

Before the Arbiter for Financial Services

Case ASF 223/2025

HA

(‘Complainant’)

vs

OpenPayd Financial Services Malta Limited

Reg. No. C 75580

(‘Service Provider’ or ‘OPFS’ or ‘OpenPayd’)

Sitting of 20 February 2026

The Arbiter,

Having considered in its entirety, the Complaint filed on 30 September 2025, including the attachments filed by the Complainant,¹

The Complaint

Where, in summary, the Complainant says he is a victim of a scam orchestrated by unknown persons operating through a platform known originally as ‘<https://cfd.cryptotradeclub.ltd/>’ who persuaded the Complainant to start investing funds promising strong returns.

It later proved that this was a scam and Complainant is holding OpenPayd responsible to refund his loss which he quantified at €4,400 being a single payment made through OpenPayd which he believed was related to a payment of tax on €40,000 fictitious profits on an investment of €7,400 he had already made through other channels (not OpenPayd).

¹ Page (P.) 1 - 8 and attachments p. 9 - 47

Evidence of the transfer of €4,400 to OpenPayd was presented showing Unicredit as the remitter bank to an MT IBAN number account with OpenPayd and showing Complainant as beneficiary of the transfer.²

From the point of view of the remitter bank, these seemed like normal me to me payments where the funds were to be credited to an account that the Complainant had with the receiving institution (OpenPayd).

Reply

In their Reply³ of 01 August 2025, OpenPayd raised a preliminary plea stating that the Arbiter had no competence to hear and adjudge this case as Complainant was not an eligible customer as defined in Article 2 of CAP. 555 of the Laws of Malta which regulates the operation of the Office of the Arbiter.

On merits they stated:

'As a payment services provider, OpenPayd services corporate entities to assist them in their own reconciliation of payments. One such client is Swissborg.

Swissborg, as a separate corporate entity may, in turn, enter into their own onward commercial relationships, which in this case would be the Complainant. However, ultimately, OpenPayd has no control over any onward commercial relationships entered into between its corporate client, Swissborg, and any third party/ies, like the Complainant, in this case. Ultimately, OpenPayd can only reiterate that on its part, it has only ever serviced Swissborg and has never provided services to the Complainant who was purportedly scammed by unknown third parties.

Another point of the complaint is the transactions the Complainant executed with 'Cryptotraderclub.ltd' via Swissborg where the Complainant's transfers were allegedly misdirected.

Whilst this is unfortunate, the payment instructions given by the alleged representative(s) of this online platform to the Complainant and the arrangement the Complainant has had with the unknown scammer(s) in this

² P. 20

³ P. 51 - 59

regard is not within the control of OpenPayd as this is a third-party arrangement which OpenPayd is completely removed from.

OpenPayd's Services

OpenPayd is a provider of payment services registered in Malta under company registration number C75580 and is licensed and regulated by the Malta Financial Services Authority as a financial institution in terms of the Financial Institutions Act (Chapter 376, Laws of Malta). As you will be aware, OpenPayd is not and has never made itself out to be a bank or provider of investment services. OpenPayd provides payment services to its corporate clients (inter alia the Merchants) in order to assist them in their own reconciliation of payments.

For the purposes of clarification and in the interest of full transparency, the following outlines the operational structure of OpenPayd's services:

- A virtual IBAN is a unique reference number that looks like a regular IBAN but does not correspond to an actual bank account. Instead, it is linked to a master virtual IBAN.*
- OpenPayd's banking partner, issues (creates) virtual IBANs and provides them to OpenPayd.*
- OpenPayd provides Master virtual IBANs to its corporate clients upon agreed terms of use.*
- OpenPayd's corporate client can then start issuing named virtual IBANs for their users or customers.*

In this fashion, upon Swissborg's request, OpenPayd allocates a sub-set of the virtual IBANs to Swissborg. Thus, Swissborg is enabled to provide the allocated sub-set of unique virtual IBANs to its own customers for reconciliation purposes only. That is how [the Complainant], as a customer of Swissborg, was provided with such a virtual IBAN which he could use to deposit funds (fiat currency) to his Swissborg account. That is, [the Complainant] as customer of Swissborg was assigned the unique vIBAN: MT07CFTE 1065.

