

# ***ANNUAL REPORT***

*APRIL TO DECEMBER 2016*



**ARBITER** FOR  
**FINANCIAL**  
**SERVICES**



*The Office of the Arbiter for Financial Services in Malta provides the means to an independent and impartial mechanism of resolving disputes filed by customers against financial services providers authorised by the Maltese financial regulator outside of the courts' system.*

*This first annual report covers the period from April (with the coming into force of the Arbiter for Financial Services Act) up to December 2016.*



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# FOREWORD

by the Arbiter for Financial Services



**Dr Reno Borg MA, LLD, ACI Arb**  
**Arbiter for Financial Services**

*Before being appointed as the first Arbiter for Financial Services, Dr Borg served as a lawyer for over 32 years. He graduated from the University of Malta and carried out further research at the London School of Economics and Oxford. Along the years he also worked in the Office of the Prime Minister and the Office of the Attorney General, among other important appointments. He was also chairman of several state entities and also served as arbiter under the Social Security Act. He is also a lecturer on civil law and procedure at the University of Malta.*

The Office of the Arbiter for Financial Services (OAFS) was established in April 2016 by means of Act XVI of that year. It was a first in the financial services sector. Up to that time there was a void or a missing link in the relation between investors and financial services providers. Although the sector was highly regulated through a net of advanced legislation by the Malta Financial Services Authority, investors' redress was not adequately protected.

Following the requisites of the Alternative Dispute Resolution Directive (ADR Directive) the Government saw it fit to establish a forum with the sole aim of giving redress, where it is due, to investors who were not fairly treated by financial services providers.

Established on the footprints of the ADR Directive, the Arbiter for Financial Services is an independent and impartial institution, with the obligation to deal with cases in a transparent and fair manner. He must ensure that the parties have access to a simple, efficient, fast and low-cost procedure leading to the resolution of a domestic or a cross-border dispute.

One of the challenges the Arbiter is facing is the 'cultural' bias that certain practitioners have towards formalistic and never-ending procedures. It is the duty of the Arbiter to challenge the establishment in this regard.

As a matter of fact, and being considerably assisted by the wording of the Arbiter for Financial Services Act, the Arbiter has already taken a few but solid steps to hear cases expeditiously. However, the majority of cases are complicated and take some time to conclude. Simpler cases are dealt with in a very short time.

The period covered in this report is the inception period, during which we had to invent ourselves. We had to modify the premises generously given to us by the Ministry of Finance, establish the managerial set-up, employ staff and train them at the same time, and starting to receive and decide complaints.

As an ADR institution, the OAFS has to stress the importance of mediation. The Act itself encourages the resolution of disputes in a consensual way, reaping the advantages of a more flexible procedure which is responsive to the individual needs of the parties involved in the dispute. Mediation is more informal and guarantees the parties a private and confidential process. Since the parties craft their own and voluntary agreement, it is more likely to preserve goodwill which is especially important in situations where there is a continuing relationship.

However, in this field we have great challenges, and being pragmatic, we know that to affect a cultural change in the way of resolving disputes,

must take some time. But we are confident that through our continued effort, the ADR culture would seep in sooner rather than later.

Since the Act gives the possibility to complainants to file cases dating back to 1 May 2004, we were inundated with cases over a very short period of time.

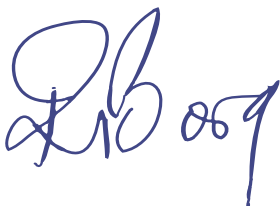
This would obviously create an initial backlog of cases to be decided because they would mature for decision roughly at the same time. However I am resolute to put in an extra effort to decide as many cases as possible during the summer months when oral sittings do not take place.

We have already solved a good number of cases through a new system whereby simple cases are solved over the phone. We have solved 189 of these cases. Our ambition is to help the parties to realise more the benefits of this system.

Up till now the OAFS has been financed by subventions made available by the Ministry of Finance. However it is important that the OAFS detaches itself from Government in terms of its budgetary requirements. The OAFS should operate at an arm's length from State structures to ensure its independence. To achieve this aim a consultation paper regarding a framework of levies and fees which would be payable by all financial services providers will be issued and discussed with the stakeholders involved. In those EU jurisdictions where a similar ADR mechanism is in place, all financial services providers contribute a levy to fund the operations of such entities. The amounts involved will be proportionate and certainly not burdensome.

