

HSBC – PCA / SME BANKING MARKET INVESTIGATION

RESPONSE TO THE CMA’S PROVISIONAL FINDINGS REPORT AND NOTICE OF POSSIBLE REMEDIES

1. EXECUTIVE SUMMARY

- 1.1 HSBC welcomes the recognition in the CMA’s Provisional Findings Report (the *PFs*) that the PCA and SME banking markets are increasingly dynamic and competitive, and that recent developments have substantially reduced barriers to entry and expansion and improved customer outcomes.¹
- 1.2 However, the PFs materially overstate the extent of the alleged adverse effects on competition (*AECs*) in certain respects due to flaws in the analysis.
- (a) First, the PFs draw adverse conclusions as to a relationship between market share and price and/or quality based on inadequate evidence.
 - (b) Second, the PFs overstate the extent and impact of customer disengagement by: (i) underplaying the relevance of high satisfaction levels in both the PCA and SME banking markets; (ii) overstating the potential gains to customers from switching PCA providers; (iii) overstating the disengagement of PCA overdraft users; and (iv) failing to consider properly the results of the independent Phase 2 BDRC SME customer survey.
 - (c) Third, the PFs incorrectly assert that banks are incentivised to exploit this alleged lack of customer engagement without any compelling evidence.
- 1.3 Nevertheless, HSBC acknowledges that further steps can be taken to improve outcomes for customers in both the PCA and SME banking markets. In particular, HSBC welcomes the CMA’s focus in its Notice of Possible Remedies (*Remedies Notice*) on demand-side remedies to enhance customer engagement. There is significant overlap in this regard between the proposed remedies and the joint “undertakings in lieu” (*UILs*) spearheaded by HSBC at Phase 1 (together with Barclays, Lloyds Banking Group and RBS) in relation to the SME banking markets.
- 1.4 Moreover, the CMA is right not to consider: (i) further measures to control outcomes (such as price controls on overdrafts); (ii) measures to address perceived (but unfounded) distortions from the “free-if-in-credit” (*FIIC*) model in the PCA market; (iii) account number portability; and (iv) structural remedies, given that:
- (a) the PFs have not identified any possible AECs that support such intrusive remedies;
 - (b) there would be a serious risk of unintended adverse consequences both for competition and consumer welfare if any one (or any combination) of these remedies were adopted; and
 - (c) such remedies would be unnecessary, ineffective and disproportionate, particularly in light of the extensive remedy package already envisaged in the Remedies Notice.
- 1.5 HSBC supports the general goals the remedies pursue and considers that these are achievable in practice within a reasonable time-frame. The success and effectiveness of the proposed remedies is contingent both on them being delivered as a package and the involvement of all PCA and SME providers. Part B of this response aims to contribute to the CMA’s work in the next phase of the reference to ensure that the final package is designed in a way that will be effective, proportionate and timely.

¹ See paragraphs 4.78, 5.130, 9.44, 10.82, 10.266, 10.268 to 10.271, 10.273, 10.276 and 11.57 of the PFs. See also paragraphs 60 to 61 of the CMA’s summary of its provisional findings.

PART A: RESPONSE TO THE PROVISIONAL FINDINGS REPORT

2. COMPETITION IN THE PCA AND SME BANKING MARKETS IS INTENSIFYING AND CUSTOMER OUTCOMES ARE IMPROVING

2.1 HSBC has explained in its responses to the CMA's updated issues statement and working papers that significant developments in the PCA and SME banking are driving strong competition and improving customer outcomes.

2.2 As such, HSBC welcomes the PFs' recognition that:

- (a) **Innovation and digital banking are increasing customer engagement and facilitating the entry and expansion of new providers.**² Given the rapid pace of these developments, the CMA will need to adopt a forward-looking approach when designing the nature and scope of any remedies.
- (b) **The FIIC model is not contributing to low switching rates** and does not limit banks' abilities to adopt different pricing structures to differentiate themselves. The CMA is therefore right not to consider measures that would prohibit or restrict the FIIC model.³
- (c) **There is no persuasive evidence that the current levels of concentration**⁴ **in the PCA and SME banking markets have resulted in AECs and worse customer outcomes.**⁵ This is fully supported by the CMA's own analyses of financial performance, pricing and quality.⁶ However, the PFs state that the CMA "*would expect that any significant merger involving the four largest GB banks may lead to adverse effects*".⁷ HSBC has concerns that the CMA may be fettering its discretion by outlining its expectations in relation to future, unanticipated mergers, not least because of the rapid pace of change in these markets. Without a relevant merger situation, or even any analysis of competitive outcomes from hypothetical mergers, there is no basis or justification for the CMA to hypothesise in this manner.

² In particular, the PFs state: (i) "*there is a considerable level of innovation in the PCA market*", with a number of "*positive developments in recent years, such as product innovation, new entry including by firms with new business models, and innovation in digital banking*" (paragraphs 5.130 and 7.9 of the PFs and paragraph 61 of the CMA's summary of its provisional findings); (ii) "*alternative lending should be included in the market for business loans*" (paragraph 4.78); and (iii) banks have made "*significant investments improving their digital capabilities and offering more timely lending decisions in response to alternative finance providers*" (paragraph 9.44).

³ See paragraph 7.49 of the PFs and paragraphs 59 to 60 of the CMA's summary of its provisional findings: providers "*adopting alternative pricing models in recent years [...] have been successful in attracting new customers*".

⁴ The CMA's estimates of current HHIs for PCAs, BCA and general purpose business loans (by value) are 1,550, 1,800 and 1,800 respectively (paragraphs 5.21, 6.38 and 6.44 of the PFs). These levels of concentration are moderate.

⁵ See paragraph 11.57 of the PFs: "*there is insufficient evidence to support a finding that the current concentrated market structure is itself having adverse effects on competition and detrimental effects on customer outcomes*". As HSBC has explained previously, there is substantial evidence that rivalry is increasing both amongst larger banks and between the larger banks and smaller providers (see section 5 of the HSBC UIS Response and HSBC's response to the CMA's working paper on the relationship between concentration and outcomes dated 24 July 2015).

⁶ In particular, the PFs state: (i) the evidence "*does not suggest that ROE are significantly above banks' costs of equity*" and "*did not suggest the largest UK banks had significantly higher ROE or net interest margins than smaller banks*" (paragraph 32 of the CMA's summary of its provisional findings); (ii) both PCA and BCA revenues are falling and interest paid on PCA credit balances is increasing (paragraphs 5.35 and 6.50) and (iii) there is no clear evidence of a relationship between market share and either pricing or quality outcomes in the PCA or BCA markets (paragraphs 5.99 and 6.100).

⁷ See paragraph 11.60 of the PFs.

- (d) **There are no significant barriers to entry and barriers to expansion have significantly decreased.**⁸ In particular, the PFs recognise that none of: (i) the authorisation process; (ii) capital regulatory requirements for SME lending;⁹ (iii) anti-money laundering requirements; (iv) access to funding; and (v) IT systems, are barriers to entry and/or expansion.¹⁰ The absence of significant barriers to entry and expansion underpins strong competition in these markets. While the PFs suggest that customer acquisition may be a significant barrier to entry and expansion,¹¹ this is not a supply-side barrier: to the extent that customer acquisition is a concern, this is a demand-side issue relating to an output of competition rather than a barrier. HSBC therefore agrees with the CMA that it should be analysed in the context of customer engagement.

Branches are not a significant barrier to expansion in the short, medium or long term

- 2.3 HSBC welcomes the recognition in the PFs that: (i) *the lack of an own-branded branch network is not considered an impediment to entry and expansion*"; and (ii) *"customers' greater willingness to use alternative distribution channels, new technology to facilitate customer acquisition through digital channels and lower costs of operating a branch network, should in the medium to long term, facilitate entry by firms with new business models, which may or may not include branches"*.¹²
- 2.4 Despite this, the PFs consider that branches may *"in the shorter term"* limit the ability of providers to enter at scale and expand, and provide an advantage to larger banks in acquiring customers.¹³ However, HSBC submits that the rapid pace of change in these markets means branches are unlikely to act as a material impediment to the ability of new entrants to expand, even in the short term.¹⁴
- 2.5 First, prospective entrants have themselves informed the CMA that they do not consider a lack of a branch network will impede their ability to compete.¹⁵ Many recent and prospective entrants are adopting digitally-focused strategies, including Tesco Bank, Atom Bank, Starling Bank, CivilisedBank, OakNorth and Fidor: these providers clearly consider that these markets can support successful entry and expansion without large branch networks.
- 2.6 Second, branch usage is rapidly declining and a significant and rapidly growing proportion of PCA and SME customers are using internet banking and mobile banking as their primary channels to interact with banks.¹⁶ As stated in a recent independent report by McKinsey:

⁸ See further: (i) section 6 of the HSBC UIS Response; and (ii) HSBC's response dated 29 July 2015 to the CMA's working papers on: (i) summary of entry and expansion in retail banking; and (ii) barriers to entry and expansion: capital requirements, IT and payment systems.

⁹ HSBC considers that the PRA is best placed to deal with any residual issues relating to residential mortgage lending, given that: (i) several smaller banks are IRB-approved for mortgages by the PRA; (ii) the PRA has indicated that reforms on the regulatory agenda will increase capital requirements on larger banks relative to smaller banks; and (iii) the PRA is already exploring the extent to which it could be made more feasible for new entrants to develop IRB models (see paragraphs 10.85 and 10.86 of the PFs).

¹⁰ See paragraphs 10.82, 10.266, 10.286, 10.271 and 10.273 of the PFs. In particular, the PFs note that there is no evidence that innovative, low-cost IT solutions (including "bank in a box" technologies) cannot be readily expanded as a bank grows organically.

¹¹ See paragraph 10.276 of the PFs.

¹² See paragraphs 10.269 to 10.270 of the PFs.

