



**Strategic Plan &
Projected Income and
Expenditure Statement
2024**

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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>

The requirement to produce a yearly Strategic Plan

The Act mandates the Board to develop and approve a Strategic Plan in consultation with the Arbiter for Financial Services every year.

This plan must outline the goals of the OAFS for the upcoming financial year, detailing the nature and extent of the activities to be carried out, the performance targets and assessment criteria for the OAFS, and the proposed allocation of the OAFS's resources.

Once the Board approves the strategic plan, a copy must be forwarded to the Minister for Finance. The Minister is then required to present it to the House of Representatives. The Plan is also accessible to the public online.

Brief Notes

The Arbitrer for Financial Services Act (Act XVI of 2016) came into force on April 18, 2016, establishing the Arbitrer for Financial Services in Malta.

Following this, the government issued Legal Notice 137 of 2017, titled "Arbitrer for Financial Services (Designation of ADR Entity) Regulations, 2017." Through this legal notice, the Minister for Finance appointed the Office of the Arbitrer for Financial Services as the Alternative Dispute Resolution (ADR) entity for financial services in Malta, in line with the ADR Directive.



Scan to access the Act.

The Office of the Arbitrer 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 Arbitrer for Financial Services and the substitute Arbitrer, 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 involved in the complaints' handling and decision-making process.

The Arbitrer for Financial Services

- 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, micro-enterprises and consumer associations may complain 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 has offered financial services in or from Malta.
- The OAFS charge for filing a complaint is €25, but it is fully refundable if the complainant withdraws or the parties settle.
- Before submitting a complaint with the OAFS, a customer must first provide the financial service provider with a reasonable opportunity to address the complaint. The complainant will be requested to provide supporting evidence to this effect and in support of their claim.
- Complaints about the conduct complained of, which are or have been the subject of a lawsuit 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.

Taking stock

CASE LOAD DURING THE FIRST TEN MONTHS OF 2023

The OAFS operates in a dynamic environment where various factors can influence the number of complaints. Estimating the number of new cases that will be filed during the year is impossible based on the previous year's complaint workload. Any unforeseen events in the financial sector or modifications in the EU and Maltese laws may increase the number of complaints received by the OAFS. Therefore, while the OAFS can use historical data to anticipate its workload, it must also remain flexible and prepared to handle unexpected increases in complaints due to these and other unpredictable factors.

During the first ten months of 2023, 200 new complaints were registered, the highest number of individual complaints that the OAFS has received so far. That stated, 75 complaints were lodged against the same financial services provider, whose licence has now been suspended by the MFSA. The review of this cohort of complaints is suspended to allow the MFSA and its appointed professionals to assess the service provider's operations and going-concern.

Most incoming formal complaints were cases against banks and financial institutions (112 cases), followed by 56 insurance-related cases and 32 investments-related cases.

Around 60 of complaints were lodged by complainants outside Malta.

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

At the end of the reporting period, the Arbiter decided 106 out of 154 closed cases. Most of the remaining cases were resolved at mediation. In accordance with the Act, the Arbiter referred five cases to the appropriate supervisory authorities, highlighting issues that required further regulatory intervention.

Besides formal complaints, the OAFS also processes enquiries and minor cases which may require information or informal intervention with the financial provider concerned. Until the end of October, the number of enquiries and minor cases amounted to 662 cases, surpassing the total number of enquiries and minor cases lodged in 2022. Many of these enquiries relate to banking and payments issues (384), followed by insurance and investment issues.

The 2023 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 a redress mechanism established outside the court system in accordance with the EU legislation on Alternative Dispute Resolution (ADR) for consumers. It provides redress to eligible customers in cases of disputes filed against financial services providers authorised in Malta and adheres to the principles of accessibility, fairness, transparency, accountability, and independence as enshrined in the directive. These principles are the basis for any reliable extrajudicial redress mechanism, regardless of the sector in which such mechanism has jurisdiction.

Since its inception, the OAFS has been dedicated to delivering a distinguished public service by maintaining high service standards, promoting transparency, and fostering staff competence. As we move forward, we will continue to enhance our objectives by increasing visibility and improving efficiency. These two priorities will be our main focus for the upcoming year and will remain at the forefront of our strategic goals for beyond.

Priorities for 2024 and beyond

PLANNED AMENDMENTS TO THE ACT

Legislation is not a static instrument and must adapt and evolve to reflect the realities of its operation over time. It is through its application that law truly comes to life, and this process may reveal areas that require fine-tuning to ensure seamless functioning and effective enforcement. Act number XVI of 2016 came into force in April 2016, and since then, it has been amended six times for fine-tuning and updates.

