



**Strategic Plan &  
Projected Income and  
Expenditure Statement  
2018**

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## Introduction

The legislation establishing the Arbiter for Financial Services is Act XVI of 2016<sup>1</sup> came into force on 18 April 2016. The Act was updated in April 2017 by virtue of Act XVI of 2017.

### **Strategic Plan 2018**

The law obliges the Board to prepare and approve a Strategic Plan for the year, 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.

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

- Set up by law with power to mediate, investigate and adjudicate complaints filed by customers against all financial services providers.
- Consists of the Arbiter for Financial Services and the substitute Arbiter, if any, the Board of Management and Administration and of such officers and staff members appointed or employed with the Office.
- Its day-to-day management is the responsibility of a Board (referred to as the Board of Management and Administration) headed by a chairperson. The Board is not in any way involved in the decision of complaints.

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

- Totally independent and impartial of all parties concerned to the complaint and shall not be 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.

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<sup>1</sup> <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=27478&l=1>

- 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 subject only to appeal to the Court of Appeal (Inferior Jurisdiction).

### **Complainants 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 a settlement of the dispute.
- Before submitting a complaint with the Office, a customer has to give a financial service provider reasonable opportunity to deal with a complaint. Supporting evidence 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 or tribunal initiated by the same complainant on the same subject matter, will not be accepted.

## Strategic Policy

The OAFS workload is dictated by the number of complaints it receives and is therefore indeterminate.

The aim of the OAFS is to build and improve upon its level of service to the general public, to increase awareness of its role amongst the general public as well as providers and to be proactive in relation to its statutory activities.

Although the OAFS has only been in existence since April 2016 and has been hearing cases as of September 2016, over 700 complainants have lodged a complaint by end of November 2017 (545 complainants in 2016 and 164 complainants as at end of November 2017). This includes 400 complainants relating to investments in a collective investment scheme which are being treated as one collective complaint and a further 56 other complainants, filed individually, relating to the same investment. These other complainants could not be treated as one complaint as although they deal with the same investment, the particulars of each case is different.

The remaining number of complaints are essentially related to allegations of bad investment advice or losses in investment value as a result of failure of investments.

As at November 2017, over 90 complaints have been closed since the OAFS started operating in May 2016. Of these, 64 cases were decisions delivered by the Arbiter. The remaining cases were terminated following mediation or the provider agreed to settle prior to mediation.

Although mediation is voluntary, the OAFS believes that there is substantial scope for financial providers to embrace this process of resolving disputes. Mediation works when parties wish to pursue resolution of the complaint in an open and cooperative manner. Although the majority of complainants are willing to enter into mediation, only a few providers accept. That stated, the OAFS is encouraged by the approach taken by a few providers which have shown a very professional demeanour in the manner they have handled and settled complaints during mediation.

## The OAFS objectives for 2018 and beyond

The key objective of the OAFS is to work in a transparent, effective, fair and independent manner.

In its operations, the OAFS deals with the public and with a range of private financial services providers. It is therefore reasonable to expect the OAFS to provide an efficient and transparent public service.

A number of 2017 objectives have been met in full, while others are ongoing. As some projects take time to evolve and come to successful fruition, the OAFS's objectives for 2018 therefore continue to build on those for the current year. The OAFS has a team of dedicated and competent staff and will strive to meet in full the objectives outlined herein.

The OAFS acknowledges that expectations are high and no effort will be spared to ensure that it delivers on the expectations that all stakeholders have of this Office.

### A. RESOLVING 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, it must be ensured that such matters are treated with the highest standard of customer service – including courtesy, timeliness, confidentiality and impartiality. The approach of the OAFS in this area must be to seek to investigate and reach a resolution to the problem at issue.*

- i. Complaints will continue to be addressed promptly in order to facilitate their speedy and effective resolution having regard to the varying complexity of some cases, which can have significant implications for time scales.
- ii. As an ADR entity, the OAFS encouraged by law to conduct mediation in an effective manner and it is the aim of the OAFS to strive to resolve cases informally and amicably by way of mediation. Parties to a complaint may or may not accept to refer a complaint to mediation.
- iii. If mediation is refused or if it fails, the case is forwarded to the Arbiter for examination and a sitting is convened.

### B. IMPROVING ACCESSIBILITY AND AWARENESS BY BOTH CUSTOMERS AND FINANCIAL SERVICES PROVIDERS ABOUT RIGHTS TO COMPLAIN, DEALINGS WITH FINANCIAL SERVICE PROVIDERS AND THE DISPUTE RESOLUTION PROCEDURE OF THE OAFS.

*The OAFS is required to provide an accessible service to both customers and financial service providers.*

- i. To this end, the OAFS intends to continue with its efforts to disseminate information on its role to various interested bodies such as the media, statutory bodies, customer bodies, lawyers, financial sector representative bodies and to the general public.
- ii. The OAFS also intends to use its website to maximise access to the OAFS and disseminate information on complaints procedures.
- iii. Advanced preparations are in hand for the OAFS to procure a Case and File Management System, which will facilitate the furnishing of statistical reports in fulfilment of its obligations in terms of the ADR Directive<sup>2</sup>. The system will be required to meet enhanced data protection requirements which will come into force in 2018 on the implementation of the General Data Protection Regulations<sup>3</sup>.
- iv. The submission of electronic complaint forms and documents through a secure online environment will be explored.