¹³ See paragraphs 10.117 and 10.270 of the PFs.

¹⁴ See further: (i) paragraphs 6.23 to 6.42 of the HSBC UIS Response; (ii) HSBC's response to the CMA's working paper on barriers to entry and expansion: branches dated 26 August 2015 (the **HSBC Branches WP Response**); and (iii) HSBC's response to the CMA's SME follow-up survey results dated 3 September 2015.

¹⁵ See paragraph 10.117 of the PFs.

¹⁶ See paragraph 1.3 of the HSBC Branches WP Response and paragraphs 6.26 to 6.35 of the HSBC UIS response.

- (a) the rapid rate of digital adoption is set to continue, particularly as older customers become more comfortable with digital banking; and
 - (b) research in Europe found that SME customers are 4.5 times more likely to choose a bank with a good digital banking platform than one with branches nearby.¹⁷
- 2.7 Third, the most frequent reasons given by PCA and SME customers for visiting branches are to deposit cheques and cash and to withdraw cash.¹⁸ However, the following developments will significantly reduce the need for PCA and SME customers to visit branches:
- (a) the introduction of cheque imaging (expected in H1 2017);
 - (b) the ongoing decline in cash usage, which is accelerating at a rapid pace due to the use of contactless payment cards and developments such as Apple Pay; and
 - (c) increasing use of the Post Office's network of c.11,500 branches for counter services that would otherwise be undertaken in branches. An industry-wide framework for the provision of counter services to PCA and SME customers from the Post Office network has recently been agreed. HSBC's PCA customers already have access to the Post Office network for their counter service needs and HSBC will be launching the use of the Post Office network for its SME customers by the end of *[redacted]*.¹⁹
- 2.8 Last, while the majority of PCA customers and start-up SMEs currently open their accounts in a branch, this reflects the fact that larger banks are making use of their legacy branch networks, rather than any inherent customer preference to open accounts in branches. The proportion of PCA and SME customers opening accounts outside of branches is likely to increase significantly in the short term as banks invest in online account opening and prospective entrants with digitally-focused strategies utilise online account opening services. For example, increasing online account opening is a key priority for HSBC's UK Retail Banking and Wealth Management business in 2016.²⁰
- 2.9 Therefore, HSBC considers that: (i) branches are not a barrier to entry; and (ii) branches are unlikely to act as a significant barrier to expansion (even in the short term).
- 3. THE PROVISIONAL FINDINGS OVERSTATE COMPETITIVE CONCERNS IN THE PCA AND SME BANKING MARKETS**
- 3.1 The PFs identify certain potential indicators of competitive harm which are at odds with HSBC's experience of the PCA and SME banking markets and are not supported by the evidence. As such, the extent of harm likely to be caused by the provisional AECs is materially overstated in certain key respects (identified below). It is critical that the CMA takes this into account when assessing the design and proportionality of possible remedies.
- A. PFs draw certain unsubstantiated adverse conclusions as to a relationship between market share and price and/or quality based on limited evidence**
- 3.2 Notwithstanding the overarching conclusion that there is no clear link between market shares and either pricing or quality outcomes,²¹ HSBC has concerns with certain **adverse conclusions in the**

¹⁷ McKinsey & Company, *McKinsey Global Banking Annual Review 2015: The Fight for the Customer*, September 2015, pages 17 to 19.

¹⁸ See paragraph 1.4 of the HSBC Branches WP Response.

¹⁹ See paragraph *[redacted]*.

²⁰ See paragraphs 3.5 to 3.7 of the HSBC Branches WP Response.

²¹ See paragraphs 5.99 and 6.100 of the PFs.

PFs, which are based on the CMA's limited PCA / BCA pricing and quality analyses. In particular:

- (a) For **PCAs**, the PFs assert that: (i) recent entrants and expanding brands tend to offer lower average prices;²² (ii) satisfaction ratings suggest an inverse relationship between quality of service and market shares;²³ and (iii) banks appearing to offer lower average prices and/or better quality tend to have been gaining market share, but this is at a very slow pace.²⁴
- (b) For **SME banking**, the PFs assert that: (i) there are examples of “high-price low-quality” banks gaining market share and “low-price high-quality” banks failing to increase market share; (ii) “high-price low-quality” banks that are losing market share are only doing so at a very slow pace; and (iii) it is not clear that SMEs are responding to variations in the quality of service provided.²⁵

3.3 However, these conclusions are not robust.

- (a) They are based on isolated (or limited) examples of banks gaining and losing market share. In particular, any correlation between market share and quality is statistically insignificant, being driven by the results of a small number of banks with low market shares.²⁶
- (b) The PFs recognise that the PCA and BCA pricing analyses are subject to a number of weaknesses and limitations (see further **Annex 1** for flaws in the PCA pricing analysis).²⁷
- (c) Satisfaction ratings for large banks are compromised by ‘brand taint’ (i.e. ‘negative halo’ effects) associated with the financial crisis, which has little to do with actual customer experiences of PCA and SME banking services.²⁸

Overall, the PFs’ conclusion that it did “*not find clear evidence of a relationship between market share and either pricing or quality outcomes*”²⁹ in the PCA or BCA markets fundamentally undermines the PFs’ other findings that are premised on the existence of such a relationship.

3.4 **It is unclear what a realistic benchmark would be for an appropriate pace of change.**³⁰ The PFs fail to demonstrate that the rate of market share gain by smaller banks (or any banks) offering lower prices and/or higher quality of service is below what should be expected in well-functioning PCA and SME banking markets, given the strong rivalry: (i) amongst larger banks; and (ii) between larger and smaller banks. In particular, keen pricing competition and significant investments to improve the

²² See paragraphs 7.142, 11.33, 11.40, 11.53 and 11.57 of the PFs.

²³ See paragraphs 5.84 to 5.85 and 5.89 of the PFs.

²⁴ See paragraphs 5.103 to 5.104 and 11.43 of the PFs.

²⁵ See paragraphs 6.104 to 6.105 of the PFs and paragraphs 38 to 69 of Appendix 6.5 to the PFs.

²⁶ See paragraph 5.85 of the PFs, which recognises the statistical insignificance of any apparent correlation between satisfaction ratings and market share for PCAs. See also paragraphs 22 to 23 of Appendix 6.5 to the PFs, which illustrates how apparent correlations between quality and market share for BCAs are based on isolated examples of banks gaining and losing market share (e.g. Handelsbanken and the Co-operative Bank).

²⁷ See: (i) for the PCA pricing analysis, paragraph 5.66 of the PFs and paragraph 26 of Appendix 5.4 to the PFs; and (ii) for the BCA pricing analysis, paragraph 6.86 of the PFs and paragraphs 28 to 29 of Appendix 6.4 to the PFs.

²⁸ This is highlighted, for example, by differences in the satisfaction ratings of NatWest and RBS despite them being within the same banking group. See paragraph 5.74 of the PFs.

²⁹ See paragraphs 5.99 and 6.100 of the PFs.

³⁰ See, for example, paragraphs 5.125, 6.105 and 7.10 of the PFs.

quality of service by larger banks have driven up satisfaction in recent years.³¹ This is likely to have slowed the pace of any market share gains by smaller banks.³²

B. PFs overstate the extent and impact of customer disengagement

3.5 The PFs overstate the extent and impact of customer disengagement in the PCA and SME banking markets by: (i) underplaying the relevance of high satisfaction levels in both markets; (ii) overstating the potential gains to customers from switching PCA providers; (iii) overstating the disengagement of PCA overdraft users; and (iv) failing to consider properly the independent Phase 2 BDRC survey, which provides credible evidence of significantly higher levels of SME engagement than the PFs recognise.

(i) PFs underplay the relevance of high customer satisfaction in the PCA and SME banking markets

3.6 **The PFs very materially understate the high level of customer satisfaction in the SME banking markets by adopting wholly unjustified narrow definition of ‘satisfied’.** The PFs note that “*data from the Charterhouse BBS suggested that satisfaction levels were around 51% for the largest four UK wide banks*”.³³ However, the PFs misrepresent the evidence by only considering SMEs as satisfied if they rated their overall quality of service as “excellent” or “very good”. Customers who rated their overall quality of service as “good” cannot plausibly be considered not to be satisfied. Therefore, properly interpreted, the Charterhouse BBS shows that satisfaction levels (i.e. those who selected at least “good”, rather than “fair” or “poor”) were around 75% to 80% for the largest four banks.³⁴

3.7 **High levels of satisfaction explain current switching levels** in both the PCA and SME banking markets to a much greater extent than the PFs recognise.³⁵

3.8 The PFs acknowledge that “*the main reason given by SMEs for not switching at the end of the free banking period was satisfaction with their provider (45%) which might suggest that levels of engagement are higher than switching rates may indicate*”.³⁶ Despite this unambiguous evidence, the PFs conclude that customer satisfaction does not explain levels of switching.³⁷ Given the vagueness of the basis for this conclusion and the fact that two-thirds of dissatisfied SMEs are looking to change banks,³⁸ **it is questionable whether the PFs compare levels of customer engagement in the SME banking markets against a realistic benchmark.**

3.9 The PFs rely largely on Research Works’ qualitative research in stating that some SMEs that appear to be satisfied are merely “tolerating” their situation.³⁹ However, given this research comprised a very

³¹ For example, HSBC launched its new HSBC Advance proposition in November 2014. In the absence of this new PCA proposition, customer attrition was forecast to reach **[redacted]** (see paragraph 6.16(a) of HSBC’s response to the CMA’s market questionnaire dated 23 January 2015 (the **HSBC PCA MQ Response**)).

³² For example, Santander has made significant improvements to its customer service and is now a net gainer of PCA switchers (see paragraph 162 of the GfK PCA survey report).

³³ See paragraph 88 of Appendix 8.1 to the PFs.

