



**Strategic Plan &
Projected Income and
Expenditure Statement
2020**

OFFICE OF THE ARBITER FOR FINANCIAL SERVICES
FIRST FLOOR, ST CALCEDONIES SQUARE, FLORIANA FRN 1530 MALTA
V: +356 21249245 / 80072366
financialarbiter.org.mt

Table of Contents

Requirement to produce a yearly Strategic Plan.....	2
Brief Notes	2
Taking stock	4
The OAFS objectives for 2020 and beyond.....	5
Income and Expenditure Statement for 2020	9
Annex 1 - Projected Income and Expenditure for 2019 (revised) and 2020	10

Abbreviations

Act	Arbiter for Financial Services Act, 2016
ADR	Alternative Dispute Resolution
OAFS	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>

Requirement to produce a yearly Strategic Plan

Article 9(3) of the Act obliges the Board of Management and Administration of the Office of the Arbiter for Financial Services 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.

Act XVI of 2016, Arbiter for Financial Services Act

The legislation establishing the Arbiter for Financial Services - Act XVI of 2016 - 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 this Act, Government published Legal Notice 137 of 2017 titled "Arbiter for Financial Services (Designation of ADR Entity) Regulations, 2017". By virtue of this Legal Notice, 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 the ADR Directive.

Brief Notes

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 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 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 to settle the dispute.
- Before submitting a complaint with the OAFS, a customer has to give a financial service provider reasonable opportunity to deal with a complaint. Supporting evidence to this effect 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.

Taking stock

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

During the first 10 months of 2019, a total of 93 complaints were registered by the Office, which is lower than that registered for the same period in 2018.

So far, complaints have averaged to around 180 new cases each year between May 2016 (when the OAFS had been setup) to December 2018. The number of complaints, however, is not indicative of the complexity of the underlying cases.

Around 40 per cent of the cases registered in 2019 so far concern an insurance matter. The remaining number of cases were evenly distributed between banking and investment services complaints. This marks a departure from previous years, where the major number of complaints received related to investment-services and pensions.

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

As at October 2019, the Arbiter delivered 98 decisions but further decisions are expected to be delivered by year end. Most of the cases that await a final decision relate to investment services and pensions, which are complex to deal with and require substantial time to research, review and adjudicate. Since January 2019, a further 32 cases were closed following mediation or the provider agreed to settle prior to mediation.

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 2019 amounted to just over 830 situations. Statistically, one can observe a rising trend of enquiries relating to banking and insurance.

The OAFS 2019 Annual Report will contain a summary of the Arbiter's decisions delivered during the year as well as highlights of main issues that have been brought up through enquiries.

As to mediation, although there were more instances (compared to previous years) in which providers accepted to refer the case to mediation, not more than 50% of cases received in 2019 had actually been referred to mediation. In the remaining half of the cases, either or both the complainant and/or the provider rejected the OAFS's invitation to refer their case to mediation. 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 2020 and beyond

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 2020 continue to build on those of previous years.

In its operations, the OAFS deals with the public and a range of private financial services providers. It is therefore reasonable to expect the OAFS to provide an efficient and transparent public service. Indeed, the OAFS's operational objectives continue to be built on accessibility, fairness, transparency, accountability, and independence.

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.

In 2020, the OAFS will be harnessing greater use of technology in its endeavours to provide a better and streamlined level of service to its stakeholders. The OAFS has applied for and been awarded funding to upgrade its current website, develop and install a Case and File e-Solution System (CFES), and provide training to its staff members in relation to the management and update of the website and the CFES. Such funding was made possible through the European Commission's Consumer Programme to support access to alternative dispute resolution mechanism for consumers. Following a competitive public procurement procedure held earlier in 2019, a supplier has been contracted to design and implement this important project.

The five pillars of the OAFS's operational objectives are amplified below.

A. 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. During the first semester of 2020, a new user-friendly responsive website will be launched that should make it easier for consumers to engage with the OAFS. The website will also have a searchable facility, which will also extend to decisions issued by the Arbiter. The submission of electronic complaint forms and documents through a secure online environment will facilitate the processing of complaints especially for the increasing number of complainants residing outside Malta, which accounted to half of the complainants that submitted a complaint to the OAFS in 2019.
- ii. Some consumers may choose not to be represented when lodging a complaint with the OAFS offices. The OAFS will ensure that such consumers will not be disadvantaged or discouraged from accessing its redress mechanism which has been

designed to deal with complaints in a procedurally fair, informal, economical and expeditious manner.

