



*Brief Notes for Consumers*¹

Contents

1. Which is the law that establishes the Arbitrator for Financial Services in Malta? ..	1
2. How is the Office of the Arbitrator for Financial Services setup?.....	1
3. Who can the Arbitrator help?	1
4. Which financial service providers can the Arbitrator investigate?	2
5. How should a customer go about making a complaint against a financial services provider?	2
6. Are there time limits for submitting a complaint to the Arbitrator?.....	2
7. Is there a charge for lodging a complaint with the Arbitrator?	2
8. Can the Office help me with enquiries that I may have?	3
9. What is the process undertaken by the Office whenever a complaint is submitted to the Arbitrator?	3
10. What will be the effect of an Arbitrator's decision?.....	3
11. How does the Arbitrator deal with investigations?	3
12. How long does the Arbitrator take to investigate a complaint?	3
13. Do I need to appoint someone to assist me with lodging a complaint with the Arbitrator?	3

1. Which is the law that establishes the Arbitrator for Financial Services in Malta?

The legislation which established the Arbitrator for Financial Services is Chapter 555 of the Laws of Malta ([Arbitrator for Financial Services Act](#)).

2. How is the Office of the Arbitrator for Financial Services setup?

The Office of the Arbitrator for Financial Services is a body set up by law with power to mediate, investigate and adjudicate complaints filed by customers against all financial services providers. The Arbitrator, and the whole setup of the Office, is totally independent and impartial of all parties concerned to the complaint.

The day-to-day management of the Office is the responsibility of a Board (referred to as the Board of Management and Administration) headed by a chairperson. The Board, which is not involved in deciding cases, has the following key roles:

- helps ensure that the Arbitrator has adequate resources to handle his work;
- oversees the efficiency and effectiveness of the Office; and
- advises on the strategic direction of the Office.

3. Who can the Arbitrator help?

The following *customers* may lodge a complaint with the Arbitrator:

- Natural persons – including their successors in title; and
- Micro-enterprises – that is, sole traders, companies, partnerships, and cooperatives which employ fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed €2,000,000.

¹ This briefing is a summary and is not a definitive statement of the legal position. Updated on 12 December 2017

4. Which financial service providers can the Arbiter investigate?

The Arbiter has the remit to investigate complaints against all financial services providers licensed by the Malta Financial Services Authority (the financial regulator in Malta), whether still holding a licence or not.

This means, therefore, that the Arbiter would still have the competence and power to investigate complaints against providers whose licence has been surrendered or withdrawn by the MFSA, but which were licensed during the period in relation to which a complaint has been made to Office.

The following is an overview of the financial service providers against whom a complaint may be lodged:

- Banks;
- Financial Institutions (such as Bureaux de Change);
- Insurance companies (general and life insurance);
- Insurance intermediaries (such as agents, brokers and tied insurance intermediaries);
- Investment services providers (such as financial advisers and stockbrokers);
- Trustees; and
- Pension providers.

5. How should a customer go about making a complaint against a financial services provider?

The customer should first take up the complaint with the financial services provider concerned. If the customer is dissatisfied with the financial services provider's reply, the customer may be able to refer the complaint to the Arbiter for Financial Services.

If the financial service provider is no longer authorised by the MFSA and, after various attempts, the customer is unable to lodge a complaint with whoever was involved, the customer may submit his complaint with the Office of the Arbiter for Financial Services

directly. It would then be up to the Arbiter to determine if the complaint falls under his competence.

6. Are there time limits for submitting a complaint to the Arbiter?

Yes there are.

If your complaint relates to the conduct of a financial services provider which occurred between 1 May 2004 and 18 April 2016, then you have until 18 April 2018 to submit a complaint for consideration by the Arbiter. The Office might not be able to handle your complaint if received later than that date. Bear in mind that prior to submitting your complaint to us, you should have already submitted a complaint with the provider and allowed sufficient time to send you its reply.

If your complaint relates to the conduct of a financial services provider which occurred on or after 18 April 2016, the Arbiter shall have the competence to hear a complaint if it is registered in writing with the financial provider not later than two years from the day on which the complainant first had knowledge of the matters complained of.

It is therefore in your best interest to ensure that the complaint is submitted to your financial provider by registered mail and acknowledged shortly after you send it. Do keep a copy of the complaint, proof of registered mail and the provider's acknowledgement in case you need to pursue your complaint further with the Office of the Arbiter for Financial Services.

7. Is there a charge for lodging a complaint with the Arbiter?

The charge for lodging a complaint with the Office of the Arbiter for Financial Services is €25 which is reimbursable in full if

- the complainant decides to withdraw his complaint, or

- the parties to the complaint agree on a settlement of the dispute.

8. Can the Office help me with enquiries that I may have?

The Office would be able to help with any enquiries from consumers and financial services providers, to help them resolve issues between themselves, and to resolve issues of misunderstandings quickly and informally. If the complainant has not already complained to the financial services provider, the Office will insist that a complaint in writing with the provider is lodged.

9. What is the process undertaken by the Office whenever a complaint is submitted to the Arbiter?

The Office strongly encourages parties to a complaint to resolve cases by mediation – helping the parties to reach a fair settlement. If mediation does not work, the case will be passed on to the Arbiter, who will investigate the case and issue a decision. Complaints resolved by mediation will remain confidential.

10. What will be the effect of an Arbiter's decision?

The Arbiter can award compensation, payable by the financial services provider, up to a maximum limit of €250,000, together with any additional sum for interest and other costs.

A decision taken by the Arbiter can be appealed by the parties to the complaint. If no appeal is filed within 20 days from the date when the Arbiter notifies the parties of his decision, the decision becomes binding on all parties.

Decisions of the Arbiter will be held in a register by the Office and will be accessible to the public on request.

11. How does the Arbiter deal with investigations?

The Arbiter proceeds with investigations in private. He will ask the parties to a complaint to make submissions in writing and will also convene the parties to a hearing, which may be held in public unless the Arbiter decides otherwise. He may also request other parties to procure information or documentation if he believes that this is important for the investigation into the complaint. Information obtained by the Arbiter is made available to the parties concerned.

12. How long does the Arbiter take to investigate a complaint?

The Arbiter is required to deliver his final decision within 90 days from the date a complaint is submitted. However, if a complaint is complex in nature, the Arbiter may delay the delivery of his decision by not later than 1 year from the date of receipt of the complaint.

13. Do I need to appoint someone to assist me with lodging a complaint with the Arbiter?

You are not required to appoint a lawyer or any other person of your trust to assist you with lodging a complaint with the Arbiter. However, if you decide to do so, keep in mind that you need to pay such a person yourself. You would need to appoint a lawyer, however, if you reject the Arbiter's decision and intend to lodge an appeal in Court.

More information about the complaints mechanism of the Office of the Arbiter for Financial Services is available at www.financialarbiter.org.mt

Contact with the Office of the Arbiter for Financial Services can be made as follows:

By mail:

Office of the Arbiter for Financial Services,
First Floor, St Calcedonius Square,
Floriana FRN1530 MALTA

By email:

complaint.info@financialarbiter.org.mt

By phone:

Freephone 80072366 or (+356) 21249245