The virtual IBAN would be linked to Swissborg's main virtual IBAN. Please note that the Complaint suggests that the payments made from the Complainant's bank account and paid to his account with Swissborg (as purportedly instructed

by unknown third parties) were paid to a 'bank account' to OpenPayd. This is not an accurate description of our services – funds were received by OpenPayd as receiving Payment Service Provider (PSP) for its merchant Swissborg.

Here we should note that OpenPayd has visibility over these transactions solely in its capacity as the provider of payment reconciliation services to Swissborg. OpenPayd's role in the transaction was to credit its client's (Swissborg's) payment account in accordance with the payment instructions from the Complainant. As the payment was made via the named virtual IBAN associated with the Complainant, it enabled Swissborg to identify the payment and credit the Complainant's account accordingly.

OpenPayd reiterates that it has never had any commercial or contractual relationship with the online trading platform 'Cryptotradeclub.ltd' and its representative/s, who may or may not have separately engaged with the Complainant. In this, OpenPayd is not aware, nor could have been or ought to have been aware, of any arrangement between the online platform 'Cryptotradeclub.ltd' and its representative/s, the Merchant and the Complainant.

In terms of law, OpenPayd is to carry out customer due diligence on its corporate client, Swissborg, both at onboarding stage and during their relationship as required by applicable laws and regulations. It is not incumbent on OpenPayd as a PSP to carry out KYC/CDD checks on the customers of its merchants, as in terms of law, there is no legal relationship between the merchant's customers and OpenPayd. Accordingly, customer due diligence requirements concerning all of Swissborg's customers are to be performed by Swissborg and not by OpenPayd.

It appears this case relates to an unfortunate incident of fraud in the Complainant's regard which is altogether distinct from the tools that are to be adopted as mandated by law for the purposes of prevention of money laundering and financing of terrorism. Ultimately, it is incumbent on the merchant to adopt such measures in regard to its customers such as the Complainant, and on OpenPayd vis-à-vis its merchants. In this respect, OpenPayd has always complied

with its statutory obligations in implementing the required measures for the prevention of money laundering and financing of terrorism.⁴

....

'The Complainant's complaint

Notwithstanding the above and as a matter of prudence, on receipt of the written complaint we promptly investigated the Complainant's initial complaint and, following our investigation, we provided the Complainant with our response dated 9 September 2025.

We directed the Complainant to submit a complaint to Swissborg as his service provider, and we subsequently forwarded the complaint to Swissborg through our established business communication channels to facilitate their response and support the effective handling of the matter. This is in accordance with the OpenPayd's Complaints Policy, which is publicly available on our website.

OpenPayd has, at all times, followed the applicable law and guidance on its obligations in respect of the Complainant's complaint.

As we set out in our response dated 9 September 2025, it remains OpenPayd's clear position that the Complainant should address their concerns to the provider of the service in its regard.

On the Complainant's specific points raised in their letter to the Arbiter, we wish to make clear that:

- OpenPayd has no legal relationship with the Complainant.*
- OpenPayd has no relationship whatsoever with the online trading platform 'Cryptotradeclub.ltd', and OpenPayd has had no involvement in or awareness of any of the interactions that the Complainant has chosen to have with 'Cryptotradeclub.ltd'.*
- OpenPayd does not provide consumers with financial documents. The document provided to the Complainant does not originate from OpenPayd and is not legitimate.*

⁴ P. 53 - 55

- *In respect of the request to return funds which the Complainant authorised to be paid from their third-party bank account, the Complainant should address this request to Swissborg as a beneficiary of the payment.*⁵

Hearings

During the hearing of 26 November 2025, the Arbiter overruled the preliminary plea and declared his competence to hear and adjudge this case.

Decision re Preliminary Plea

The transfer complained of show as beneficiary the Complainant and without any reference to any third-party beneficiaries. Nowhere in the transfer payments is there any reference to the Merchant to whose account the Service Provider is claiming to have credited the funds.