Being an innovative institution we are conscious of having a lot of challenges ahead of us. We are expected to swim against the powerful currents of long time established procedures, certain traditional inertia and the shortage of technical staff in an age of an ever expanding economy and growth in the financial services sector which makes it hard to find the required personnel.

However we are confident that we can overcome these challenges successfully, and hopefully, in our next Annual report I will be in a position to report substantial progress in all the fields of our operations with the sole aim of providing complainants and financial service providers an efficient platform where to resolve their disputes in a fair and efficient manner.



# THE OFFICE OF THE ARBITER FOR FINANCIAL SERVICES

## *Operational highlights*

- The Arbitrator for Financial Services Act (Chapter 555 of the Laws of Malta) came into force on 18 April 2016.
- The Office of the Arbitrator for Financial Services (OAFS) formally commenced operations on 23 May 2016, and started accepting complaints during the last week of June 2016.
- The Arbitrator for Financial Services convened the first hearing on 26 September 2016. Since then, the Arbitrator has consistently convened an average of two to three sittings a week. For the benefit of overseas complainants, hearings were held via video conferencing.
- The Arbitrator delivered two judgements on 26 October 2016. Further judgements will be delivered in 2017.
- A website in English and Maltese was launched enabling customers and financial services providers to understand the setup of the OAFS, and the processes that the OAFS would employ when dealing with a complaint. A complaint form in Maltese and English is also available for customers who would want to lodge a complaint with the OAFS. There is also a detailed section for financial services providers.
- In June, the OAFS issued a call for vacancies for administrative as well as specialist staff in the field of financial services. An interview process was conducted by an independent panel made up of two occupational experts and a member of the Board of Management. Key administrative staff were recruited in September and October. However, none of the applicants for case analysts and case officers/mediators met the criteria and qualities the OAFS was looking for.
- Sound administrative and governance practices were established from the outset, but continued evolving and improving in line with high standards of governance. All complaints are given a unique reference number and all complaint documentation is scanned. All payments (whatever the value) are signed by the Chairman of the Board and another official of the OAFS (either the secretary to the Board or any one of the Board members). Statistical information regarding complaints and enquiries is continually captured, updated and periodically reported to the Board.
- Specific parts of the premises housing the offices have been renovated and new furniture has been procured. A hall for the hearing of cases, two mediation rooms and a waiting area were created and furnished. Video conferencing facilities is also available in one of the mediation rooms, which also serves as board room.

## *Setup*

The Office of the Arbitrator for Financial Services (OAFS) is made up of the Arbitrator, the chairman of the Board of Management and Administration, members of the Board as well as officers and staff members appointed or employed with the OAFS.

## *Staff complement*

The members of staff forming part of the OAFS consist of the Arbitrator for Financial Services, who is assisted by a registrar; the executive chairman; a customer relations officer (who is also the secretary of the Board); a case analyst; an officer in charge of mediation; an administrative assistant; a receptionist; a handyman and a messenger/driver.

Depending on future case workload, the OAFS intends to recruit further specialised staff to assist with mediation and case analysis.



# FUNCTIONS OF THE BOARD OF MANAGEMENT AND ADMINISTRATION

The Board is appointed by the Minister for Finance. Its functions include:

- provide support in administrative matters to the Arbiter in the exercise of his functions when the Arbiter so requests;
- keep under review the efficiency and effectiveness of the OAFS and to advise the Minister on any matter relevant to its operation;
- recommend and advise the Minister on the making of rules regarding the payment of levies and charges to be paid by different categories of persons to the OAFS, the amounts of those levies and charges, the periods within which specified levies or charges are to be paid, and penalties that are payable by a person who fails to pay on time or pay in full the amount due; and
- collect and recover the levies and charges due.

The Board and the Arbiter convened for the first time on 19 May 2016 shortly after the Arbiter's appointment in the presence of the Minister for Finance. The Board does not in any way intervene as to the manner the Arbiter deals with complaints.

Since being setup, the Board met once every month except in August.

The Board, in consultation with the Arbiter, is also required to prepare a yearly strategic plan as well as a statement with estimates of income and expenditure for the forthcoming financial year.