³⁴ Moreover, as stated in HSBC’s response to the CMA’s summary of the GB Charterhouse survey dated 21 August 2015, the Charterhouse BBS is likely to understate customer satisfaction with larger banks: questions on overall satisfaction are asked out of context towards the beginning of survey, meaning respondents have not yet answered questions relating to their usage of different products and channels (see paragraphs 2.1 to 2.10).

³⁵ See further paragraphs 4.21 to 4.24 and 4.27 (PCA) and 4.6, 4.58 and 4.68 (SME banking) of the HSBC UIS Response.

³⁶ See paragraph 8.46 of the PFs.

³⁷ See paragraph 8.51 of the PFs. See also paragraph 8.47 of the PFs: “*whilst we would not necessarily expect those customers satisfied with the current service to want to switch, in a competitive market we would still expect a higher proportion of the least satisfied customers to consider switching*”.

³⁸ See paragraph 4.58(b) of the HSBC UIS Response in relation to the Phase 2 BDRC survey.

³⁹ See paragraph 8.49 of the PFs.

small sample of 80 SMEs⁴⁰, it is not credible to extrapolate these findings to support conclusions about customer satisfaction across the SME banking markets.⁴¹

- 3.10 As regards the PCA market, satisfaction levels are at least as high as in other financial product markets (and higher on some measures).⁴² This goes some way to explaining current switching levels. **The assertion that high satisfaction may result from low awareness of alternatives is not well-founded.**⁴³ There is no reason to expect the 52% of respondents to the GfK PCA survey who indicated that they were “*highly satisfied*” with their PCA provider to switch or shop around. This leaves just under 50% of the market with a realistic willingness to switch, compared to 35% of customers who did in fact search or switch in the past three years, leaving only 15% of customers who might realistically have been expected to search or switch who did not do so.⁴⁴ Based on this evidence, PCA customer engagement is also significantly healthier than the PFs recognise.

(ii) ***PFs overstate potential gains to customers from switching PCA providers***

- 3.11 **First, the PFs underplay the relevance of non-price factors, which are a significant driver of customer decisions.** Customers clearly place significant value on non-price aspects of their PCAs⁴⁵ and may choose to remain with their current providers if they are satisfied with the service offered, even if other providers are offering lower prices. The PFs also recognise that “*the existence of large variations in pricing [...] might also be reflective of difference in service quality where brands have placed themselves in different positions on the quality-price matrix*”.⁴⁶ Notwithstanding this, the CMA’s assessment of potential gains from switching focuses primarily on financial gains. The CMA’s reliance on this evidence, *inter alia*, to cast doubt on the relevance of customer satisfaction as a plausible explanation for current switching levels in the PCA market is therefore not well-founded because it neglects to account for the fact that the financial gain from switching is reduced if the “gaining” provider offers a weaker non-price proposition.⁴⁷
- 3.12 **Second, the assumptions underlying the CMA’s pricing analysis have led to potential monetary gains being overstated** in many cases. As explained in **Annex 1** below, the analysis:
- (a) excludes any benefits associated with customers holding other products with the same bank;
 - (b) calculates gains from switching based on the average of the five cheapest products, which unrealistically assumes that it may be sustainable for the cheapest products to be provided to all customers;⁴⁸ and

⁴⁰ There were only 16 SMEs interviewed in each of the five SME customer segments identified by Research Works.

⁴¹ See paragraphs 2.1 to 2.3 of HSBC’s submission on the key findings of Research Works Limited’s SME qualitative research report dated 27 July 2015.

⁴² See paragraphs 5.79 to 5.81 of the PFs: “*PCA providers receive higher advocacy rates than providers of home insurance, credit cards, personal savings and mortgages respectively, and receive a similar rating to motor insurance providers by 2014*”.

⁴³ See paragraphs 7.35 and 8.49 to 8.51 of the PFs.

⁴⁴ See figures 21 and 32 of the GfK PCA survey report and paragraph 7.34 of the PFs: satisfaction with a current provider was the most commonly cited reason for PCA customers not considering switching supplier.

⁴⁵ See figure 23 of the GfK PCA survey report: (i) quality of staff and customer service; and (ii) quality and speed of problem handling were important to 98% and 97% of customers respectively, whereas the equivalent figures for the perceived importance of the levels of: (i) credit interest; and (ii) overdraft charges were only 74% and 66%.

⁴⁶ See paragraph 5.100 of the PFs.

⁴⁷ See paragraph 7.35 of the PFs.

⁴⁸ However, as the PFs note: “*[i]n a market with fixed costs, providing the cheapest products to all customers may not be sustainable, because at these lower prices providers might not cover their fixed costs*” (see paragraph 26(e) of Appendix 5.4 to the PFs).

- (c) does not account for any consequential changes a provider would likely make to its pricing structure as a result of any change in customer mix.

(iii) PFs overstate the disengagement of PCA overdraft users

3.13 The PFs “*found that there were specific additional barriers for overdraft users, relating to both account opening and account switching*”.⁴⁹ However, this conclusion is not based on robust evidence. In particular:

- (a) many concerns identified by the PFs were based on the “*perceptions*” of a very small sample of just 43 customers surveyed;⁵⁰
- (b) for the reasons noted at paragraph 3.12 above, the PFs overstate the disengagement of overdraft users by overstating their potential monetary gains from switching; and
- (c) several factors undermine the robustness of conclusions that the CMA has drawn concerning the impact of overdraft usage on switching based on its quantitative analysis.⁵¹ The robustness of this analysis is all the more important given the “*mixed evidence*” from other sources on overdraft users’ propensity to switch.⁵²

(iv) PFs understate the level of customer engagement and impact of digital banking in the SME banking markets by failing to consider properly the independent Phase 2 BDRC survey

3.14 The PFs assert that the independent, ISO-compliant Phase 1 and Phase 2 BDRC surveys (both commissioned by HSBC) are likely to be biased because they were sampled from online panels and the “*types of individuals that take part in online panels tend to be different from the average internet user*”.⁵³ As such, the CMA has decided to place “*more weight on the Charterhouse BBS results*” where there is any contradiction between the Phase 1 or Phase 2 BDRC surveys and the Charterhouse BBS.⁵⁴ HSBC considers that the CMA’s position is completely unfounded for the reasons set out in **Annex 2**.

3.15 As explained in **Annex 2**, the failure to consider the findings of the Phase 2 BDRC survey properly means the PFs:

- (a) understate the level of customer engagement in the SME banking markets, in particular the levels of shopping around and switching;
- (b) underestimate the likely future usage of digital banking channels and non-traditional providers; and
- (c) overstate any “gateway” between PCAs and BCAs.

C. PFs wrongly assert banks are incentivised to exploit an alleged lack of customer engagement

⁴⁹ See paragraph 7.111 of the PFs.

⁵⁰ See paragraph 53 of the GfK PCA survey report, outlining the methodology of the qualitative survey.

⁵¹ See paragraph 2.2 of HSBC’s response to the CMA’s quantitative analysis of searching and switching in personal current accounts dated 28 August 2015.

⁵² See paragraph 7.121 of the PFs.

⁵³ See paragraph 6 of Appendix 8.1 to the PFs.

⁵⁴ See paragraph 6 of Appendix 8.1 to the PFs.

- 3.16 The PFs present no compelling evidence to suggest that current levels of customer engagement may affect banks' incentives to compete in the PCA and SME banking markets⁵⁵ – and HSBC certainly does not consider that it has any incentive (or ability) to exploit the alleged lack of engagement.
- 3.17 **The PFs speculate that existing PCA customers may receive a worse deal than newer customers**, as a result of banks' ability to discriminate between new and old customers (for example, by offering new PCA products only to new customers).⁵⁶ In this respect, the PFs mischaracterise positive evidence of initiatives aimed at acquiring and retaining customers.⁵⁷
- 3.18 While **the PFs assert that longer-established banks are able on average to charge higher prices**,⁵⁸ this conclusion is not based on robust evidence. In particular, as explained in **Confidential Annex 3**, there are flaws with the CMA's analysis of the relationship between incumbency and average prices:
- (a) the correlation between account tenure and price is weak, which suggests that other factors are driving differences in prices;
 - (b) any correlation is statistically insignificant, as it relies on a small number of PCA providers who have only offered PCAs for a short period of time and have very small market shares; and
 - (c) the account tenure information from banks is unreliable because IT system changes have led to inaccurate account start dates for many customers.

The flaws in the CMA's PCA pricing analysis (see further **Annex 1** below) also undermine any suggestion that longer-established banks are able on average to charge higher prices.

- 3.19 Moreover, **the PFs assert that banks are focused largely on targeting larger SMEs and retaining existing customers**, noting that "*banks have limited incentives to increase switching*"⁵⁹, "*attempted improvements in customer service generally appear to be aimed at retaining existing customers*"⁶⁰ and pricing initiatives and discounts by banks for SME lending seem to be "*mostly targeted at larger SMEs and focused largely on retaining their existing customers*".⁶¹ However, these assertions are unfounded with respect to HSBC: our strategy is to compete for all SME customers, including new customers and smaller SMEs. HSBC has recently invested in a range of improvements to its SME banking propositions and numerous initiatives that are specifically targeted at smaller SMEs and/or aimed at attracting new customers.⁶² The CMA has adduced no evidence to the contrary.

Conclusion

- 3.20 For the reasons set out above, the extent of harm likely to be caused by the provisional AECs is materially overstated. The CMA must take this into account when considering the design and proportionality of any remedies to address these provisional AECs.

⁵⁵ See paragraphs 7.131 to 7.132, 7.154, 7.174, 9.20, 9.23 and 9.45 of the PFs.

⁵⁶ See paragraphs 7.141 to 7.143 and 7.154 of the PFs.

