

HSBC UK Bank plc

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HSBC's breaches of Part 5 of the Retail Banking Market Investigation Order 2017

I am writing to you on behalf of the Competition and Markets Authority (CMA) concerning breaches by HSBC UK Bank plc (HSBC) of the [Retail Banking Market Investigation Order 2017](#) (the Order). HSBC breached Part 5 of the Order.

Part 5 of the Order requires banks to send Payment Transaction Histories to any business current account (BCA) customer with a turnover of less than £6.5 million who closes their BCA (unless an exception applies).

The breaches of Part 5

HSBC failed to send an estimated 12,200 Payment Transaction Histories to former BCA holders between February 2018, when Part 5 of the Order came into effect, and November 2022. This was due to weaknesses in its control environment and individual human errors amongst its staff. The weakness in controls also meant that HSBC is unable to determine exactly how many Payment Transaction Histories it failed to send.

Article 20.1 of the Order requires a Payment Transaction History to be sent free of charge at the time of account closure. Each time HSBC failed to send a Payment Transaction History at all (and no exception applied) it breached Article 20.1 of the Order.

HSBC self-identified the issue and notified the CMA of these breaches on 16 December 2022. As HSBC became aware of the breaches on 1 December 2022, the CMA also takes this opportunity to remind HSBC that under Article 56.2 of the Order, if it is aware that it is not compliant with any part of the Order, it must report this non-compliance to the CMA within 14 days of becoming aware that it is not compliant.

The CMA's concerns

The requirement for current account providers to provide Payment Transaction Histories to BCA customers that closed their accounts is an important element of our reforms introduced following the [Market Investigation](#). This measure, in combination with other parts of our reforms, were designed to make switching between BCAs easier for small and medium-sized enterprises (SMEs). We found that some SMEs were concerned that, by moving to a new current account provider they would lose access to their banking history, which is often required by lenders when offering credit. The Order requires banks and building societies to provide each customer whose BCA has been closed with a full Payment Transaction History, so that SMEs should not be worried that switching will make access to credit more difficult. Failure to comply with the Order could make it difficult for former customers to obtain credit.

The CMA considers it unacceptable that a large, regulated entity such as HSBC manifestly failed to implement an effective process to ensure that BCA customers that closed their accounts would be provided with their Payment Transaction History in accordance with its legally binding obligations. This failure led to breaches which have been ongoing since the Order came into force, and HSBC's processes, systems and staff were not capable of detecting and reporting these breaches until December 2022. In addition, the inability for HSBC to determine the scale of these breaches due to the inadequacy of its systems and processes is a further concern.

These breaches represent a significant failure, not only in implementing processes which will comply with its legal requirements, but also of management oversight and accurate reporting to the CMA. Since February 2019 HSBC has been providing annual compliance reports, each of which (until 2023) claimed full compliance with Part 5 of the Order.

HSBC has taken action to put things right

I note that HSBC has proactively taken steps to end the breaches and to prevent a recurrence by:

- carrying out a review of the controls and processes used to comply with Part 5 of the Order;
- providing reminders and additional coaching to its account closure teams and other staff with privileges to close BCAs on the correct process and the underpinning legal requirements;
- introducing an enhanced assurance process, with individuals within the account closure teams identified as not properly following the process subject to 100% quality checking;
- reinforcing the procedural requirement for all BCA closures subject to Part 5 of the Order to be processed through the account closure teams where

procedures are in place to ensure Payment Transaction Histories are appropriately sent; and

- implementing weekly exception reporting, which enables action to be taken to ensure Payment Transaction Histories are sent within the required timescales and any staff identified as not correctly following procedures to receive additional coaching on the correct process.

HSBC will contact former in-scope customers who have closed their BCA in the two years prior to the breach ending in November 2022 (subject to some exceptions, including those that received Payment Transaction Histories) to offer them the option of receiving their Payment Transaction Histories and will report to the CMA on the responses to these contacts so the CMA can consider whether further action is required.

CMA assessment and next steps

Given the action that has been, and is being, taken by HSBC, the CMA does not consider it appropriate to take further formal enforcement action in relation to these breaches at present. However, the CMA will consider such action in the event of any further breaches. The CMA will monitor HSBC's future compliance closely.

The public version of this letter has been copied to the Financial Conduct Authority.

Yours sincerely

Colin Garland

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