The first combined Strategic Plan & Income and Expenditure Statement 2017 of the OAFS were tabled in Parliament by the Minister on 20 December 2016. The Interim Report of the Arbiter for Financial Services was also tabled on the same date. Both documents are available on the OAFS' website.

# MEMBERS OF THE BOARD OF MANAGEMENT AND ADMINISTRATION

On 29 April 2016, the Minister for Finance appointed the Arbiter for Financial Services and members of the Board of Management and Administration within the OAFS. Mr Bernard Briffa is the secretary of the Board.



## *Chairman*

**Geoffrey Bezzina**, BA (Hons.) Banking & Finance, MA European Studies.

Before being appointed as executive chairman of the Board of Management and Administration, Mr Bezzina was director, Consumer Complaints Unit at the Malta Financial Services Authority (MFSA) and the Authority's Consumer Complaints Manager, a post he held since 2002. Mr Bezzina had been an official of the MFSA (then Malta Financial Services Centre) since September 1995. He edited and co-ordinated the Authority's publications and other media initiatives aimed towards educating the consumer on various aspects of financial services. He was also the secretary of the Compensation Schemes Management Committee responsible for the management and administration of the Investor Compensation and the Depositor Compensation Schemes in Malta, and the secretary of the Protection and Compensation Fund Management Committee, an insurance guarantee fund.



## *Members*

**Mr Peter Muscat**, BA, ACIB (London)

After obtaining his University degree, Mr Muscat worked with a number of local and international organisations. For a long number of years, he also held various senior banking positions with international subsidiaries of Intesa Sanpaolo Bank and Erste Bank (Vienna), as well as executive managerial positions with Bank of Valletta plc and Izola Bank (Malta) Limited. He is currently director with Heritage Malta, a post he has occupied since 2013.



**Dr Anna Mallia**, LL.D., LL.M. (Lond.), Dip. Tax (MIT)

Dr Mallia is experienced in court litigation, public procurements, contracts, joint venture agreements, issues relating to building permits and other areas of commercial law including disputes on income tax and value added tax. Before entering into private practice, Dr Mallia had extensive experience in the Civil Service including 10 years at the Attorney General's Office advising and defending in court various government departments including the Education Department, drafting and translation of laws and regulations, drafting and revision of contracts and government tenders, and credit control of various government. She was First Female Counsel for the Republic and First Female Prosecutor, consultant to the Government in the issue of tenders in various sectors including energy, tourism, and lands, drafting of contracts, appearing on behalf of the Government in various contracts. She is currently chairman, Citations Tribunal San Gwann; chairman, Medicines Review Authority; Adjudicator, Small Claims Tribunal and chairman, Appeals Tribunal on Information and Data Protection.

## BRIEF NOTES ABOUT THE ROLE AND POWERS VESTED IN THE ARBITER FOR FINANCIAL SERVICES



*The Arbitrer for Financial Services was appointed on 29 April 2016 and was sworn in on 19 May 2016. From left: Hon. Edward Scicluna, Minister for Finance; Dr Reno Borg, Arbitrer for Financial Services and Dr Peter Grech, Attorney General.*

The Arbitrer for Financial Services, who is appointed by the Minister for Finance for a seven year tenure, acts independently and impartially of all parties concerned and is not subject to the direction or control of any other person or authority. The law gives him 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. The Arbitrer is required to deal with complaints in a procedurally fair, informal, economical and expeditious manner.

In the review of complaints, the Arbitrer will consider and have due regard, in such manner and to such an extent as he deems appropriate, to applicable and relevant laws, rules and regulations, in particular those governing the conduct of a service provider, including guidelines issued by national and European Union supervisory authorities, good industry practice and reasonable and legitimate expectations of customers and this with reference to the time when it is alleged that the facts giving rise to the complaints occurred. The Arbitrer's powers under the Act are wide and includes the power to summon witnesses, to administer oaths and to issue interlocutory orders.

The Arbitrer has the competence to hear complaints in terms of his functions in relation to the conduct of a financial service provider which occurred on or after the first of May 2004.

