

**MEMORANDUM
OF
UNDERSTANDING**

between

the Malta Financial Services Authority

and

the Office of the Arbiter for Financial Services

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Memorandum of Understanding

between

Malta Financial Services Authority

and

the Office of the Arbiter for Financial

The Malta Financial Services Authority, herein represented by [REDACTED] in his capacity as Chief Executive Officer and as duly authorised (hereinafter referred to as the “MFSA”).

AND

The Office of the Arbiter for Financial Services herein represented by [REDACTED] in his capacity as Chairman of the Board of Management and Administration (hereinafter referred to as the “OAFS”).

In this Memorandum of Understanding each entity will hereinafter be referred to as “Entity” and collectively as the “Entities”.

Introduction

1. The MFSA is a public authority established by an Act of Parliament (the Malta Financial Services Authority Act, Cap. 330 of the Laws of Malta). As the regulator for financial services, it has statutory powers of licensing, supervision, investigation and enforcement, and is also empowered to cooperate with any body or authority formed or established under Maltese law. The MFSA is responsible inter alia for the regulation and supervision of credit and financial institutions, the business of insurance and insurance intermediaries’ activities, investment services, collective investment schemes, retirement schemes, retirement funds, retirement scheme administrators, asset managers, trustees, company service providers, virtual financial assets, regulated markets and central securities depositories.
2. The Office of the Arbiter for Financial Services is set up by an Act of Parliament (the Arbiter for Financial Services Act, Cap. 555 of the Laws of Malta) with the power to mediate, investigate and adjudicate complaints filed by eligible consumers against financial services providers licensed or otherwise authorised in terms of the Malta Financial Services Authority Act or in terms of any financial services law.
3. The MFSA and the OAFS wish to enter into this MoU to provide a framework for both Entities to cooperate and communicate constructively so far as this is consistent with the applicable laws and their independent roles and separate functions. The MFSA and the OAFS believe such cooperation and exchange of information will benefit both consumers and financial services providers by contributing to the effective functioning of the statutory systems for regulation and dispute resolution.

Interpretation

4. In this MoU, unless the context requires otherwise:

“Applicable Laws, Regulations and Requirements” means any law, regulation or requirement applicable in Malta or applying to the Entities and, where the context permits, includes any rule, direction, requirement, or policy made or given by or to be taken into account by either Entity.

“Consumer” means an eligible customer as defined in Article 2 of the Arbitrator for Financial Services Act (Chapter 555 of the Laws of Malta).

“Entity” means the MFSA or the OAFS as the case may be;

“Entities” means the MFSA and the OAFS;

“MoU” means this Memorandum of Understanding;

“Person” means a natural person, legal entity, partnership or unincorporated association;

“Requested Entity” means the Entity to whom a request is made under this MoU;

“Requesting Entity” means the Entity making a request under this MoU.

Purpose and Principles

5. The Entities enter into this MoU pursuant to article 27A (2) of the Arbitrator for Financial Services Act.
6. This MoU is based on the principle that each Entity is in a position to assist the other in fulfilling their respective duties by the mutual exchange of information within the parameters allowed by law.
7. This MoU does not modify, substitute, or supersede any laws or regulatory requirements in force in Malta or applying to the Entities. This MoU sets forth a statement of intent and, accordingly, does not create any enforceable rights. This MoU shall not be construed so as to restrict the performance by any Entity of its functions or exercise of its powers. This MoU does not affect any arrangements under other MoUs, or other applicable instruments.
8. The MFSA and the OAFS acknowledge that they may only provide information or assistance under this MoU if permitted or not prevented under Applicable Laws, Regulations and Requirements.
9. This MoU shall not operate to make an Entity (or any employee, officer or agent thereof) liable to any person in damages or otherwise for anything done or omitted to be done, for which such Entity would not otherwise be so liable.
10. The MFSA and the OAFS will publish this MoU on their respective websites.

