</b>
Case and File Management System (Enhancements)	2,000	5,000
Telephony and other hardware	--	6,000
Office Furniture	--	35,000
<b>Projected Capital Expenditure</b>	<b>€ 2,000</b>	<b>€ 44,550</b>
<b>Total Projected Expenditure</b>	<b>€ 600,700</b>	<b>€ 675,250</b>
<b>Surplus/Loss for the period</b>	<b>€ 77,300</b>	<b>€ 2,750</b>

## Notes:

- (1) All figures are approximate and subject to change. Full year audited figures for financial year ending 31 December 2022 will be reported in the OAFS Annual Report for the year. Reserves and surpluses not shown.
- (2) A provision for rent, utilities and other ancillary expenditure is being made in anticipation of the OAFS' relocation to new offices. The provisions are conservative as the terms of the relocation are still under discussion.
- (3) The Government subvention for 2023 is as reported in the Draft Financial Estimates 2023 under the Ministry for Finance and Employment's vote. Additional funds may be required if unanticipated expenditure for the year exceeds the amount of the subvention and funds from accumulated reserves.