The Arbitrer is empowered to mediate, adjudicate, and resolve disputes and, where appropriate, 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. The Arbitrer may, if he considers that fair compensation requires payment for a larger amount than such award, recommend that the financial service provider pay the complainant the balance, but such recommendation shall not be binding on the service provider. His decisions are binding on both parties subject only to appeal to the Court of Appeal (Inferior Jurisdiction).

The Arbiter would be unable to exercise his powers if the conduct complained of is or has been the subject of a law suit before a court or tribunal initiated by the same complainant on the same subject matter. Neither is he able to accept a complaint if it results that the customer failed to communicate the substance of the complaint to the financial service provider concerned and has not given that financial service provider a reasonable opportunity to deal with the complaint prior to filing a complaint with the Arbiter. A complaint may also be refused if, in the Arbiter's opinion, it is frivolous or vexatious.

The Arbiter may, if he thinks fit, treat individual complaints made with the OAFS together, provided that such complaints are intrinsically similar in nature.

## ENQUIRIES / MINOR CASES AND COMPLAINTS

*For the period June to December 2016*

In this section, statistical information about complaints and enquiries / minor cases received by the Office of the Arbiter for Financial Services (OAFS) is being reported.

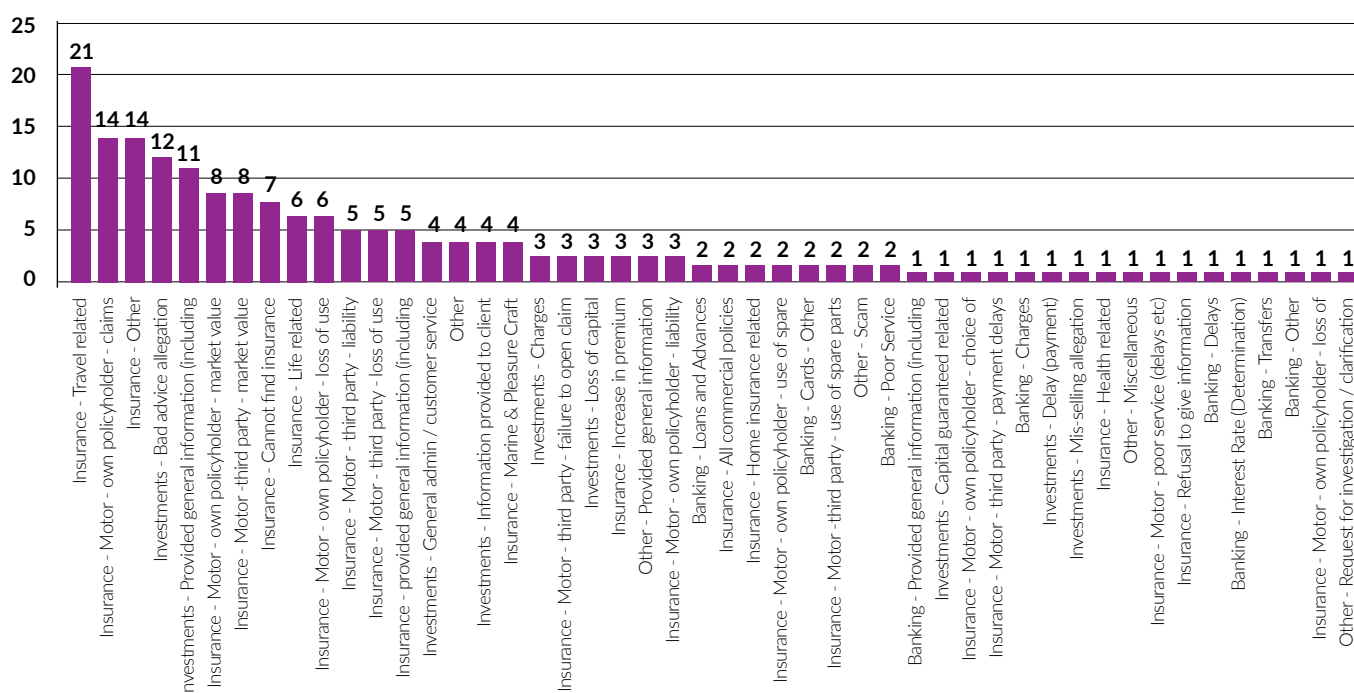
### Enquiries and Minor Cases

An enquiry would normally be a general query on any aspect relating to financial services. However, at times, it may also be "a minor case" which may require the OAFS' intervention. Indeed, the OAFS has setup a mechanism which provides assistance to customers in such situations. Depending on the situation at hand, the Customer Relations Officer or other officials within the OAFS may suggest a possible remedy or a course of action. Such response would normally be based on similar experiences also brought to the OAFS attention by other customers. Depending on the circumstances of the case and with permission of the customer, the financial services provider may be contacted to provide an initial and informal response or opinion which may then be relayed to the customer. In some situations, the OAFS may intervene to get a situation sorted out but at times, it may only be able to propose a course of action to the customer (such as seeking legal help). Some enquiries or minor cases could also lead to a complaint being lodged with the OAFS.

A total of 189 enquiries and minor cases were handled during the reported period, of which 127 related to insurance, 40 to investments, 13 to banking and 10 on other general aspects (such as scams).

The table below indicates the type of enquiries and minor cases by type.

### Enquiries and Minor Cases (by type)



## Complaints

Broadly speaking, a complaint is an expression of dissatisfaction or displeasure made by an eligible customer concerning the conduct of a financial services provider in regard to the type or quality of a product or service given by such provider and would normally involve a claim by the customer that he has suffered, or may have suffered, financial loss. Sometimes, the customer may also allege material inconvenience or distress. All complaints accepted by the OAFS have to be in writing.

