

Directions to Royal Bank of Scotland Group plc issued under the Retail Banking Market Investigation Order 2017

1. On 6 November 2014, the Competition and Markets Authority (CMA) board, in exercise of its power under sections 131 and 133 of the Enterprise Act 2002 (the Act) made a reference for a market investigation into the supply of retail banking services to personal current account (PCA) customers and to small and medium-sized enterprises (SMEs) in the United Kingdom (the market investigation).
2. On 9 August 2016, the CMA published its report on the market investigation, entitled [Retail Banking market investigation: Final report](#) (the Final Report), in which it concluded that:
 - (a) there are three separate (and, in certain circumstances, in combination) AECs in each of Great Britain and Northern Ireland in relation to PCAs, BCAs and SME lending;
 - (b) the CMA should take action to remedy, mitigate or prevent the AECs and detrimental effects flowing from them;
 - (c) in order to address the AECs and resulting customer detriment, an integrated package of remedies should be imposed.
3. On 2 February 2017 the CMA made the Retail Banking Market Investigation Order 2017 (the Order).¹ For the purposes of these Directions all terms unless expressly stated otherwise shall be as defined in the Order.
4. The integrated package of remedies in the Order contains, amongst others, a requirement for all providers of PCAs in GB and NI to enrol customers in a Programme of Alerts (the Alerts Remedy).
5. Part 6 of the Order provides for the Alerts Remedy. Specifically:
 - (a) Article 23 requires Providers to enrol all new and existing PCA customers into the Programme of Alerts, subject to certain exceptions;

¹ The Order was made in performance of the CMA's duty under section 138 of the Act for the purpose of remedying, mitigating or preventing the adverse effects on competition and any detrimental effects on consumers so far as they have resulted, or may be expected to result, from the adverse effects on competition as identified in the Final Report.

- (b) Article 24 sets out the timing for the alerts;
 - (c) Article 25 sets out the content of the alerts;
 - (d) Article 26 requires Providers to take measures to collect customers' mobile phone numbers; and
 - (e) Article 27 requires selected Providers to cooperate fully with the FCA in a research programme.
6. Pursuant to Article 2.6 of the Order, Part 6 comes into force on 2 February 2018.
7. On 10 November 2017, 5 December 2017, 21 December 2017 and 17 January 2018, RBS Group updated the CMA on the progress it had made towards complying with Part 6 of the Order. It requested a delayed launch date in respect of Article 24 of the Order for a minority of customers since it would be unable to deliver the alerts in compliance with the timing set out in Article 24 for those customers until 14 September 2018.
8. The CMA and RBS Group have agreed an implementation plan setting out milestones to be met in achieving full compliance with Article 24 (the Implementation Plan). In the meantime, RBS Group has agreed to ensure that no customers are adversely affected by the delay in complying fully with Article 24, in particular that RBS Group will waive or refund the unarranged overdraft fees for any customers who do not receive an alert on time and who incur such fees for the period before an alert is sent.
9. Having taken into consideration:
- (a) the provision of the Implementation Plan setting out clear milestones to achieve full compliance with Part 6;
 - (b) the potential detriment to RBS Group's customers arising from non-compliance with Part 6 being mitigated by the fee suppression strategy;
 - (c) RBS Group's:
 - (i) explanation for why it was not in a position to comply with Article 24 from 2 February 2018; and
 - (ii) engagement with the CMA to develop an appropriate implementation plan;
- the CMA has decided to give directions to RBS Group.
10. On 23 January 2018 the CMA provided RBS Group with draft directions specifying and describing the steps to be taken by RBS Group for the purpose of securing future compliance with the Order.

11. The CMA has had regard to the representations received on the draft directions, and now issues the directions set out below (the Directions).

Directions issued under the Retail Banking Market Investigation Order 2017

The CMA makes these Directions to RBS Group under Article 57 and Article 58 of the Order.

1. Duration

- 1.2 These Directions come into force on 29 January 2018.
- 1.3 Once in force these Directions will continue to be in force until such time they are varied or revoked by the CMA under the Order. The variation or revocation of these Directions does not affect the validity or enforceability of any right or obligations that arose prior to such variation or revocation.
- 1.4 The CMA shall revoke these Directions once it is satisfied RBS Group is compliant with Part 6 of the Order.

2. Interpretation

- 2.1 In these Directions terms have the same meaning as in the Order, unless stated otherwise.
- 2.2 The headings used in these Directions are for convenience and have no legal effect.

3. Actions specified with respect to complying with Article 24 of the Order and monitoring

- 3.1 RBS Group shall comply with the Implementation Plan at Schedule 1.
- 3.2 Changes to the Implementation Plan may be:
 - (a) proposed by RBS Group in which case they will require approval by the CMA; or
 - (b) proposed by the CMA in which case they will require approval by RBS Group.
- 3.3 RBS Group shall provide to the CMA:
 - (a) a monthly statement which confirms ongoing compliance with the Implementation Plan and that RBS Group is not aware of any information from which it could be reasonably concluded that there is a

significant risk that it will not be compliant with the Implementation Plan within a period of a month; or, as the case may be,

- (b) a report providing a detailed explanation of why it is unable to make the statement provided for in Article 3.3(a) and what course of action RBS Group proposes to take to address the issues identified in such explanation. Such report shall be supported by evidence where relevant; and
 - (c) in circumstances where paragraph 3.3(b) applies, all internal RBS Group reports presented to senior management and any other internal RBS Group reports or communications reasonably requested by the CMA concerning the progress of the project and / or risks arising to its delivery to the timetable set out in the Implementation Plan.
- 3.4 RBS Group shall provide to the CMA any information and assistance it reasonably requests to assess compliance with the Implementation Plan or Part 6 more generally.
4. **Actions specified with respect to avoiding detriment for adversely affected customers**
- 4.1 While these Directions remain in place, for any customer who does not receive an Alert in full compliance with Part 6:
- (a) RBS Group shall use reasonable endeavours to avoid any unarranged overdraft fees incurred, for the period before an Alert being sent, being debited from that customer's account or otherwise being taken; and
 - (b) if such fees have already been debited or otherwise taken, RBS Group shall promptly refund any unarranged overdraft fees that are incurred before the Alert has been sent.
- 4.2 RBS Group shall ensure that its staff who are likely to be contacted by customers are sufficiently briefed to be able to reassure customers that they will not be adversely affected financially by the delay in complying fully with Part 6.

Schedule 1 Implementation Plan

Schedule 1 - Implementation Plan 2018

