



Strategic Plan &  
Projected Income and  
Expenditure Statement  
2019

**OFFICE OF THE ARBITER FOR FINANCIAL SERVICES**

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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.

Shortly after the coming into force of Act XVI of 2017, which included amendments to the Arbiter for Financial Services Act, Government published Legal Notice 137 of 2017 titled “Arbiter for Financial Services (Designation of ADR Entity) Regulations, 2017”.

By virtue of Legal Notice 137 of 2017, 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 Directive 2013/11/EU on alternative dispute resolution for consumer disputes.

## Our Setup

### **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.
- 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.
- 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 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 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.
- Is required to deal with complaints in a procedurally fair, informal,

<sup>1</sup>

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

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).

### **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 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 PLAN 2019

**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.**

## Taking stock

The OAFS workload is dictated by the number of complaints it receives and is therefore indeterminate. So far, the number of complaints has averaged to around 175 new cases over the three year period since we have been setup. The number of complaints however is not indicative of the complexity of the underlying cases.

During the first 10 months of 2018, a total of 175 complaints have been received by the Office. By year end, it is expected that the amount of complaints received will slightly surpass the amount received in 2017 (175) and 2016 (173<sup>2</sup> complaints).

Statistically, the major number of complaints received by the OAFS to date relate to allegations of bad investment advice or losses in investment value as a result of failure of investments. Investment-related complaints, which our complaints portfolio, pose complex issues which require time to research, review and adjudicate.

As at October 2018, the Arbiter delivered 107 decisions, of which one decision had been collectively filed by 400 complainants. Further decisions are expected to be delivered by year end. A further 145 cases were closed following mediation or the provider agreed to settle prior to mediation.

<sup>2</sup> \*This includes nine cases (comprising 400 complainants) which were treated as one collective complaint (Case reference 28/2016)

given that their merits are intrinsically similar in nature,

Besides formal complaints, the OAFS also handles enquiries and minor cases which may either require the provision of information or informal intervention with the financial provider. The number of enquiries and minor cases received over the same period of 2018 amounted to just over 900 situations. Statistically, one can observe a rising trend of enquiries relating to banking and insurance.

We will provide a summary of the Arbitrator's decisions delivered during the year as well as highlight the various issues which are consistently being brought up through enquiries in our 2018 Annual Report.

There have been slight improvements in the uptake of mediation but there is still a long way to go for this alternative dispute resolution mechanism to be embraced by financial services providers which prefer litigation. Although the majority of complainants are willing to enter into mediation, only a few providers accept. Mediation is voluntary but the OAFS encourages both parties to a complaint to attempt mediation especially when complaints would have been brought up following an impasse in communication. Mediation is conducted in private by an in-house mediator.

## The OAFS objectives for 2019 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.

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.

A number of objectives outlined in previous strategic plans 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 2019 therefore continue to build on those of the previous years. 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. We will continue to keep abreast with international developments in financial services and customer services to ensure that our techniques remain current and
- iii. service standards primed to modern expectations.  
As an ADR entity, the OAFS is 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. Although mediation is voluntary, we expect financial services providers to engage more with complainants (their customers, after all) at mediation stage.

## 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. We understand that consumers may choose not to be represented when lodging a complaint with our offices. We will ensure that such consumers are not disadvantaged or discouraged from accessing our redress mechanism which has been designed to deal with complaints in a procedurally fair, informal, economical and expeditious manner.
- ii. 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.
- iii. The OAFS also intends to use its website to maximise access to the OAFS and disseminate information on complaints procedures. A revamped website will be rolled out in 2019.

- iv. A Case and File Management System will be procured in 2019 to enable the OAFS manage its case workload in a professional and efficient manner whilst facilitating the compilation of statistical reports in fulfilment of its obligations in terms of the ADR Directive<sup>3</sup>. The system will be required to meet enhanced data protection requirements that came into force in 2018<sup>4</sup>.
- v. The submission of electronic complaint forms and documents through a secure online environment will be actively explored to facilitate the processing of complaints especially for the increasing number of complainants residing outside Malta.