⁵⁷ For example, the PFs note that HSBC's advertising campaign was targeted only at new customers for the re-launch of HSBC's Advance account, as existing customers were automatically upgraded (see paragraph 7.143 of the PFs). HSBC has previously explained that 1.3 million existing customers were upgraded to HSBC Advance in order to "*increase our chances of retaining and building a relationship with them*" (see page 4 of the cover submission of the HSBC PCA MQ Response).

⁵⁸ See paragraph 11.56 of the PFs and Figure 1 of Appendix 5.4 to the PFs.

⁵⁹ See paragraph 9.60 of the PFs.

⁶⁰ See paragraph 9.20 of the PFs.

⁶¹ See paragraph 9.45 of the PFs.

⁶² *[redacted]*

- 3.21 In the following section, we set out HSBC's views on the package of remedies proposed in the provisional remedies notice. We support the general goals the remedies pursue and consider that these are achievable in practice within a reasonable time-frame. The next section therefore aims to contribute to the CMA's work in the next phase of the reference to ensure that the final package is designed in a way that will be effective, proportionate and timely.

PART B: RESPONSE TO NOTICE OF POSSIBLE REMEDIES

Summary

1. HSBC welcomes the CMA's provisional decision to develop remedies which focus on measures to promote customer engagement and prompt searching and switching between current account providers, and measures to make it easier for SMEs to shop around and compare offers between lenders. The focus on demand-side remedies for SME banking aligns with the design of the package of behavioural remedies that HSBC proposed to the CMA with Barclays, Lloyds Banking Group and RBSG into UILs in Phase 1 of the market investigation.
2. In light of the CMA's provisional findings, HSBC agrees that it is not appropriate for the CMA to seek to control outcomes through remedies which impose forms of price control or structural change. Measures directed at intervening in respect of the FIIC model in the PCA market would not address the underlying AECs which the CMA has provisionally identified, namely:⁶³
 - a. barriers to accessing and assessing information on PCA and BCA charges and service quality;
 - b. barriers to switching PCAs and BCAs; and
 - c. barriers to opening BCAs and low levels of customer engagement.
3. As explained in the previous section, HSBC considers that the provisional findings overstate some of the competitive concerns in certain key aspects of the PCA and SME banking markets, which the CMA must bear in mind when assessing the design and proportionality of possible remedies.⁶⁴ Nonetheless, HSBC supports the general direction of the CMA's package of proposed remedies in seeking to change demand-side dynamics across all key stages of PCA and SME customers' journey. Increased levels of customer engagement will further drive PCA and SME banking providers to differentiate their offerings and innovate to attract and retain customers:
 - a. **The development of customer contact strategies at appropriate trigger points should increase levels of customer engagement and drive improvements in outcomes:** both through immediate behavioural change (e.g. avoidance of charges for transaction trigger events) and through greater consideration of whether customers have the right bank account to suit their needs (at more periodic or one-off trigger events) (Remedy 1). In principle, we agree that contacting customers at appropriate trigger points should be effective in stimulating engagement levels. Nonetheless, we have some concerns around: a small sub-set of the trigger points, the requirement for providers to refer customers to competitors' products (which would disengage customers, distort the market, and generate conduct risks), and the provision of customer contact lists to third parties. We consider that these specific elements generate significant risks of unintended consequences, to the detriment of customers.
 - b. **Comparability can be enhanced:** the development of APIs represents a major opportunity to facilitate a straightforward way for customers to make accurate, personalised and informed comparisons between different types of bank account, and for SME customers to be able to shop around more effectively for loans. We are receptive to exploring ways in which the delivery of API standards can be expedited (Remedy 3 and Remedy 14) and strongly encourage the CMA to engage with HMT and financial regulators to devote additional resource to develop open APIs

⁶³ See CMA notice of possible remedies, para 24.

⁶⁴ Please refer to section 3 above.

and drive providers to adopt as a matter of priority. In the intervening period, we consider that there are ways in which Midata can be improved in the PCA market where it is already implemented. Comparisons on the basis of service quality (Remedy 5) should further aid customers to make comparisons on the basis of parameters other than price. The development of a PCW for SME customers (Remedy 4), which should interact with the loans eligibility and pricing tool (Remedy 15), underpins a whole range of remedies on BCAs and SME lending and will give businesses a tool that they have been lacking to conduct quick and easy cross-industry comparison of BCA and SME lending products. The Small and Medium Sized Business (Credit Information) Regulations 2015 should meet the CMA's objectives to stimulate competition and innovation in SME lending by making it easier for challenger banks and alternative finance providers to conduct more accurate SME risk assessments (Remedy 13).

- c. **Confidence in / ease of the switching process can be enhanced.** CASS can be improved, in terms of (i) raising awareness, especially with SMEs (Remedy 2), (ii) improving functionality (in terms of redirection periods, CPAs and support for partial switching) (Remedy 8, 10 and 11), and (iii) governance (through the development of a more strategic approach) (Remedy 12). It should be relatively straightforward for all providers to confirm the overdraft available to customers prior to switching (as HSBC and first direct do today) (Remedy 7), and to make five years' worth of transaction history available on demand (Remedy 9). The standardisation and simplification of BCA opening procedures should address the CMA's concerns in respect of the perceived costs and hassle of switching (Remedy 6). These changes should provide customers with increased confidence in the switching process, which should drive both increases in shopping around, and switching.

4. For the remedies to be effective, they should apply in respect of all PCA and SME providers in the market: the AEC relates to the demand side as a whole, not to the customers of certain providers. The success of the CMA's proposed remedies is contingent on the involvement of all providers: for example, a PCW that only covers a small number of providers will be an ineffective tool for SMEs to access and assess information on what BCA and lending products are available to them; likewise, requesting only some but not all providers to prompt customers to review their PCA or BCA provider at certain trigger points will exclude some customers from the benefit of this remedy.
5. From the practical perspective, most of the proposed remedies can be delivered within a short to medium term timeframe. The design and implementation of many aspects of the remedies package will be dependent on the delivery of open API standards. The CMA must take into account the importance and transformational opportunity represented by open API standards when designing the remedies package, to avoid missing an opportunity, or adopting measures that become obsolete quickly. We believe there is scope for the CMA to work with HMT and other financial regulators to accelerate the adoption of open API standards.
6. While it is important that the remedies are delivered as a package, it is likely that, collectively, they will amount to a significant amount of work and cost. It is therefore vital that the CMA reaches a clear view on the customer benefits and costs of each remedy, to ensure that as a package they are capable of being delivered in a reasonable time frame.
7. The CMA's specific questions on the more practical aspect of remedy design in respect of each remedy are addressed in more detail below. HSBC looks forward to engaging with the CMA and other industry participants on the design (and any related trial testing) of this package of remedies, which has real potential of further improving outcomes for customers, particularly in the SME banking market.

Remedy 1 – Prompt customers to review their PCA or BCA provider at times when they may have a higher propensity to consider a change.

8. We agree with the CMA that the lack of a PCA or BCA contract end date means that customers do not have to consider their options on a periodic basis. Intervention by the CMA to ensure that providers engage with customers at these trigger points should enhance customer engagement. We summarise our position below.
9. **We consider that there are two types of triggers**, which require different approaches:
 - a. **First, transaction trigger points**, when a customer is about to incur a fee or charge in respect of his transactions. At this point, customers can make considerable savings through behavioural changes (for example saving £5 per day on unarranged overdraft fees), which will be more significant than gains that can be made from switching. Messages at these times which focus on incentivising behavioural change will benefit customers the most.
 - b. **Secondly, one-off or more occasional points in time** when customers will be more likely to give active consideration to whether or not they have the right PCA or BCA to meet their needs (for example, the end of free banking, branch closures, changes in personal status). Messages at these trigger points should focus more on encouraging customers to consider whether their current banking arrangements are suitable for them, and to consider shopping around for alternative products.
10. We also support the use of periodic reminders at existing customer touch points, to foster a culture whereby customers actively consider their options on a more regular basis.
11. Overall, we consider that engagement with customers at these trigger points should have a significant impact on customer engagement, leading both to positive behavioural change and to increased levels of shopping around. We have concerns in relation to three aspects of the proposals:
 - a. We consider that one-off negative event triggers (such as service outages) are not a suitable time at which to engage customers on the benefits of switching. There is a risk that customers will be more prone at such times to make short-term decisions which may not result in longer-term better outcomes.
 - b. We do not consider that providers should be required to search on behalf of customers, by suggesting to them which rival product may be most appropriate for them: this may disengage customers, by making them more rather than less reliant on their existing provider. Further, providers are not in a position to provide the customer with an accurate assessment of what type of product would most effectively meet the customer's needs, as customers' preferences vary considerably. Such a requirement is likely to generate significant conduct risk concerns for providers, as they may be accused of pointing customers towards unsuitable alternative products.
 - c. We also do not consider that it would be necessary, practicable, or proportionate for intermediaries to have access to customer details. The CMA can ensure that providers communicate with their customers effectively at trigger points by adopting a prescriptive approach to the content of such messages.
12. We summarise the CMA's current thinking and then set out our views in more detail below.

The CMA's current thinking on remedy one

13. We consider that the CMA's trigger points fall into two distinct categories:

- a. Transaction specific triggers: actual or imminent imposition of overdraft charges (arranged or unarranged).
- b. Different types of one-off, or occasional trigger events: negative trigger events which occur independently of the customer, such as loss of service (IT outages); branch closures; changes to T&Cs. Customer specific trigger events, such as changes in life stage (young person or student to adult account, end of free banking period for a BCA), or a "major dispute" with the provider.

14. In terms of content, we note that the CMA is considering prompts which could guide, remind, or warn. In particular, the CMA considers that prompts could:

- a. Point customers towards sources of comparative information;
- b. Identify specific, better value products available from rival providers and explain how to switch to them.
- c. Warn BCA customers at the end of their free banking period of the likely charges they will face over the coming year, based on the previous year's free account usage data.
- d. Warn customers who were at risk of incurring overdraft charges that this was the case and how to avoid them.