The Board and the Arbiter have identified and discussed several further amendments to our enabling Act. The amendments, which will be proposed to the Minister for Finance for their consideration, are designed to address certain aspects of the existing legislation that, over the past seven years of its operation, have revealed a need for further clarity and refinement, particularly in the area of the complaint process.

The amendments that will be proposed include the following:

- (1) To align the provisions of the Act with Article 17 of the ADR Directive regarding cooperation, information exchange and confidentiality between the OAFS and national authorities enforcing consumer protection legislation. This is to ensure proper discharge of their respective duties while maintaining confidentiality. The article was not transposed into the Act when the law was enacted in 2016;

- (2) To reduce the frequency of submitting the strategic report to the Minister under Article 9 of the Act from annually to every three (3) years. The aim is to allow more long-term planning and goal-setting in the Office's strategic plan;
- (3) To set a time limit for complainants to complain with the Arbiter no later than two years from the day the complaint is registered with the financial services provider. This provides certainty and improves consumer protection by ensuring the timely submission of complaints to the Arbiter;
- (4) To set time limits for providers to submit a response to complaints lodged by consumers (15 working days for a final reply, maximum 35 days) that reflect standards set in recent financial services legislation. The provider is also required to inform the complainant of the time limit to complain with the Arbiter for Financial Services;
- (5) To clarify the interruption of prescription occurs when a complete complaint and fee payment is filed with the Arbiter. This gives legal certainty on when interruption takes effect and

If the Government approves the proposals, the OAFS expects to have the amendments enacted during the first quarter of 2024.

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.

Like many financial redress bodies worldwide, the OAFS aims to provide consumers with an informal, cost-effective alternative to court proceedings for resolving disputes. They also strive to inform consumers about these mechanisms, assuring them that their disputes can be heard and resolved fairly, quickly, and informally.

There are several ways consumers might learn about the services of the OAFS. These include word of mouth, media appearances by OAFS officials, internet searches, or public authority helplines that provide the OAFS's contact information. Additionally, when a financial service provider responds to a consumer complaint in writing, they typically include information about the OAFS and the consumer's right to file a complaint.

The OAFS recognises its progress so far but must find alternative methods to attain its objectives and attract more individuals to its informal dispute resolution system. Thus, the OAFS plans to enhance its visibility and make its mechanism more accessible.

Accessibility

- i. To ensure that consumers clearly understand the complaint process, it is essential to provide accessible resources that guide them through the procedure. This is particularly important for those who do not have representation when filing a complaint. Short informational videos explaining the complaint process will be prepared and available via the OAFS portal.
- ii. In an effort to enhance accessibility even further for consumers, the OAFS plans to abolish the fee currently required for registering a new complaint. Eliminating the fee for filing a complaint can prevent a potential barrier to accessing justice for some complainants. It also ensures equal opportunity for consumers to seek redress, which ultimately leads to enhanced consumer confidence in the ADR process. By removing this fee, the OAFS will align itself further with practices in numerous other jurisdictions where no charges are imposed on complainants filing a complaint with their respective financial ADR.
- iii. The redress mechanism that the OAFS has adopted is designed to deal with complaints in a procedurally fair, informal, economical and expeditious manner. While legal representation is not mandatory during the complaint process, some consumers seek assistance from a legal professional. Representatives of consumers and providers should not lose sight of the fact that the costs of the proceedings should not exceed those typical for court proceedings in Malta. Moreover, and in light of the ADR Directive's principles, the OAFS is an affordable, out-of-court solution for resolving disputes, and parties' representatives should be reasonable when charging their clients for their services, especially if costs are entirely payable by the losing party. To this end, the OAFS intends to provide further information and clarify its expectations through its social media posts and website.
- iv. The OAFS recognises that many consumers may not have online access, be vulnerable, or prefer personal interaction. The OAFS understands the importance of human interaction in resolving issues rather than relying solely on digital interfaces. Therefore, accessibility, including the ability for complainants to communicate with our Customer Relations Officers in their preferred manner, will continue to be a core value guiding any technological changes. Additionally, the OAFS will facilitate the use of social media communication tools, allowing consumers to reach out to the OAFS for informal inquiries and questions.
- v. The OAFS has maintained provisions for all mediations and hearings to be conducted online. To assist users in navigating this digital process, the OAFS will enhance its website with additional sections that explain how to use the application for these online hearings. In line with its commitment to making the OAFS more accessible to the public, the staff will provide necessary assistance regarding the use of online video conferencing software, if needed. This support aims to ensure that complainants feel comfortable and confident when using this application.