C. EXECUTING THE OAFS'S ROLE AND INDEPENDENT FUNCTIONS IN A MANNER THAT IS  
TRANSPARENT AND ACCOUNTABLE AND TO LEAD BY EXAMPLE AS A MODEL OF BEST PRACTICE

*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's 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. As the law stands, the Board is required to maintain a Register of all decisions delivered by the Arbiter which become *res judicata*. The Board believes that all judgements delivered by the Arbiter should be published online.
- ii. Other than the statutory requirement to submit an annual report as well as a strategy statement to the Minister for Finance, quarterly cash flow statements as well as half-yearly financial statements will be submitted to the Ministry for as long as Government subventions continue to be made to the OAFS.

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<sup>2</sup> Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)

<sup>3</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

- iii. In its 2017 annual report – which will also include audited financial statements for the period May 2016 to 31 December 2017 – the OAFS shall also include information which is required to be provided to the Minister of Finance, as competent authority in terms of and for the purposes of the ADR Directive.
- iv. Administration of the finance and HR role will be reviewed on an ongoing basis.

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

*The quality of the OAFS' service to the public is crucially dependent upon the capacity, performance and motivation of its staff. Moreover, if the staff are to give commitment to the work of the OAFS, the Office must show commitment to the development of its staff. In particular, the OAFS must make sure staff have opportunities to participate in training and development on a regular basis, both inside and outside the Office.*

- i. To support and encourage continued staff training and development – especially mediation – the OAFS will organise induction and support programmes, and encourage participation to external courses.
- ii. Periodic internal courses will be held to ensure that all staff comprehend the provisions of the Act as well as the scope and functions of the OAFS.
- iii. Regular staff briefings will be held to keep staff informed of general developments.
- iv. Further books and other resource materials for internal use will be added to the OAFS small library.
- v. Preparations for a first draft of a staff handbook are in hand.

#### E. EU AND INTERNATIONAL OBLIGATIONS

The OAFS is now a full member FIN-NET, the financial dispute resolution network of national out-of-court complaint schemes in the EU. The OAFS will work in close collaboration with FIN-NET and other financial services arbiters/ombudsmen to further enhance best practices in the resolution of financial services complaints.



## Income and Expenditure Statement for 2018

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

Annex 1 outlines the financial plans for the OAFS for 2018, which are based on financial data for 2016 and 2017. Circumstances may require changes and the Board shall ensure that it is kept under constant review for its relevance and effectiveness.

### A. 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 Office for the year 2018.

The Board has approved the projected income and expenditure for 2018 (as featured in the last page of this document).

In terms of article 9(2)(c) and pursuant to article 9(2)(d), the OAFS's estimates for 2018 are being submitted to the Honourable Minister for Finance for his consideration.

#### **Assumptions**

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

So far, the OAFS has been financed by means of subventions made available by the Ministry for Finance. However, the OAFS is still committed to be exclusively financed by means of levies on financial services providers as sanctioned by law.

##### ***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 executive Chairman, the current staff complement of the OAFS is composed of the following officials:

Two Case Analysts  
Two Customer Relations Officers  
One Officer in charge of mediation

One PA to the Arbiter  
One Administrative Assistant  
One Receptionist  
One Support Staff (part-time)  
One Driver

The OAFS may recruit more staff if it experiences any unexpected surges of new complaints during 2018.

The Board also intends to continue refurbishing some parts of its premises in Floriana. The offices from which the OAFS is operating have been made available by the Ministry for Finance.

**Office of the Arbiter for Financial Services  
Projected Income and Expenditure for 2017 and 2018**

	<b>2017</b>	<b>2018</b>
	€	€
<b>INCOME</b>		
Government subvention	320,000	400,000
Complaint Fees	4,602	6,000
<b>Total Projected Income</b>	<b>324,602</b>	<b>406,000</b>
<b>EXPENDITURE</b>		
<b><i>Operational Costs</i></b>		
Staff Salaries	365,000	450,000
Insurance - Health	7,358	8,000
Office Refreshments	708	750
Cleaning	6,784	7,000
Office Maintenance	3,920	4,000
Printing and Stationery	4,640	4,750
PC/Printer Consumables	1,186	1,200
Other Office Costs	330	400
Telephony	5,303	6,000
Postage, Delivery & Courier	3,738	3,750
Bank charges	120	250
Memberships & Subscriptions	550	550
General Expenses	10,742	10,000
Car & Fuel Expenses	19,350	19,350
Travelling Expenses	982	1,500
Advertising & Website Costs	-	5,000
Meals & Entertainment	500	500
Professional Fees	850	5,000
Payroll Fees	466	500
Accounting Fees	1,300	2,600
Consultation Services	-	1,000
Training	100	2,500
Utilities	-	16,000
	<b>433,927</b>	<b>550,600</b>
<b><i>Capital Expenditure</i></b>		
Fixtures and Fittings	1,481	-
Computer and other IT Equipment	2,694	7,500
Office Furniture	5,000	10,000
Case Management System Software	-	20,000
	<b>7,694</b>	<b>37,500</b>
<b>Total Projected Expenditure</b>	<b>441,621</b>	<b>588,100</b>

Notes:

(1) All figures are approximate. Full year April 2016 to December 2017 audited figures will be reported in the OAFS Annual Report of 2017.

(2) Additional funds may be required to cover the planned expenditure for 2018.