### 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*. Complementary to this, decisions of the Arbiter are available on the Office's website ([www.financialarbiter.org.mt](http://www.financialarbiter.org.mt)). The name of the complainant(s) is (are) pseudonymised.
- ii. Besides 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 continue to be submitted to the Ministry for as long as Government subventions continue to be made to the OAFS.
- iii. In terms of the ADR Directive, the OAFS is obliged to provide detailed information about its operations to the Minister of Finance, 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 2018 Annual Report.
- iv. Administration of the finance and HR role will be reviewed on an ongoing basis, including the annual

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<sup>3</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>4</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)

- audit of the OAFS financial records by the National Audit Office.
- v. Further refurbishment works will be carried out at the premises which house the OAFS offices to ensure a comfortable and safe working environment for staff members and visitors.

#### 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 in financial services and customer service standards.
- iv. Further books and other resource materials for internal use will be added to the OAFS small library.
- v. The staff handbook, a first version of which was rolled out during 2018, will be updated as necessary to cater for new exigencies of the office as they arise.

#### E. EU AND INTERNATIONAL OBLIGATIONS

The OAFS is an active 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 international financial services arbiters/ombudsmen to further enhance best practices in the resolution of financial services complaints.

## Income and Expenditure Statement for 2019

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 2019. Circumstances may require changes and the Board shall ensure that these plans are 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 2019.

The Board has approved the projected income and expenditure for 2019 (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 2019 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 chairman of the Board, 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
- One Driver

Further specialised staff may be recruited depending on complaint trends in 2019.

**Office of the Arbiter for Financial Services  
Projected Income and Expenditure for 2018 (revised) and 2019**

	Revised 2018 forecast	2019 forecast
Government funding	500,000	525,000
Complaint Fees	3,500	3,750
<b>Total Projected Income</b>	<b>€ 503,500</b>	<b>€ 528,750</b>
<b>Recurrent Expenditure</b>		
Staff Salaries	444,508	480,000
Insurance - Health	8,294	8,300
Hospitality	724	500
Cleaning	7,756	7,500
Office Maintenance	3,396	3,000
Printing and Stationery	2,716	2,500
PC/Printer Consumables	548	700
Other Office Costs	1,390	1,200
Other Office Equipment	240	200
Telecommunications	5,346	5,500
Bank charges	80	250
Memberships & Subscriptions	1,032	500
General Expenses	178	100
Vehicle, Leasing and Fuel Expenses	17,574	18,000
Travelling Expenses	1,322	2,500
Advertising & Website Costs	280	300
Professional Fees	980	2,000
Payroll Fees	490	500
Accounting Fees	2,600	2,600
Training	550	500
Utilities	-	-
Postage, Delivery & Courier	4,080	4,200
Insurance - Business	146	250
Insurance - Travel	32	250
Depreciation Charge	6,540	6,540
	<b>€ 510,802</b>	<b>€ 547,890</b>
<b>Capital Expenditure</b>		
Computer and other IT Equipment	-	1,500
Case Management System Software	10,000	15,000
	<b>€ 10,000</b>	<b>16,500</b>
<b>Total Projected Expenditure</b>	<b>€ 520,802</b>	<b>€ 564,390</b>
<b>Surplus/Loss for the period</b>	<b>(€ 17,302)</b>	<b>(€ 35,640)</b>

Notes:

- (1) All figures are approximate. Full year audited figures for financial year ending 31 December 2018 will be reported in the OAFS Annual Report for the year.
- (2) The Government subvention for 2019 is as reported in the Draft Financial Estimates 2019 under the Ministry for Finance's vote (<https://mfin.gov.mt/en/The-Budget/Pages/The-Budget-2019-G5J3D1.aspx>). Additional funds will be required to cover the planned expenditure for 2019.