Visibility

- vi. If the Government approves the proposal to eliminate the complaint fee, the OAFS anticipates an increase in the number of consumers lodging complaints. While the current fee of €25 may not be significant, its removal could motivate more consumers to exercise their right to file a complaint. This is because eliminating the fee removes a potential barrier to accessing justice, making the process less intimidating for consumers.
- vii. 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 consumer friendly. The OAFS is also considering the addition of a further sub-category to the classification of rejected cases. This will allow users to understand better the reasons behind a case refusal, such as prescription, insufficient merits, or frivolity. This enhancement is aimed at providing more transparency and clarity to the process.
- viii. As outlined in its 2023 Strategic Statement, the OAFS has initiated weekly posts on Facebook and LinkedIn to raise awareness of its services and share case summaries based on the Arbiter's decisions. Additionally, it intends to release a newsletter every four months. This publication will feature a briefing note from the Arbiter, a compilation of case summaries, and a data dashboard detailing the number of inquiries, processed formal complaints, and published decisions.

Core objectives

The aspiration to increase the OAFS' visibility and enhance its efficiency 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 handling complaints is at the heart of the OAFS's public service function, highest customer service standards – 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 as they deem appropriate.

- i. The OAFS is committed to providing an efficient and responsive service for all informal and formal cases. It will utilise the necessary tools to inform all parties about their inquiry or complaint status and the next steps required. The OAFS has

facilitated the processing of complaints by allowing electronic complaint forms and documents to be submitted through a secure online environment.

- ii. The OAFS continuously engages with complainants and providers to expedite the resolution of minor disputes. If early intervention initiatives do not lead to a satisfactory resolution, the Office's Customer Relations Officers will provide information about the complaints procedure to enable the lodging of a formal complaint.
- iii. The OAFS is legally required to attempt the resolution of complaints through mediation. There has been an increase in the number of cases referred to mediation and the success rate of cases resolved at this stage. The OAFS will continue to promote this trend, recognising that it also requires the parties' willingness to pursue this redress technique.
- iv. The OAFS is committed to issuing decisions within a reasonable time after the case investigation. Although some cases may be more complex than others and thus require more time to analyse, it will endeavour to ensure that for the majority of the cases, decisions are issued within 90 days from the conclusion of the hearings or the submission of the parties' submissions, whichever is the later.
- v. The Arbitrator's decisions are legally binding on both the complainant and the financial service provider, subject only to an appeal to the Court of Appeal (Inferior Jurisdiction). The decisions issued by the Arbitrator will include information about the parties' rights in this regard.

SHARING OF INFORMATION

The OAFS, similar to other financial ADR bodies set up in Europe and the rest of the world, has been primarily set up to review and investigate financial consumer complaints. It operates outside of the Court system, providing an alternative way for consumers to resolve disputes against financial services providers. Such financial redress mechanisms operate within a network of agencies and stakeholders, facilitating the generation and accessibility of valuable information and intelligence. When such information is disseminated to other segments of the regulatory system, it serves regulatory conduct supervision and enforcement purposes.

Through several enquiries and formal complaints, there may be occasions where the OAFS identifies weaknesses or possible breaches of conduct rules that may merit flagging to the financial regulators. At times, some cases may have broader implications for the entire financial system and may lead to widespread consumer detriment.

Once the implementation of Article 17 of the ADR Directive is enacted in our Act, the OAFS would be able to share information with consumer enforcement bodies concerning complaint trends and issues that may be systemic.

In the meantime, the Arbitrator will continue to flag particular regulatory issues arising from individual complaints to the regulators as already provided for in the Act.

GOVERNANCE AND PROPER ADMINISTRATION

As a public entity, the OAFS is committed to maintaining accountability and transparency, which are crucial for retaining public confidence. The OAFS will continuously review its organisational structure to ensure it supports effective internal and external communications and coordinates its activities for optimal outcomes. The quality of the OAFS's service to the public is fundamentally dependent on its staff's capacity, performance, and motivation. Therefore, if the staff are expected to give their best to the OAFS, the OAFS must reciprocate by encouraging and showing commitment towards staff development. This includes ensuring staff have regular opportunities to participate in internal and external training and development.

The Arbitrator's decisions, now exceeding 650, are accessible online on the OAFS' website. The website allows users to filter decisions using various search criteria. The online database also indicates if cases have been appealed, providing the Court of Appeal (Inferior Jurisdiction) reference number and the decision of the Appeal Court in such instances. The complainant's name is pseudonymised for privacy.

Under the ADR Directive, the OAFS must provide detailed information about its operations to the Minister for Finance and Employment, who serves as the competent authority for this Directive. The OAFS will fulfil its duties under the Directive and its operative law through its annual reports.