15. In terms of medium, the CMA is considering mail, text, email and mobile apps. It is also considering mass media (e.g. press advertising).

16. The CMA does not assume that providers themselves should be the source of these prompts and alerts. The CMA considers that providers may have an incentive to limit switching by customers, through the way in which messages are framed. The CMA is considering whether to mandate that third parties should have access to lists of relevant customers, to allow them to communicate with prospective switchers at a time when they are receptive to switching.

HSBC's views on remedy 1

17. We consider that there is a substantial difference between one off or occasional trigger points and transactional trigger points. The CMA should approach these two types of trigger points in different ways.

A Transactional trigger events

18. Customers who use overdrafts, and in particular those who use unarranged overdrafts, can save significant amounts if they change their behaviour. Transactional trigger points, such as the prospect of an overdraft charge being incurred, provide the best opportunity for providers to help customers to change their behaviour. We consider engagement with customers in relation to these triggers in respect of SME customers should be set at the same turnover threshold as for CASS (£6.5 million).

Content and medium for transactional trigger events

19. We believe that the content of messages to customers at transactional trigger points should warn customers of the imminent charges or interest they may incur and how to avoid them, and should be communicated in real time (e.g. by text alert or mobile app).
20. On the basis of our own experience, we do not consider that transactional trigger points are the right time at which to encourage customers to consider whether they have the appropriate BCA or PCA to suit their needs. At these transactional trigger points, customers are likely to be better off focusing (and are likely to want to focus) on any action they need to take in the immediate or short term to manage their finances. Such action generates the greatest gains for customers who would otherwise be exposed to overdraft fees, in particular.
21. In contrast, a transactional trigger point is not an appropriate moment to promote switching and longer term better outcomes: customers may not be in the right mind set to make rational decisions about their longer term banking needs when they are alerted to the imminent imposition of a charge or fee. Further, in terms of medium, real time alerts do not lend themselves to more lengthy descriptions of the steps customers can take to switch to an alternative provider.
22. Further, from a conduct and overall consumer welfare perspective, we do not consider that it is appropriate to suggest to unarranged overdraft users that they could gain significantly from switching to a provider with lower unarranged overdraft fees. Users of unarranged overdrafts should be encouraged in the first instance to adjust their behaviour, to avoid incurring unarranged overdraft fees with any provider. Charges for unarranged overdraft usage are higher than for arranged overdrafts (across providers): customers will save significantly more by avoiding unarranged overdraft fees altogether, rather than by switching to a provider with lower fees.
23. We consider that the primary candidate for intervention in respect of both BCAs and PCAs is real time alerts in respect of unarranged overdraft fees.⁶⁵ At HSBC, on the PCA side, we have been sending text message alerts to PCA customers who enter into unarranged overdrafts, on an opt-out basis, since November 2014. We have noticed a significant change in customer engagement. On receipt of a text alert notifying them that they have entered an unarranged overdraft on that day, *[redacted]* per cent of HSBC customers (and *[redacted]* per cent of first direct customers) transfer funds to their current account on the same day, in order to avoid a charge.⁶⁶ This compares to *[redacted]* per cent (in August 2013) of HSBC, and *[redacted]* per cent (in May 2013) of first direct customers, who transferred funds and avoided a charge prior to the introduction of the text message alerts. Our experience is consistent with the FCA's findings in its Occasional Paper 10. Our customers have saved a significant amount in overdraft fees as a result of these text message alerts.
24. On the BCA side, we consider that real time communications will work most effectively for micro enterprises and SMEs, who may have a single point of contact for the management of the BCA. *[redacted]*.
25. It is worth considering a similar type of intervention in respect of arranged overdrafts, particularly where customers incur an arranged overdraft fee. (HSBC and first direct do not charge arranged overdraft fees

⁶⁵ We have offered to meet with the CMA to discuss how our experience in relation to overdraft text alerts could inform a natural experiment.

⁶⁶ In January 2015, we held mobile phone numbers for more than *[redacted]* of all customers who went into unarranged overdraft.

on PCAs, but other providers do.) Customer awareness of the fees and interest which they may incur in respect of their arranged overdrafts could be enhanced through opt out text message (or other real time) alerts which notify customers that they have entered an arranged overdraft, and provide them with a summary of the fees and interest they may incur. Such notifications could also provide an illustrative example of the interest or fees and charges which may be incurred in respect of a representative overdraft balance over a representative period of time. This would increase customer awareness of the costs of using an overdraft.

26. *[redacted]*

27. In terms of the content of real time communications for transactional trigger events, we consider that they should be positioned as a call to action. We have found that the following message has been highly effective: *"We agreed an informal overdraft to cover payment(s). To avoid the £5 daily fee, your account must be within formal limit at 23:45 today."* These messages are delivered on an opt-out basis. Whilst we do not consider it would be practicable for the CMA to prescribe the exact wording of the messages, as the format will likely vary between channels and between providers, we consider that the CMA could set out requirements for the type of content such messages should contain.

B One off or occasional trigger events

28. We agree in principle that it is appropriate to identify points during the customer life journey when customers can be prompted to assess whether or not they have the right product to suit their needs. The appropriate time to raise this issue with customers will be when they are in an objective mind-set, where they are predisposed to consider their finances over the longer term.
29. With this general principle in mind, we have considered whether the following occasions will be good times to engage customers to consider their PCA or BCA product needs:
- a. **Major service outages:** we consider that customers may not be in the right mind-set to make well informed and rational decisions at these times. A focus on short term needs may result in customers switching to a provider who is less well placed to meet their longer term needs, leading to an overall negative outcome for the customer.
 - b. **Major disputes with customers:** we do not think it would be appropriate to encourage customers to think about switching at the initial complaint stage. Customers may misinterpret this as an attempt by the provider to push the customer away instead of resolve the complaint. It may be more appropriate at the last stage of complaint resolution. Providers could advise the customer of how to access and assess information on rival providers, and on how to switch, at the same time that they advise customers of their right to complain to the Financial Ombudsman Service if they are not happy with the outcome of the complaint.
 - c. **Permanent adverse changes which affect the customer,** such as branch closure, adverse changes to terms and conditions: these occasions appear a good time for customers to be encouraged to consider their banking needs. In addition to the events identified by the CMA, we consider that adverse changes to pricing, or the withdrawal of a particular product or service, could also be included in this category.
 - d. **End of the free banking period for start-ups and SMEs:** there is a significant increase in switching rates at this point in time, which is clear evidence that this is an appropriate time to

engage customers to consider their banking needs, to further increase the levels of customer engagement at this point in time.

- e. **The opening of a BCA for the first time:** account opening may be an appropriate time to encourage BCA customers with PCAs at the same provider to consider their options. However, customers who choose a BCA after shopping around may not welcome a further suggestion to shop around: such a communication may irritate the customer. We consider that this trigger point should be limited to PCA customers of the same provider.
- f. **Changes in customer life stage:** the CMA has identified a customer's transition from a young person's or student account to an adult account. We consider that this may provide a useful opportunity to engage with customers.
- g. **Pre-existing customer engagement points,** such as monthly or annual PCA or BCA statements, notification of charges, and annual summaries. We consider that customers may be receptive to periodic invitations (e.g. no more than every 3 years) to consider their banking needs if and when they engage with such pre-existing communications.

Content for one off or occasional trigger events

30. We consider that messages should explain to customers that there are alternative PCA or BCA products available to them, and provide them with the following types of information:
- a. A description of how a Midata⁶⁷ download enables a customer to use a PCW to apply his or her individual transaction history to determine which PCA or BCA product would generate the best financial return for the customer;
 - b. An explanation on how to locate and use the customer's Midata file and a link to a price comparison website. For electronic communications, customers could be given an option to click on a link which automatically uploads their Midata profile onto a PCW for them;
 - c. An overview of CASS, which emphasises its benefits (in particular the guarantees it offers), and how easy it is to switch in a hassle free manner for PCA and eligible BCA customers (i.e. SMEs with turnover below £6.5 million).
31. This list provides customers with all the necessary tools and reassurances they need to engage in an active assessment of whether they have the right PCA or BCA to meet their needs. We consider that a requirement for providers to identify better value products available from rivals would lead to negative outcomes for customers. We explain this view below.

A requirement to identify better value products available from rivals would disengage customers and carry a significant risk of unintended consequences

32. In addition to the other content requirements set out above, the CMA is considering a requirement for providers to assess a customer's account usage, and to identify specific, better value products available from rival providers. We consider that providers should be required to offer customers all the tools they need to shop around. Providers should not be required to shop around on behalf of customers (they should do this for themselves through the use of midata or an open API standard, alongside a PCW): such a

⁶⁷ Midata is currently not available for SME customers, but could be extended to them.

requirement could disengage rather than engage customers, and would generate significant risks of unintended consequences.

33. **Disengagement:** It should not be the responsibility of the provider to conduct the equivalent of a Midata exercise on the customer's behalf: this is likely to disengage the customer. A line needs to be drawn between the customer's responsibility to seek out the best deal, and the provider's responsibility to provide the customer with the right information at the right times to ensure that the customer can make independent and well-informed decisions.

34. We consider that the CMA drew the line in the right place in the energy market investigation, in which it decided not to proceed with a remedy which required providers to inform customers about the cheapest options available to them in the market, on the basis that it would disengage rather than engage customers. The CMA stated,⁶⁸

“we considered that requiring suppliers to advertise competitors’ tariffs would not provide customers with the correct incentives to engage effectively in the market in the longer term, as they could rely on their supplier to conduct a search on their behalf and provide them with the results. This could encourage customers to remain relatively disengaged in the future, undermining our other remedies to facilitate widespread consumer engagement.”

35. **Unintended consequences and conduct risk:** it is not feasible to require providers to identify better value accounts, and it would likely generate significant conduct risk for providers.