### Complaints (by sector)

Banks and Financial Institutions:	13
Investment providers	529*
Insurance	21
Other	1

\*This includes 400 complaints relating to investments in a collective investment scheme which are being treated as one collective complaint and a further 38 other complaints, filed individually by different complainants, relating to the same investment. These latter complaints may be treated collectively depending on the reasons of the complaint.

### Complaints (by category):

<b>Banking</b>	
Charges	1
Deposit accounts	3
Home loans	1
Other loans and advances	7
Refusal to give information	1
<b>Investments</b>	
Bad advice / misselling	81
Delay (payment)	2
General administration/customer service (including custody/safe keeping)	4
Investments in a collective investment Scheme.	438
Pensions-related	2
Portfolio Management	1
Unauthorised business	1
<b>Insurance</b>	
All commercial policies	1
Health-insurance	1
Life insurance	6
Motor insurance (own cover) – market value	1
Travel insurance	8
Other	4

## *Observations regarding complaints lodged with the OAFS*

- Complaints relating to investments in one collective investment scheme: 400 claims are being treated as one collective complaint. A further 38 are individual complaints. These latter complaints will be treated collectively depending on the subject matter of the complaint.
- The remaining complaints on investments relate to allegations of bad advice or mis-selling on the part of the financial provider. All cases are complex and require time to review and decide upon.
- Life insurance complaints relate to the payment of the sum assured at maturity. Complainants allege that the performance of their policy was not consistent with what they had been promised at inception.
- Travel insurance complaints concern rejected claims for cancellation following unexpected death of a close family member of the insured.

## *Outcome of Complaints*

Not all complaints lodged with the OAFS end up being investigated. Some complaints may be resolved at an early stage or after mediation. There may also be situations where the complainant withdraws the complaint for some reason or another.

A total of 19 cases were closed during this reporting period, as follows:

- The Arbiter for Financial Services issued his decision on two cases, both of which were not appealed and therefore became binding on the parties concerned;
- Two cases were successfully resolved after mediation conducted by the OAFS;
- In regard to three other cases, the complainant and the financial services provider reached agreement at a very early stage and before mediation;
- One case was withdrawn prior to mediation whilst another case was withdrawn after mediation; and
- Ten cases were withdrawn as either the complainant failed to provide important information in support of his case or the cases submitted were outside the competence of the OAFS.

# PROCESSES AND PROCEDURES

## *Enquiries and Minor Cases*

When an enquiry is made or a minor case is lodged, the Office of the Arbiter for Financial Services (OAFS) asks questions to seek further information about the issues which gave rise to the customer's contact, as well as establish the level of complexity of the customer's claims.