Scope

11. The MFSA and the OAFS shall seek to maintain a strong and constructive relationship and to share perspectives and expertise on relevant issues. In particular, they shall:
 - (a) communicate regularly and meet at least once yearly to discuss matters of mutual interest;
 - (b) consult one another at an early stage about any issue that might have significant implications for the other Entity on matters that may affect consumers of financial service providers, with the aim of providing an opportunity for both respective Entities to provide their comments accordingly;
 - (c) consult each other, if considered necessary, about any proposed changes to laws and any rules that may directly affect the other Entity's functions;
 - (d) cooperate for the purposes of promoting efficient and effective handling of complaints by financial services providers with the aim of promoting the best interest of financial services consumers;
 - (e) seek to achieve consistency of approach and avoid confusion or misunderstanding as to their respective roles from the consumers' perspective;
 - (f) exercise their respective responsibilities in a complementary fashion to address issues and problems that affect consumers and financial service providers;
 - (g) assist one another with in-house training on their respective roles;
 - (h) mutually, confer and report, on any trends arising out of their work relating to any type of financial services and products which are relevant to the other Entity's purposes; and
 - (i) keep the operation of this MoU under review and consult with one another as appropriate on improving its operation and resolving any matters that arise.

Referrals

12. OAFS shall inform the MFSA about issues it considers as having wider regulatory implications, such as ongoing, widespread, or severe complaints impacting several consumers or particular financial services provider(s).
13. MFSA shall give due consideration to such issues and deal with them as it considers appropriate within their mandate. The MFSA may provide feedback to the OAFS in terms of this MoU as it deems necessary and appropriate.

Information Sharing

14. If a request for assistance is made, the Requested Entity will use reasonable efforts to provide assistance to the Requesting Entity, subject to its Applicable Laws, Regulations and Requirements.

Without prejudice to what is specified in this MoU, the following information will also be shared between the two Entities on an ad hoc or routine basis as indicated hereunder:

- (a) The OAFS will provide the MFSA with information that the MFSA reasonably requires enabling it to discharge its functions;
- (b) The OAFS will provide the MFSA with regular information about the number and types of complaints handled in the form and manner agreed to between the Parties;
- (c) The OAFS will provide the MFSA with information about serious shortcomings identified by the OAFS in a financial services provider's complaint handling process, concerns about the fitness and propriety of a financial services provider or other issues that may require action by the MFSA in accordance with its statutory functions;
- (d) The MFSA may give the OAFS information about proposed changes to rules and guidance on complaints-handling requirements; and
- (e) Both Entities may provide each other with other information on issues that are of mutual interest subject to confidentiality requirements in terms of the applicable law.

Procedure for Requests

15. Requests for the provision of information or other assistance shall be made in writing. However, in cases of urgency, requests may be oral and confirmed in writing within five (5) business days.
16. To facilitate assistance, the Requesting Entity should specify in its request:
- (a) The specific information or other assistance requested;
 - (b) The particular purpose for which the information or other assistance is sought including where relevant, a brief description of any underlying facts or circumstances which have given rise to the request; and
 - (c) Where the request is for information to be provided on a periodic basis, details of the information required and the periods at which such information is required.

Assessing Requests

17. Each request for assistance will be assessed on a case-by-case basis by the Requested Entity to determine whether assistance can be provided under the terms of this MoU and in accordance with the Applicable Laws, Regulations and Requirements. In any case, where the request cannot be fulfilled in part or in whole, the Requested Entity shall consider whether there may be other assistance which can be given.
18. In deciding whether and to what extent to fulfil a request for assistance, the Requested Entity may take into account any or all of the following:
 - (a) whether or not the request conforms with this MoU;
 - (b) whether the provision of assistance would be so burdensome as to disrupt the proper performance of the Requested Entity's functions;
 - (c) whether it would be otherwise contrary to the public interest to give the assistance or information requested;
 - (d) any other matters specified by the Applicable Laws, Regulations and Requirements (in particular those relating to confidentiality and professional secrecy, data protection and privacy, and procedural fairness); and / or
 - (e) whether complying with the request may otherwise be prejudicial to the performance by the Requested Entity of its functions.