36. Customers assess current accounts on the basis of a wide range of different factors, to which they attach different levels of importance. It is not clear how providers would identify what constitutes a better value account: in particular, it is not clear how the CMA expects providers to assess price versus non price factors. There is a real conduct and competition risk that providers could inadvertently point customers towards products which are not suitable for them. Providers can never have a full appreciation of the relative weight customers attach to different product and service characteristics. Customers with identical Midata profiles may have very different preferences in terms of channel usage, and different expectations in terms of service quality and price. Only customers themselves would be aware of these differences.

37. As only the customer knows what the customer wants, there is a real risk in providers second guessing what the customer might prefer. By way of example:

- a. Of two customers with consistent high credit balances, one may be interested in switching to an account which pays the best credit interest, whilst another may place more value on the quality of the provider's digital offering and a high quality of service, and be less concerned to obtain credit interest.
- b. Two customers with high unarranged overdraft costs may be better off in different ways: one may be better off receiving text alerts, the other may be better off seeking a higher overdraft limit, or obtaining advice on how to budget more effectively.

38. In both of these examples, a Midata assessment done in isolation from engagement by the individual customer about what is important to them may lead the provider to recommend an account to the customer which is unsuitable, or which the customer may not be eligible for. Customers in general place a lot of

⁶⁸ Energy market investigation, CMA notice of possible remedies, Para 141.

weight on service quality; however it would be difficult to reflect this in any value assessment not performed by the customer on the basis of their own direct experiences.

39. The CMA runs the risk of distorting the competitive process if it prescribes the parameters on which providers should judge the value of alternative products. Competition is likely to be fierce on the parameters which weigh heavily in the value assessment, and much more muted on those parameters which do not feature.
40. It is difficult to envisage how the remedy could be designed in a way that avoids triggering conduct risks. Any communication to a customer which indicates that they may be better off with an alternative PCA or BCA product would need to comply with the rules and principles set out in the FCA handbook.⁶⁹ We have serious concerns about how we would comply with our FCA handbook obligations if we are required to suggest specific PCA or BCA products to our customers. Providers might find it necessary to manage a short list which contains the best account for each account type (for example the top account for credit customers, the top account for overdraft customers, the top account for service, the top account for digital). This would necessarily limit the range of accounts from which they make suggestions to customers. Providers would also run the risk of pointing customers towards products whose pricing is about to change (for example, as the pricing of the Santander 123 account changed recently).
41. We consider that it would be much more appropriate for PCWs to perform the role of ranking all accounts, as they currently do in respect of PCAs. Customers should be pointed towards a PCW, armed with their individualised account level information, either via the use of open API standards, or a Midata file. Customers can then use this information to compare products themselves, on the basis of their own unique situations and preferences. This would ensure that customers obtain the best outcomes, and it would avoid generating conduct risks for providers.
42. **This proposal is unnecessary and would be disproportionate:** We consider that the combined package of remedies will provide customers with (i) the tools to access information about their account usage and compare it with alternative products (through the Midata enhancements and the development of open APIs) and (ii) an increased confidence in the switching process (through the enhancements to CASS). As set out in our response to the PFs, we consider that the CMA has overstated the competitive concerns in the PCA and SME banking markets, as well as the extent of the harm likely to be caused by the provisional AECs. In light of these considerations, individually and in combination, we do not consider that it is necessary or proportionate to require providers to identify better value products offered by rivals.

⁶⁹ In particular, BCOBS 2.3.1. states as follows:

A firm must ensure that each communication made to a banking customer and each financial promotion communicated or approved by the firm:

- (1) includes the name of the firm;
- (2) is accurate and, in particular, does not emphasise any potential benefits of a retail banking service without also giving a fair and prominent indication of any relevant risks;
- (3) is sufficient for, and presented in a way that is likely to be understood by, the average member of the group to whom it is directed, or by whom it is likely to be received; and
- (4) does not disguise, diminish or obscure important information, statements or warnings.

Medium – one off or occasional trigger events

43. Letters, emails, or other more permanent forms of communication, will be more appropriate. Time is not critical, and it will be necessary to display a larger amount of information, relative to transaction-related messages.

Source: in respect of both transactional events and one off or occasional trigger events

44. We note the CMA's concern that providers may have an incentive to frame messages in a way which discourages switching. Equally, providers may be wary of alienating customers through encouraging them to switch. We consider that both of these concerns could be met through a prescriptive approach to the communication, in particular the one off or occasional triggers. This will ensure that a consistent message is delivered by all providers. Providers will likely also prefer something which is standardised across the industry, as this will be much less likely to irritate customers unnecessarily.

Access to customer details by third parties

45. We do not consider that it would be practicable or proportionate to require providers to facilitate access to relevant customers by regulators, intermediaries or others. As outlined above, we consider that the CMA's concerns are better addressed through the adoption of a prescriptive approach to how providers communicate with their customers. Further, as we set out in our response to the PFs, there is no compelling evidence to suggest that banks are incentivised to exploit any lack of customer engagement.
46. We do not believe that customers would welcome additional marketing communications from third parties who have access to lists of customers who have reached a particular trigger point. Such a requirement would also conflict with the marketing preferences of many customers, who actively opt out of receiving marketing materials. It would also pose a data protection challenge, as providers would need to obtain additional consents from customers to share their details with third parties. Many customers would likely opt out of such a requirement. Further, it would clearly be inappropriate for transactional trigger points, which require real time communication.
47. Customers expect their bank and personal details to be kept private and confidential. Revealing customer details to commercial third parties may be an anathema to a number of customers who are wary of the disclosure of their financial dealings and behaviour to commercial operators. Third parties would need to be held to the same standards of data security as providers.
48. We therefore consider that it would be wholly disproportionate, and unnecessary for the achievement of the CMA's objectives, to allow intermediaries to have access to lists of customers. Such a move would add cost and risk, for little tangible benefit.

Remedy 2 – Increase public awareness of the potential savings or rewards that could be obtained by changing one's current account provider and of the benefits of using the Current Account Switch Service to do so in terms of security and convenience

49. HSBC supports an increase in the amount and effectiveness of CASS advertising, and the promotion of CASS in customer communications. We do not consider it would be appropriate to include references to the potential monetary gains to be made from switching.
50. The CMA considers that further efforts to promote CASS would form an important part of its remedies package. We agree: in combination with the trigger remedies and the Midata remedies, raising public awareness of CASS can have a significant impact on customers' perceptions of switching, leading to an increase in shopping around and switching rates. This is particularly the case in respect of BCAs (where awareness of CASS is low).
51. The CMA is considering a requirement for
- a. Bacs to increase its advertising (on a sustained basis) of the potential savings and/or rewards of changing current account provider, and the speed, ease of use, and security of CASS.
 - b. Providers to refer to CASS in marketing communications to customers.

HSBC's views on remedy 2

Advertising by Bacs

52. We are working with Bacs to increase the amount and effectiveness of CASS advertising. We consider that CASS, under a revised governance structure (Remedy 12), should be responsible for its own promotion. A short term promotional campaign of approximately 12 months will provide an initial boost, and re-launch customer awareness. The long term promotion of CASS should be adopted as a fundamental principle of any revised CASS governance structure.
53. Eligible SME customers should be a key area of focus for the campaign as current awareness is low and it will therefore take additional resources.
54. Funding of a promotional campaign should be met by industry participants in CASS. The revised CASS Governance should be able to determine the appropriate contribution from member banks
55. We believe that this aspect (the Bacs advertising campaign) of the remedy should include a 'sunset clause' within its design, which should be activated whenever certain thresholds are met. Potential ideas for these thresholds could include number of customers using the CASS service and awareness as measured by a customer research survey. It would be appropriate to review the effectiveness of any CASS campaign at regular quarterly intervals to ensure that action can be taken to address shortcomings. It is imperative that promotion in the long term is considered so as to avoid a drop off in customer awareness as soon as any initial campaign is concluded.

Promotion of CASS by providers in their own customer literature, and amongst their own staff

56. As set out above in relation to remedy one, we consider that references to the benefits of CASS should be included in all one off or occasional trigger point communications with customers. As indicated above, we consider that wording should be prescribed, and should seek to build customer confidence that switching bank account is easy and error free, and comes with a guarantee from providers. Consideration

should be given to how to design wording that encourages overdraft users (but not persistent unarranged overdraft users – see our comments on remedy 1 above) to consider switching (in respect of the issue identified in remedy proposal number seven).

57. A requirement for providers to include references to CASS (with prescribed wording) in prominent positions on their websites and in their marketing materials will help to drive customer awareness.

CMA to give consideration to how CASS is promoted on Price Comparison Websites

58. We encourage the CMA to consider how PCWs in respect of both PCAs and (in the future) BCAs can effectively promote the benefits of CASS.

Reference to potential gains from switching

59. As we set out in our response to the PFs, we consider that the CMA has overstated the gains that customers can make from switching, by underplaying the relevance of non-price features and propositions. We do not consider that a requirement for customers to be notified in CASS promotions of the potential monetary gains to be made from switching would be effective. Unlike energy markets, for example, PCA and BCA products have multiple price and non-price features, which different customers value in different ways. Further, different categories of customer could expect very different levels of gain. For reasons set out above in our discussion of transaction trigger events, we do not consider that it would be appropriate to indicate to unarranged overdraft users how much they could gain from switching – we consider that it is more appropriate to focus on encouraging this customer segment to avoid incurring unarranged overdraft charges.

Measures to facilitate comparisons between providers

Remedy 3 – Facilitate price comparisons between providers by making customer- specific transaction data more easily available and usable, including by PCWs

60. We agree with the CMA that the adoption of common application programming interfaces (APIs), and/or the extension and enhancement of Midata, are likely to increase customer engagement.