There have been several instances in which the OAFS directed the customer to contact the provider again, offering some basic advice which the customer could consider when dealing with the financial provider. There were also some instances in which the OAFS contacted the provider, after seeking consent of the customer, to obtain the other side of the story. Further discussion can ensue with the customer and the provider, in the hope of a compromise. Sometimes, the OAFS' informal intervention can break an impasse which might have been reached between the customer and the provider. There may be instances where the OAFS might only be able to offer information for the customer to consider.

As expected, many customers made contact with the OAFS enquiring about the complaints' process. The OAFS directed such customers to visit its website or alternatively sent them a copy of the complaint form, together with a leaflet explaining its complaints' process in further detail.

## *Complaints*

Natural persons and micro-enterprises – which the law refer to as “customers” - may lodge a complaint with the OAFS. A micro-enterprise is an enterprise which employs fewer than ten persons and whose annual turnover and/or annual balance sheet total does not exceed €2,000,000.

An eligible customer, that is a customer from whom the OAFS may accept a complaint, may either be:

- a consumer of a financial services provider, or
- to whom the financial services provider has offered to provide a financial service, or
- who have sought the provision of a financial service from a financial services provider.

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, including but not restricted to investment services, banking, financial institutions, credit cards, pensions and insurance, which is or has been resident in Malta or is or has been resident in another EU / EEA Member State and which offers or has offered its financial services in Malta.

The charge for lodging a complaint with the OAFS is €25 which is reimbursable in full if the complainant decides to withdraw the complaint or the parties to the complaint agree on a settlement of the dispute before adjudication.

When a completed complaint form is received by the OAFS, it is assessed in line with the *Arbiter for Financial Services Act*: those complaints which fall outside its jurisdiction may be referred on to the relevant body which can assist them further. Prior authorisation from the customer would always be sought in such situations.

The OAFS can only accept complaints against financial services providers which are or have been licensed or otherwise authorised by the Malta Financial Services Authority and which have provided services in Malta. The OAFS is therefore unable to accept complaints against providers who are authorised in any other EU member state but might have provided a financial service in Malta under the freedom to provide services. The OAFS is also unable to accept motor insurance complaints where the complainant is a third party or if liability is being disputed. Neither can it accept complaints whose merits are or have been already the subject of a law suit before a court or tribunal initiated by the same complainant on the same subject.

The law precludes the OAFS from accepting complaints if the financial provider has not been given a reasonable opportunity to review the customer's contentions prior to filing a complaint with the OAFS. In this regard, the OAFS insists that the customer should first write to the financial provider describing his/her contentions and allow time (not more than 15 days) for the provider to respond in writing. The complainant's letter, together with the financial provider's response, should also be attached to the complaint form.

Complaint forms submitted to the OAFS should be typed. Where necessary, the OAFS staff may also transcribe complaints for customers who are not being assisted (such as by a lawyer) and who do not have access to a computer.

Initially, some customers objected to the use of Maltese for the articulation of complaints. The OAFS took time to explain when and why complaints lodged with the OAFS have to be in Maltese. Customers do not need to translate technical terms into Maltese. Most importantly, the customer should focus on articulating his/her complaint clearly by giving reasons, and if possible, by referring to any documents annexed to the complaint relating to the product or service being complained of, clearly identifying the party against whom the complaint is being made and the remedy that is being sought.

The OAFS will transmit complaints to the provider for its comments by registered mail. The provider has 20 days to submit its response to the OAFS. Failure to do so would likely render the provider contumacious and the Arbiter may decree inadmissible any late submission of such response.

As soon as the OAFS receives a response from the provider, a copy is sent to the customer. In parallel, the OAFS advises the complainant and the provider that, if they so wish, the case can be referred to mediation.

## Mediation

All complainants are offered mediation as an alternative method of resolving their dispute.

Mediation is an option that is available to both parties. It is a voluntary stage in the handling of a complaint by the OAFS. Parties to a complaint are not obliged to participate in mediation if they do not wish to. Mediation can only occur if both parties to the dispute agree to participate.

Mediation is a process whereby the parties to the complaint try to reach a solution through agreement with the assistance and support of a mediator, rather than through a formal investigation and adjudication of the complaint by the Arbiter. Mediation is an informal process. It is also confidential and is conducted in private.