Article 22(2) of Chapter 555 of the Laws of Malta ('the Act') stipulates that:

"Upon receipt of a complaint, the Arbiter shall determine whether the complaint falls within his competence."

Moreover, in virtue of Article 19(1) of the Act, the Arbiter can only deal with complaints filed by **eligible customers**:

*"It shall be the primary function of the Arbiter to deal with complaints filed by **eligible customers** through the means of mediation in accordance with Article 24 and where necessary, by investigation and adjudication."*

The Act stipulates further that:

"Without prejudice to the functions of the Arbiter under this Act, it shall be the function of the Office:

*(a) To deal with complaints filed by **eligible customer**."*⁶

Eligible customer

Article 2 of the Act defines an "*eligible customer*" as follows:

⁵ P. 58

⁶ Article 11(1)(a)

*“a customer who is a consumer of a financial services provider, or to whom the financial services provider has offered to provide a financial service, or **who has sought the provision of a financial service from a financial services provider.**”⁷*

The Arbiter has to primarily decide whether the Complainant is in fact an **eligible customer** in terms of the Act.

No claim has been made that the Complainant was a customer consumer of the Service Provider or that the Service Provider had offered him any service. The case revolves on whether the Complainant had sought the provision of a financial service from OPFS.

On a similar issue in case reference ASF 155/2024,⁸ the Arbiter had decreed that as the beneficiary was clearly indicated as being the remitter himself, the Arbiter did not accept that the Complainant:

“Never sought the provision of a financial service from OPFS.”

For same reasons already explained in ASF 155/2024, the Complainant is deemed as qualifying as *“eligible customer”* in terms of Article 2 of the Act.

Therefore, the Arbiter decrees that he has the competence to deal with the merits of this Complaint.

Merits

At the first hearing held on 26 November 2025, Complainant explained that on the scam platform he was seeing profits of €40,000 on his initial investment of €7,400, and the scammers asked him to pay tax of €4,400 before releasing the profits.

The scammer told him:

‘Your money is in crypto, and you have to pay this tax to transfer from crypto to Euro, and we will send you the money’.⁹

⁷ Emphasis added by Arbiter

⁸ <https://financiarbiter.org.mt/sites/default/files/oafs/decisions/2097/ASF%20155-2024%20-%20PU%20vs%20OpenPayd%20Financial%20Services%20Limited.pdf>

⁹ P. 61

Complainant continued to give evidence stating:

'I say that the scammer contacted me through the phone, his phone number and the mobile, and we made the installation of AnyDesk together, and the scammer controlled all my documents, the money sent and, also, the movement of the investment. I did not know what was happening.

I am being asked whether a complaint or a report was filed with the police or authorities in Italy.

The police have archived the report because in Italy we have a big problem: the police do not go after the banks or after the company; they go after the person. And here we do not have a person; it is a nominee person. Where there is a nominee person, after checking, they archive the file.

I made a report, but the police closed the case because they did not find the name of the person; they did not find the person.

And, in Italy, it is always like that.

***Asked whether I made a claim against UniCredit, arguing that they should have stopped me from making these payments, I say that my wife went to the bank to ask about the money. The bank said, 'We are sorry that you got defrauded. You have to go to the postal police to make a reclaim,' and that is what we did.'*¹⁰**

For the last hearing held on 20 January 2026, OPFS submitted as evidence a sworn affidavit of Jessica Micallef explaining the internal operations of how Virtual IBANs (VIBAN) work and how funds are credited to the account of the VIBAN account holder even though they are not named in the transfer payment which to the remitter bank appears as a 'me to me' payment from an account held by the remitter with the remitting bank to an account he holds with OPFS.¹¹

Complainant declared he had no cross-examination for the evidence of the Service Provider.

¹⁰ P. 62

¹¹ P. 65 - 68

Final submissions

Complainant opted not to make final submissions.