HSBC' views on remedy 3

61. HSBC is heavily involved in the development of an open API standard with HMT. We are confident that an open API standard can be designed in a way which addresses data protection and security concerns, and can be delivered at a reasonable cost, depending on the final framework agreed. We are working with HMT on the interaction between open APIs and PSD2. HMT is due to set out a detailed framework for the design of open API standards by the end of 2015. While there are still details which need to be settled, we consider it reasonable that an open API standard can be developed by the end of 2016.
62. An open API standard would meet the CMA's objectives. It will also render current Midata download functionality obsolete. We appreciate the need for interim measures whilst the open API standard is under development, but we consider that these will need to be proportionate, given their short term nature. We consider that the following steps would be appropriate at this stage:
- a. Promote the benefits of Midata. Providers could display Midata more prominently on their websites, and take steps to ensure that the download process is managed in the most straightforward manner possible. Midata should be promoted in all one-off or occasional trigger point communications (see remedy one above). Any marketing of CASS could include references to Midata in marketing campaigns.
 - b. Address the issue around the redaction of beneficiary names. This is driven by data protection concerns where (i) the beneficiary is an individual (in which case the payor may not be in a position to disclose the beneficiary's identity), or (ii) where identification of a corporate beneficiary would reveal sensitive personal data about the payor (for example religious or trade union affiliations). Steps could nonetheless be taken to avoid the redaction of beneficiaries which fall outside these two categories (such as utility companies).
 - c. Encourage other PCWs to make use of the Midata functionality. Currently only one PCW uses Midata.
63. We support the extension of Midata to SMEs as a short-term workaround pending the development of open APIs. We also encourage the CMA to focus on encouraging the development of open APIs by the end of 2016.
64. Our clear preference is to focus on the changes to Midata set out at a to c above, and on the acceleration of the open API development process. Open APIs represent a far more strategic and long term solution which we believe will deliver step change in the market. We consider that the CMA should focus on encouraging HMT and the financial regulators to devote additional resources to the development of open APIs.

Remedy 4 – A PCW for SMEs

65. The CMA considers that while price information is available, it is currently difficult for SMEs to compare fees/charges across banks because of complex tariff structures and multiplicity of fees/charges for BCAs, the variability in usage, and the lack of effective price comparison tools, including ones that are able to use SME usage data to calculate which BCA offered the best price.
66. The CMA considers that the most straightforward solution to remedy the issue would be to require providers to facilitate the initial establishment of a Price Comparison Website (*PCW*) for banking services for SMEs, covering (but not limited to), BCAs, overdrafts and loans. The CMA envisages that such a PCW would eventually have access to SME transaction data in Midata format.

HSBC's views on remedy 4

67. HSBC is supportive of this remedy *[redacted]*. HSBC considers that a comparison tool for SMEs in the form of a PCW covering standard tariff BCAs, overdrafts and loans (which covers both price and non-price competitive parameters including service quality, see Remedy 5 below) would be effective in addressing the relevant provisional AECs as it would substantially lower search costs and enable more expedient comparison. HSBC considers that there are also supply-side benefits that would enhance competition as it would make it easier and more efficient for existing and new providers to access informed customers.
68. In order to give assurance to customers that they should have confidence in using and relying on the results generated by the PCW, it is critical that the PCW should be underpinned by four main principles on independence, transparency, accuracy and reliability. We note that various bodies have recently looked at the effectiveness of PCWs (in the Energy and Payday Lending markets) and some of the emerging thinking on ways to increase consumer confidence and trust in PCWs in those markets also apply to PCWs for SMEs, such as:
- a. appropriate accreditation / use of an independent third party,⁷⁰
 - b. recommendation on requiring disclosure of commercial arrangements to increase transparency;⁷¹ and
 - c. proposal to require for PCWs to comply with new rules and guidance on rankings, commercial relationships, additional advertising, search functionality and market coverage.⁷²

BCAs

69. As noted in previous submissions to the CMA, HSBC considers that the PCW should focus on standard tariff BCAs as the majority of SME customers are on standard tariffs and will benefit from the BCA comparison tool. Plus, a PCW would not be practicable for bespoke tariff BCAs given they are negotiated between the provider and individual SME. The comparison parameters should cover price, key account

⁷⁰ In the context of the CMA's Energy market investigation that the CMA is proposing Ofgem to provide an independent PCW to increase customers' trust in the services offered by PCWs, encouraging engagement and switching. The CMA also recommend that online payday lenders put their product details on at least one commercial PCW that is authorised by the FCA.

⁷¹ House of Commons Energy and Climate Change Committee report: Protecting consumers: making energy price comparison websites transparent (Seventh Report of Session 2014-2015) dated 24 February 2015,

⁷² FCA's Consumer credit: proposals in response to the CMA's recommendations on high-cost short-term credit, dated November 2015.

features (such as the provision of contact points, available channels including internet/mobile/telephone banking, branch access) as well as quality / satisfaction ratings (which could draw on Business Banking Insight survey data or other service quality metrics as the CMA identifies in Remedy 5). As the BDRC and Charterhouse survey research indicate,⁷³ service quality, including multi-channel capability, is important and a key competitive parameter for many SMEs. A PCW that focuses mainly on price parameters may risk all providers to focus exclusively on price and may lead to a 'race to the bottom' on service.

70. We do not consider standardised business profiles to be a practical alternative because such average profiles provided for illustration purposes will be of limited use to SMEs in assessing a tariff that is suitable for their individual needs and transactional profiles. In addition, they will be of very limited value to start-ups as many of them will benefit from some form of free banking. We consider that a PCW with built-in interactive element that would tailor the search results to individual customer usage profile would be particularly helpful for customers to compare products that are most suitable to their needs. The PCW should be designed to enable access live customer data via an API when Open Data standards are mandated by HMT, which we expect to have a development lead time of within 2 years (see our response to Remedy 14 for more information). The latter approach would provide greater benefit to customers as (a) the PCW analysis would be based on current transaction data and (b) there would be no need for the customer to manually download a Midata file from their provider and then upload it to the PCW. Our view is that API is the way forward and the CMA can usefully help expedite the development on that front (see Remedy 3 above).
71. The creation of an effective PCW for SMEs is not contingent on the extension of the Midata project to SMEs or the development of open APIs as the design of the PCW could be adapted to allow SMEs to estimate their monthly usage to return individualised results by inputting their own BCA activity by reference to their on-line, or paper, bank statements. HSBC would also be supportive of providing customers with annual summaries to facilitate their ability to compare BCAs *[redacted]* without the need to access their Internet Banking platform, in the event that customer data cannot be provided electronically.

Loans and Overdrafts

72. In addition to BCA comparison, HSBC would also be supportive of a PCW that would enable customers to make price and non-price comparison of loans and overdrafts.
73. Given the bespoke nature of the pricing of SME loans of a larger value, HSBC considers that it would be practicable to only bring within scope smaller business loans and formal overdrafts that lenders are typically able to price quickly on the basis of credit score. The information requirements from SME customers for these types of borrowing tend to be more straightforward and therefore suitable for PCWs and more accurate indicative pricing. Further, banks typically offer non-negotiated credit-score based pricing on these types of loans so covering just small business loans would have a material beneficial impact. On this basis, we would propose that the PCW should cover business loans and formal overdrafts of up to £25k,⁷⁴ such that SME customers would benefit from being able to find out the indicative pricing of loans and overdrafts quickly for easy comparison across providers.

⁷³ Also see CMA provisional findings, para 8.77

⁷⁴ The Consumer Credit Act covers small business loans and overdrafts of up to £25k to sole traders and partnerships (but not limited companies).

74. If the borrowing amount for loan and standard overdrafts available for comparisons on the PCW is, as we recommend, limited to under £25k and therefore regulated under the Consumer Credit Act, HSBC would be supportive of an industry standard “Decision-In-Principle” document (as required in standardised format) so that SMEs are given a standard form of initial offer.
75. The PCW can leverage off the proposals put forward by the CMA under Remedy 15 which requires loan providers to make available on their websites a loan price and eligibility indicator. Indeed, we consider it important that Remedy 4 and Remedy 15 are fully aligned to prevent customers receiving different indicative prices depending on whether they use the PCW or providers’ websites. As further discussed below,⁷⁵ indicative pricing of loans could be based on the customers’ Credit Reference Agency (*CRA*) credit score (on a standalone basis, or further supplemented by customer’s responses to a set of 6 – 7 questions set out on the price comparison website covering for example *[redacted]*).
76. The website should allow eligible customers to generate indicative pricing of loans from all available providers once customers have given an indication of the borrowing amount, the term and information required for credit risk assessment. We envisage that the PCW would (through an API, as per Remedy 14) pre-populate the loan price and eligibility calculator (as per Remedy 15) of each available provider and then show the results in a standard format. . This functionality means that customer need only to input the answers to relevant questions once to generate results in a standard format (for example, willingness to lend, product, loan amount, term) without having to make multiple visits to the websites of individual lenders. By providing a one-stop shop for indicative quotes, calculated across lenders on a consistent basis, the PCW could substantially reduce search costs. Customers could then be given the option of clicking through to a chosen provider’s website in order to make their credit application.