The OAFS is committed to fostering continuous staff training and development. To this end, it will organise induction and support programs, encourage participation in external courses, and hold regular staff briefings. These briefings will inform staff of general developments in financial services and customer service standards, ensuring they have the latest knowledge and skills to serve the public effectively.

Other operational and administrative objectives

The OAFS offers a unique redress mechanism, similar to those in EU member states and globally. Despite differences in legal and cultural contexts, these mechanisms adhere to principles like independence, impartiality, effectiveness, and accessibility. They provide consumers with an informal, inexpensive avenue for justice without forfeiting their right to court proceedings. The OAFS has learned from other jurisdictions and influenced knowledge and standards in financial services, particularly in private retirement schemes. It will continue its international participation and enhance its local presence by relocating to new offices, aiming to increase the visibility of the OAFS brand.

CREDIT REVIEW OFFICE

The Government is currently planning to legislate to implement a Credit Review Office. The Credit Review Office will be tasked with reviewing credit decisions made by banks when applications made by eligible applicants for credit facilities are refused. If the

Credit Review Office believes that a case is valid, a recommendation will be made to the bank to provide the necessary credit to the applicant. The OAFS has been invited to participate in the planning process for the new setup and will continue to provide input.

EU AND INTERNATIONAL OBLIGATIONS

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

The OAFS, as an active member of both FIN-NET and the INFO Network, is committed to maintaining close collaboration with these organisations to enhance further best practices in resolving financial services complaints. FIN-NET is a network of national out-of-court complaint schemes in the EU, while the INFO Network is a global association for financial services ombudsmen and other dispute resolution schemes tasked with resolving financial consumer complaints

PLANNED RELOCATION OF THE OAFS OFFICES

The OAFS's relocation to new offices in Msida has been delayed due to various setbacks, including the completion of conversion works and equipment installation. As a result, the planned target date in the first half of 2023 has been missed. Consequently, the move is expected to occur in early 2024, depending on the completion of the remaining tasks. The OAFS team remains committed to transitioning to the new location as soon as possible.

Projected Income and Expenditure Statement for 2024

Providing 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 2024. Circumstances may require changes and additional Government funding, and the Board shall ensure that these plans are constantly reviewed for relevance and effectiveness.

EXPLANATORY NOTES

Legal basis

In terms of Article 9(2)(a) of the said Act, the Board of Management and Administration must prepare and approve a statement with estimates of income and expenditure relating to the OAFS for the year 2024.

The Board has approved the projected income and expenditure for 2024 (as featured in Annex 1 of this document).

In terms of Article 9(2)(c) and pursuant to Article 9(2)(d), the OAFS's estimates for 2024 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 the Government.

The subvention requested of Government for 2024 is in line with that which the OAFS received over the past three years.

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 2024 and additional expenditure relating to the OAFS objectives set out earlier in this strategy.

Expenditure

A significant part of the OAFS's budget is allocated to salaries and benefits for 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 Junior Case Reviewer
- One Support Staff
- One Driver

Annex 1 - REVISED Projected Income and Expenditure (2023) and PROJECTED Income and Expenditure (2024)

	Revised Projected 2023	Projected 2024
Government subvention	675,000	675,000
Complaint Fees	3,000	4,000
Total Projected Income	€ 678,000	€ 679,000
Salaries (including NI and bonuses)	500,000	533,000
Hospitality	1,000	1,000
Office Maintenance & Upkeep	8,000	2,000
Office Services	16,000	16,000
Membership & subscription	1,700	1,700
General Expenses	30,000	20,000
Vehicle, Leasing and Fuel Expenses	22,000	21,260
Professional Fees	7,500	8,200
Travelling Expenses	8,000	8,000
Rent	7,500	30,000
Software Maintenance and Support	5,000	5,000
Training	1,500	1,500
Utilities	7,500	7,500
Replacement of Assets	15,000	5,500
Projected General Expenditure	€ 630,700	€ 676,960
Surplus/Loss for the period	€ 2,750	€ 2,040
Projected Capital Expenditure		
Case and File Management System (Enhancements)	5,000	5,000
Telephony and other hardware	6,000	--
Office Furniture	35,000	--
Infrastructure improvements	--	40,000
	€ 44,550	€ 40,000

Notes:

- (1) All figures are approximate and subject to change. Full year audited figures for financial year ending 31 December 2023 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 2024 is as reported in the Draft Financial Estimates 2024 under the Ministry for Finance and Employment's vote. Additional funds may be required if unanticipated expenditure for the year exceeds the subvention amount and funds from accumulated reserves.