If the complainant and the provider agree on a settlement during mediation, what has been agreed will be written down and communicated to the Arbiter. Once it has been signed by both parties, and accepted by the Arbiter, that agreement becomes legally binding on both the complainant and the provider. This concludes the dispute, thus ending the complaints process. The complainant will be reimbursed the fee of €25 he or she would have paid with the complaint.

A party to a mediation cannot be forced to accept a settlement or outcome. The mediator will not impose a decision on the parties. Both parties must voluntarily agree the outcome. If either party chooses not to engage in mediation, or if the mediation proves unsuccessful, then the complaint will be dealt with by way of investigation and adjudication.

The OAFS has one dedicated official who is tasked with coordinating and conducting mediation sessions. Depending on the case at hand, the Customer Relations Officer may also conduct mediation.

In 2016, of the cases submitted to the OAFS, 56 cases were referred to mediation as follows: four related to banking, seven related to insurance while 45 were related to investments (which includes one collective mediation in respect of one such complaint). Only four mediations have been successful, however (two cases on banking, one on investments and another on insurance). There is clearly substantial scope for parties to agree to submit their case to mediation and reach a common ground without the need to refer the case to adjudication.

Mediation may not necessarily relate to an issue where compensation is being demanded. It has also served for both parties to a dispute to seek further information from each other (mostly from the provider) in relation to the contentions that were being made.



## Investigating complaints

If mediation is refused or unsuccessful, the Arbiter will start investigating the complaint. As mediation is conducted in private, the Arbiter will not have access to any information which might have been exchanged during mediation. Any person who the Arbiter may decide to appoint to assist him with the investigation into a complaint will exclude any person who has been involved during mediation.

The law requires that at least one oral hearing is convened for each case that is referred to the Arbiter. Depending on the circumstances of the case, the Arbiter may direct the parties to the complaint to submit written submissions and by a set date. The Arbiter can also request witnesses to testify, request third parties to provide relevant information which may be required as part of the investigation and even carry out inspections at the premises of a provider.

Evidence is either oral or through the submission of affidavits. Affidavits may be sworn at the OAFS by two OAFS officials who have been appointed by the Minister for Justice, Culture and Local Government as Commissioners for Oaths.

The Arbiter will also set a date for a second hearing for cross-examination. At the end of the second hearing, the Arbiter may also invite both parties to a dispute to provide a final note of submissions.

All documents submitted by one party will always be communicated to the other.

## Findings and awards

Once the Arbiter determines that all parties to a complaint have been given the opportunity to state their case, he will then proceed to examine and decide on all the circumstances surrounding the complaint. Every case is judged on its individual merits.

The time taken to investigate a dispute depends on the complexity of the complaint. In general, the Arbiter is required to proceed with adjudication of a complaint within 90 days from the date when a complaint is submitted. However, this period may be extended to up to one year from the date of receipt of the complaint when cases are complex in nature. No nullity shall ensue if such time limits are not met. Investments-related complaints are, understandably, quite complex and require time to discern the information and documentation that is presented during the hearings. When the investigation is complete, the Arbiter prepares his findings and conclusions in writing. The Arbiter notifies the parties to the complaint of a date and time and will convene a meeting to hand his judgement to the parties.

Decisions reached by the Arbiter may be subject to appeal by either party. A register of *res judicata* judgements is maintained by the OAFS and is accessible to the public upon request.

## Temporal limits

*For complaints relating to the conduct of a financial services provider which occurred between 1 May 2004 and 18 April 2016*

- All complaints which occurred at any time during this period may be looked into by the Arbiter.
- However, eligible customers have until 18 April 2018 to submit their complaint for consideration by the Arbiter.

*For complaints relating to the conduct of a financial services provider which occurred on or after 18 April 2016*

- An Arbiter shall have the competence to hear complaints if a complaint is registered not later than two years from the day on which the complainant first had knowledge of the matters complained of.

Of the total number of complaints received in 2016, 42 related to cases which arose after the coming into force of the Arbiter for Financial Services Act (four cases on banking issues, 22 on investments and 16 on insurance).



## EXTERNAL RELATIONS

### *Memoranda of Understanding*

Preparations are at hand for the signing of a Memorandum of Understanding (MoU) between the Office of the Arbiter for Financial Services (OAFS) and the Malta Financial Services Authority

Another MoU is also being planned with the Central Bank of Malta.