Contact Persons

19. All communication made in terms of this MoU between the Entities should be directed to the principal persons of contact as provided for in Appendix I.
20. The Entities are to inform each other of any changes with regards to contact persons so as to ensure the smooth running of this MoU.

Permissible Uses of Information, Confidentiality and Disclosure

21. The Entity receiving non-public information under this MoU ("Recipient Entity") agrees to treat such information as confidential in accordance with the provisions of this MoU and within the parameters of the Applicable Laws, Regulations and Requirements. For the purposes of this MoU, "Confidential Information" includes all information, whether written or oral, relating to any exchange or engagement between the Entities pursuant to this MoU other than information that:
 - (a) is in or comes into the public domain through no fault of the relevant Entity or any of its officers, employees or contractors;

- (b) was and can be demonstrated to have been lawfully in the Recipient Entity's possession or known to the Recipient Entity before its disclosure; or
 - (c) is disclosed to the Recipient Entity by a third party having no obligation of confidence in relation to that information.
- 22. Each Entity will comply with any restrictions on the use of confidential information, abide by all relevant privacy obligations and legislation and not disclose any personal information which it is not permitted to disclose to the other Entity or which the disclosure would amount to a breach of any privacy obligations or legislation or other rules that apply to that Entity.
- 23. The Requesting Entity may use confidential information provided under this MoU, whether in response to a request for assistance or via the provision of unsolicited information, only for the purpose of carrying out its lawful functions, and exclusively for the purpose set out in the request or for the purposes for which the unsolicited information was provided. If the Requesting Entity intends to use confidential information for any purpose other than as agreed between the Entities or set out in the request, it must obtain the prior written consent of the Requested Entity that provided the confidential information.
- 24. In this respect, where either Entity is required by law to disclose information obtained under this MoU or intends to disclose information obtained under this MoU which it is expressly permitted by law to disclose in the particular circumstances, the Entities shall inform each other in writing as soon as practicable prior to providing such information and shall assert any appropriate legal exemptions or privileges concerning such information as may be available. In any case, the Entities will use their best endeavours to protect the confidentiality of non-public information received under this MoU.
- 25. Provided that, if the Recipient Entity receives a request from a third party for shared information but disclosure is not legally compelled, the Recipient Entity shall not disclose the requested information to any third party unless prior written consent of the Transferring Entity is obtained.
- 26. The obligations set out in clauses 21 to 25 shall be for an indefinite period and shall survive the termination of this MoU.

Data Protection

- 27. The Entities agree that any request for and sharing of information shall comply with privacy, confidentiality and disclosure requirements at law. Without prejudice to the obligations and responsibilities of each respective Entity as they arise from their enabling Acts, any personal data which may come into their respective possession in pursuance of this MoU is treated in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), the Data Protection Act (Chapter 586 of the Laws of Malta) and any other European Union and national law in relation thereto.

Commencement and termination

28. This MoU will take effect when both Entities have signed it and will continue to have effect until terminated by either Entity giving 30 days advance written notice to the other Entity. The date of the last signature hereunder marks the commencement date of this MoU.
29. This MoU may be amended by agreement in writing. The Entities further agree that any proposed amendment shall not suspend the operations of this MoU until it is implemented or otherwise.

Executed by the Parties:

For the Malta Financial Service Authority

For the Office of the Arbiter for Financial Services

(signed)

(signed)

[Redacted Signature]
Chief Executive Officer

[Redacted Signature]
Chairman, Board of Management and Administration

Date: 26 May 2025

Date: 27 May 2025

Appendix I

Contact Person for the Malta Financial Services Authority

[REDACTED]

Head of Conduct Supervision

[REDACTED]

E-mail: [REDACTED]

Contact Person for the Office of the Arbiter for Financial Services

[REDACTED]

Office of the Arbiter for Financial Services

[REDACTED]

E-mail: [REDACTED]