In their final submissions, Service Provider repeated what was already stated in their reply and stressed the following:

- The risk of moral hazard if compensation is awarded without satisfactory evidence that the Complainant was not himself part of the alleged scam, having presented no real evidence of his loss.
- Complainant did not pursue a claim on his home bank who had a first line obligation to monitor his payments.
- Complainant was grossly negligent giving full access to the scammers to his crypto wallet via the App AnyDesk and chasing quick easy profits without proper checks on the credentials of 'Cryptotradeclub.ltd'.
- In cases ASF 005/2025 and ASF 135/2025 which have similar characteristics to this case, the Arbiter has decided that there was no causation between any regulatory failure of OpenPayd (which they deny) and the loss sustained by Complainant.

Analysis and Observations

Having heard the parties,

Having seen all the documents,

The Arbiter considers that in order to avoid repetition, it is proper to refer to proceedings of case ASF 155/2024 which relates to the same circumstances and which the Arbiter had ruled that the Service Provider had no authority to take the provisions of PSD 2 as applicable to normal IBANs and apply them to VIBANs which are not covered by regulation and presented more risks to consumers than normal IBANs.

This complaint, however, presents a very different set of circumstances than those applicable for case ASF 155/2024.

Whereas in that case, the Complainant was a vulnerable old person who could not be expected to understand the manoeuvres of the scammers, in this case, the Complainant presented no evidence of vulnerability and was clearly in search of high profits making an investment on the platform '<https://cfd.cryptotradeclub.ltd/>' which later turned out to be fraudulent.

It is greed and gross negligence that inspired the Complainant to continue transferring funds to the scammers without seeking any professional advice or taking other rudimentary precautions. Giving the scammers access to his banking credentials through Anydesk App, basically gave the scammers the key to his savings.

Decision

As decided in case ASF 155/2024 (which is under appeal), OpenPayd had no authority to credit the funds to the owner of the VIBAN account shown in the transfers instead of the named beneficiary, without specific authority from the remitter.

Consequently, the Arbiter feels that this breach of conduct should be reported to MFSA (Malta Financial Services Authority) for proper investigation as the regulator for financial services who licensed the Service Provider. A copy of this decision is being sent to the MFSA.

However, all considered, the evidence of the Complainant leaves no doubt that the loss incurred by the Complainant was caused by his greed and gross negligence and not by the conduct failure of OpenPayd.

The Arbiter sympathises with the Complainant for the ordeal he may have suffered as a victim of a scam but, in the particular circumstances of this case, he cannot accept the Complainant's request for compensation as he has failed to provide any evidence of direct causation of the breaches of fiduciary duties to the loss incurred.¹²

¹² This line of reasoning was included in decision AFS 042/2024, which decision was confirmed by Court of Appeal (Inferior Jurisdiction) case ref. 035/2025 [file:///C:/Users/mifsa208/Downloads/28_01_2026-35_2025-158407%20\(1\).pdf](file:///C:/Users/mifsa208/Downloads/28_01_2026-35_2025-158407%20(1).pdf)

The conduct failures of OpenPayd may be subject to regulatory sanctions but this is a different matter over which the Arbiter has no jurisdiction. The Arbiter's jurisdiction is to decide whether these failures were the cause of the loss incurred.

This the Arbiter denies and finds that the cause of the loss is attributable to the misconduct of the Complainant as above explained.

For these reasons, the Arbiter is dismissing this complaint and orders parties to carry their own costs of these proceedings.

**Alfred Mifsud
Arbiter for Financial Services**

Information Note related to the Arbiter's decision

Right of Appeal

The Arbiter's Decision is legally binding on the parties, subject only to the right of an appeal regulated by article 27 of the Arbiter for Financial Services Act (Cap. 555) ('the Act') to the Court of Appeal (Inferior Jurisdiction), not later than twenty (20) days from the date of notification of the Decision or, in the event of a request for clarification or correction of the Decision requested in terms of article 26(4) of the Act, from the date of notification of such interpretation or clarification or correction as provided for under article 27(3) of the Act.

Any requests for clarification of the award or requests to correct any errors in computation or clerical or typographical or similar errors requested in terms of article 26(4) of the Act, are to be filed with the Arbiter, with a copy to the other party, within fifteen (15) days from notification of the Decision in terms of the said article.

In accordance with established practice, the Arbiter's Decision will be uploaded on the OAFS website. Personal details of the Complainant(s) will be anonymised in terms of article 11(1)(f) of the Act.