### *FIN-NET/Cross-Border Cooperation*

The OAFS is an informal member of FIN-NET, the financial dispute resolution network of national out-of-court complaint schemes in the European Economic Area countries responsible for handling disputes between customers and Financial Service Providers.

The Network was launched by the European Commission in 2001. Within FIN-NET, the members co-operate to provide customers with easy access to out-of-court complain procedures in cross-border cases.

The OAFS intends joining FIN-NET as a full member once the necessary legislative changes are put in force.

### *Briefings and media presence*

The OAFS is required to inform the public about its dispute resolution mechanism in Malta for financial services. To this end, the chairman of the Board has been invited as guest on a number of TV and radio programmes.

The Arbiter and the chairman of the Board have also held courtesy meetings with the Malta Bankers' Association, the Malta Association of Small Shareholders and the Malta Insurance Association.

# UNAUDITED PROFIT & LOSS ACCOUNT AND BALANCE SHEET

for the period ending 31 December 2016

The first full year audited accounts of the OAFS will span from April 2016 to December 2017. In terms of the Arbiter for Financial Services Act, the financial statements of the OAFS will be audited by the National Audit Office in 2018. Please refer to the notes to the accounts on page 22 for further information.

## Unaudited Profit and Loss Account for the period ending 31 December 2016

<b>INCOME</b>	<b>€</b>
Fees	13,319
Reimbursement of Expenses from Ministry of Finance	50,014
Funds from Ministry of Finance	350,000
	<b>413,333</b>
<b>Operating Costs</b>	
Direct operating expenses - recurrent	1,710
Salaries and Wages	116,321
Social security contribution	4,408
Repair and upkeep	4,373
Office Services	19,724
Transport	4,960
Travel	1,786
Professional Services	700
Bank interest payable	47
Depreciation charge	1,062
Other expenditure	80,399
	<b>235,490</b>
<b>Profit / (Loss) for the period</b>	<b>177,843</b>

Unaudited Balance Sheet  
as at 31 December 2016

<b>ASSETS</b>	€	€
<i>Fixed Assets</i>		
Property, Plant and Equipment	20,415	
Other non-current assets	-	20,415
		20,415
<i>Current Assets</i>		
Inventories	-	
Trade and other receivables	91	
Cash and cash equivalents	166,119	
Other current Assets	-	
		166,210
		166,210
<b>TOTAL ASSETS</b>		<b>186,625</b>
<i>Reserves</i>		
Profit/(Loss) for the Year	177,843	
<b>Total Reserves</b>		177,843
<b>LIABILITIES</b>		
<i>Current Liabilities</i>		
Trade and other payables	8,782	8,782
<b>Total Liabilities</b>		8,782
<b>TOTAL RESERVES AND LIABILITIES</b>		<b>186,625</b>

Discussed by the Board of Management and Administration on 4 May 2017.



**Geoffrey Bezzina**  
Chairman, Board of Management and Administration

## *Notes to the unaudited interim accounts*

1. The unaudited interim accounts for the period 18 April to 31 December 2016 are being published for information purposes only and are subject to audit and adjustments as necessary.
2. The first full year audited accounts of the OAFS will span from April 2016 to December 2017. In terms of the Arbitrator for Financial Services Act, the financial statements of the OAFS will be audited by the National Audit Office in 2018. The audited accounts will be published in the annual report for the year 2017.
3. These unaudited accounts have been drawn up by a team of three students reading for a degree in accountancy at the University of Malta, under guidance of a senior lecturer within the Faculty of Economics, Management and Accountancy. These students were selected by ballot following a call of interest which was issued to all students reading for accountancy within this Faculty. The Board of Management and Administration is grateful for the Faculty's support in making this initiative a success.
4. The unaudited profit and loss account and balance sheet have been prepared on a cash basis (not on an accruals basis) since they have been prepared on what has been received and paid by the OAFS. General Accounting Principles accepted in Malta have been generally referred to but not strictly abided by.
5. Depreciation has been calculated from the month of purchase on a full month's charge;
6. Any taxes due have not been calculated.
7. The revenue received from the Government of Malta (Ministry for Finance) has been accounted for on a cash basis.

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