- iii. The OAFS will continue 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.

B. 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. Once tested and implemented, the new Case and File e-Solutions System should assist the OAFS with managing its case workload in a streamlined and efficient manner whilst facilitating the compilation of statistical reports in fulfilment of its obligations in terms of the ADR Directive. The system will meet enhanced data protection requirements.
- ii. 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.
- iii. 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, both complainants and financial services providers ought to be amenable towards using mediation as a way to resolve their disputes.

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 OAFS's website (www.financialarbiter.org.mt). The name of the complainant(s) is (are)

pseudonymised. The new website will also have a searchable functionality for the Arbitrer's decisions.

- 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 2019 Annual Report.
- iv. Administration of the finance and HR role will be reviewed on an ongoing basis, including the annual 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's 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, it must show commitment to the development of its staff. In particular, the OAFS must make sure staff have opportunities to participate in internal and external training and development on a regular basis.

- i. To support and encourage continued staff training and development – especially mediation – the OAFS will organise induction and support programmes, and encourage participation at external courses.
- ii. Regular staff briefings will be held to keep staff informed of general developments in financial services and customer service standards.
- iii. Further books and other technical materials will be acquired for internal use.
- iv. The staff handbook will be updated as necessary to cater for new and updates exigencies as they arise.

E. EU AND INTERNATIONAL OBLIGATIONS

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

The OAFS is an active member FIN-NET, the financial dispute resolution network of national out-of-court complaint schemes in the EU.

It is also a member of the International Network of Financial Services Ombudsman Schemes (INFO Network). INFO is the worldwide association for financial services ombudsmen and other out-of-court dispute resolution schemes entrusted with resolving financial consumer Complaints.

The OAFS will continue working in close collaboration with FIN-NET and INFO to further enhance best practices in the resolution of financial services complaints.

Income and Expenditure Statement for 2020

The provision of 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 2020. 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 OAFS for the year 2020.

The Board has approved the projected income and expenditure for 2020 (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 2020 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 raise

levies, charges or fees as provided by the Act.

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 in 2020.

Annex 1 - Projected Income and Expenditure for 2019 (revised) and 2020

	Revised 2019 forecast	Forecast 2020
REVENUE		
Government funding	585,000	640,000
Complaint Fees	600	3,500
Website + Case and File e-Solution System (Government Funding)		35,000
Website + Case and File e-Solution System (EU Funding)	9,363	4,012
Total Projected Revenue	€585,600	€682,512
EXPENDITURE		
Recurrent Expenditure		
Staff Salaries	500,000	535,000
Insurance - Health	8,300	8,870
Hospitality	750	750
Cleaning	7,500	7,500
Office Maintenance	6,000	6,000
Office Supplies	3,000	2,000
PC/Printer Consumables	500	500
Other Office Costs	2,000	2,000
Other Office Equipment	200	200
Telecommunications	6,000	6,000
Bank charges	150	150
Memberships & Subscriptions	1,200	1,200
General Expenses	1,000	1,000
Vehicle, Leasing and Fuel Expenses	18,000	18,000
Travelling Expenses	6,000	8,000
Printing & Publications	2,200	2,200
Professional Fees	2,000	1,500
Payroll Fees	500	620
Accounting Fees	2,600	2,600
Training	1,500	2,500
Utilities	-	-
Postage, Delivery & Courier	4,500	4,500
Insurance - Business	1,312	1,312
Insurance - Travel	120	275
Depreciation Charge	6,540	6,540
	€ 581,872	€ 619,217
Capital Expenditure		
Computer and Equipment	5,000	2,000
Office Furniture	2,000	12,000
Case Management System Software	10,000	48,600
	€17,000	€ 62,600
Total Projected Expenditure	€ 598,872	€ 681,817

Notes:

(1) All figures are approximate. Full year audited figures for financial year ending 31 December 2019 will be reported in the OAFS Annual Report for the year.

(2) The Government subvention for 2020 is as reported in the Draft Financial Estimates 2020 under the Ministry for Finance's vote (<https://mfin.gov.mt/en/The-Budget/Pages/The-Budget-2020-GD-9691.aspx>). Additional funds may be required to cover unanticipated expenditure for the year.