Financial arrangements for funding

77. The CMA’s proposed package of remedies provides the necessary infrastructure and incentives for commercial operators to build a PCW for SMEs. Open API (Remedy 3/14) and the loans price and eligibility indicator (Remedy 15) provide the infrastructure to the PCW and many of the other remedies are aimed at incentivising shopping around and switching. Not only will the targeted promotion of CASS to SMEs (Remedy 2) assist in generating traffic to PCWs, the emergence and expansion of challenger banks – which will be ever more incentivised to attract switchers to grow given the range of initiatives that are designed in this package of Remedies – will make it increasingly attractive for any commercial operator to operate a PCW for SMEs. HSBC believes that the case for requiring financial subsidy to set up a new PCW for SMEs has changed significantly from the UIL stage.
78. Notwithstanding that, HSBC would not be opposed to contributing to an agreed amount of subsidy to facilitate the expedient set-up and promotion of a PCW for SMEs if that is considered necessary (to be apportioned to all SME banking providers listed on the PCW including but not limited to HSBC, Barclays, Lloyds, RBSG, Santander, Shawbrook, Aldermore, Clydesdale, Handelsbanken, Virgin Money, OakNorth Bank, Atom Bank and any other relevant providers) if the PCW is able to operate to the requisite standards of independence, transparency, accuracy and reliability.
79. We believe that this package of remedies are capable of attracting entrant into the market of PCW for SMEs, and would in time expect it to develop naturally as a competitive market where no one PCW would monopolise the market. We do not therefore anticipate that the PCW would require ongoing regulatory involvement after the initial start-up phase.

⁷⁵ Please see our further comments on this in relation to Remedy 15.

Development and implementation

80. We consider that this PCW could be managed by an independent project coordinator (possible candidates may include FSB, BCC or a collaboration between them), which will provide reassurance to SME users of the website that it is independent and impartial, a key criteria for generating consumer confidence. The project coordinator would be responsible for the selection of the website provider and the negotiation and implementation of the contract. This would ensure that all stakeholders' interests are taken into account at all stages of the project.

Oversight once implemented to ensure information is accurate and up-to-date

81. In terms of provider-specific information (i.e. standard BCA tariffs and product features, including small business loans and formal overdrafts below £25k), the CMA could consider asking providers to update the PCW of material changes to its tariff and proposition at the same time as it notifies its customers, and also to provide confirmation at pre-agreed intervals (e.g.: quarterly at which time the provider confirms the information held by the PCW is accurate and up-to-date).

Technical and regulatory obstacles

82. In order to ensure the greatest likelihood of success, the project should realistically be aimed only at providers with evidenced capability with regard to requisite IT infrastructure, brand and commercial knowhow to be able to set up an effective PCW for SMEs. Considerations around cyber security and in particular the security over customer data (both at the point of upload and over any ongoing storage) will be important for any PCW for SMEs to function effectively.

83. We currently do not foresee technical and regulatory obstacles to the development of the PCW, though it would be necessary to consider potential issues relating to conduct risk, fraud risk, AML risk and issues concerning data privacy and confidentiality once the design of this Remedy has been scoped out in more detail. For example, giving PCW access to customer data via open API may raise regulatory issues. It is possible that the FCA may need to provide approval to either the API developer and/or PCW to ensure that the data is protected and the parties with access to it are accountable to ensure the customer retains control of the data. We expect that the industry will reach consensus on a common set of controls to mitigate such risk via HMT.

Reasonable timetable for creation and launch

84. We expect that it would be possible to create and launch the PCW within 12 months from publication of final remedies. As further explained in our response to Remedy 14, it would make sense to align the development of the PCW with that for Open API so that the PCW can be designed to access customer data via open API, and as such we strongly encourage the CMA to engage with HMT and financial regulators to devote additional resource to develop open APIs and drive providers to adopt as a matter of priority .

Remedy 5 – Enable consumers and SMEs to make comparisons between current account providers on the basis of their service quality

85. The CMA notes that service quality is an important factor in overall customer satisfaction with current account service providers, for SMEs and consumers. Like other providers, HSBC benchmarks itself against competitors using a range of externally produced research such as the GfK PCA consumer survey, Charterhouse SME survey and Business Banking Insight survey (**BBI survey**, which is jointly managed by the British Chambers of Commerce and Federation of Small Business and supported by HMT).
86. For consumers and SMEs, some elements of service quality/provision are readily available for comparison (for example the existence of an internet banking platform, extent of local branch opening hours) while others are more qualitative and less visible (for example, the quality and reliability of the internet banking website and mobile applications; quality and expertise of relationship managers or telephone banking, and time taken to open an account). The CMA is considering which facets of service quality should be included, how information should be made available and who should procure and hold such information. In our view, it is very important that the new/enhanced PCW for SMEs (Remedy 4) being contemplated should incorporate service quality as well as price metrics (as further explained above).

HSBC's views on remedy 5

87. HSBC supports the provision of service quality information for both PCAs and BCAs as service quality is an important competitive parameter. The design of the PCW for SMEs that HSBC and other banks proposed to the CMA as part of the UIL package envisaged a tool that allows comparison across providers on service quality in addition to price and other non-price parameters.

PCA

88. In order to be useful to and trusted by consumers, any service quality comparison would have to be conducted independently by an external agency (such as GfK) based on a large sample of consumers, on agreed key service metrics. Survey agency should propose the questionnaire and associated metrics, (with input from the banks and bodies such as the FCA) based on their sector knowledge and expertise in the field of customer satisfaction

Key elements of service quality

89. PCA customers judge the service quality of banks on a variety of metrics, such as in terms of their:
- a. general customer service provided (i.e. whether staff are friendly and helpful, whether the customer feels that the bank listens and understands their needs);
 - b. quality of communication with their customers (including product documentation);
 - c. available channels and access/reliability of those channels;
 - d. product offering and rewards for loyalty; and
 - e. handling of queries/complaints
90. It is likely that channel preference will have a bearing on consumer's perceptions of service quality (e.g. a consumer who only or mainly uses online, will have little interest in day to day branch metrics). Need for lending products is likely to have some influence on consumers' perceptions of service quality, even if

these may actually relate to product / proposition issues (for example, whether an overdraft request is agreed).

91. In addition, different subsets of consumers (e.g. students and older customers) have specific service needs and should be taken into consideration when designing industry service quality metrics. (For example, HSBC provides adjusted “large font” communications for customers with poor eyesight and also wheelchair access in certain branches for customers with mobility issues.)

Demographic scope, geographic scope and sample sizes

92. The GfK FRS study referenced above is based on interviews with a representative sample of 60,000 consumers per annum. The demographic and geographic scope of this survey is extensive and therefore sufficient.
93. While the sample size is a sufficient size to capture a robust view of the larger providers, even a sample of this size is insufficient to capture representative views of customers of smaller or challenger banks. In order to overcome this, it would be necessary to ask smaller banks to provide a representative random sample of customers in order for them to be surveyed, as increasing the overall sample size will be financially or practically unsustainable.

Information Gathering and Dissemination

94. HSBC would be supportive of using an independent third party to gather and disseminate service quality data in order to ensure the data is robust and reliable.
95. In the majority of cases, it would not be appropriate for banks to provide data – rather this should be assessed independently by a variety of survey methods, including where appropriate mystery shopping. If there are certain metrics that cannot be suitably assessed by survey methodologies (due to infrequency of event, e.g. lost card being replaced) it may be appropriate for banks to provide this data as a supplementary source.
96. In terms of dissemination of the service quality measures, again we would be supportive of using an independent third party that can display service quality measures for comparison across providers. This will enable customers to benchmark their existing provider against others. If individual banks were to promote self-selected metrics on their website, there is a risk that some providers may be selective in promoting only the KPIs that they perform well on, or to present it in a way that is not objective or would enable comparison (e.g. if a bank were to say ‘70% of our customers are satisfied with our service’, this may sound good in isolation, but may be misleading for the consumer if the industry standard is in fact 90%).
97. It may be appropriate for PCA providers to publish data from this source on their own websites but it would be important for consumers to be able to check the original, independent source.
98. We consider it more appropriate for PCWs to be required to use this independent body for any service quality metrics that they incorporate on their website. This independent body could be funded by banks to ensure there is a sufficient budget to achieve a comprehensive review of all PCA providers in the market. Using an independent third party provider also obviates the need for additional monitoring and oversight. We propose that an awareness raising campaign would be required from both the PCW and the PCA providers in order to increase consumer awareness of these measures and to give assurance as to their reliability and independence.

SME banking

99. The BBI website was launched in November 2013 originally intended as a “go-to-hub” for SMEs seeking to compare the service provided by BCA providers. The BBI survey already fulfils the function of collecting and disseminating data on service quality for SMEs banking and we believe that the aims of the CMA would be best served by enhancing the BBI survey and building on the foundations already laid.

Key facets of service quality for SMEs

100. BCA providers compete on a range of price and non-price parameters and this is why we consider it important that the PCW for SMEs should include service quality.⁷⁶ In addition to service quality metrics identified above that are typically used by PCA customers,⁷⁷ SMEs also judge the service quality of banks in terms of their:

- a. general customer service provided by their designated relationship managers or branch-based business specialists and telephone banking operator (where there is no designated relationship manager);
- b. understanding of their business, industry and local economy;
- c. interests shown in the SME’s businesses; and
- d. availability of finance.

101. SMEs of different sizes and banking needs are likely to place different weight on different facets of service quality. For example, larger SMEs with designated RMs and more complex financing requirements are likely to place more value on the service and expertise of the RM and the availability of finance.

BBI survey

102. Some of these service indicators are covered in the BBI survey, which examines the performance of individual banks as reported by 20,000 SMEs in the UK via telephone surveys. The current BBI survey has extensive demographic and geographic reach but responses from smaller and newer banks are low simply due to their current market share. This could potentially be addressed if challenger banks provided customer data to the BBI, with customer consent, to enable their customers to be interviewed.

103. The BBI survey provides objective and independent information on service attributes to allow SMEs to collect and compare information on banks’ service quality. HSBC considers that the introduction of the BBI survey has increased transparency around SMEs’ customer experience and also helps increase the profile of some of the smaller providers. It was on this basis that HSBC (and other banks) advocated the inclusion of service quality as a parameter for comparison in the price comparison website in the UIL package, to help drive customer engagement.

Existing workstreams to enhance the BBI survey

104. However, the level of traffic to the BBI survey website has not been as high as desired and has tailed off since it was launched on 28 May 2014. As previously submitted, HSBC is of the view that more can be done to promote the BBI survey to increase awareness. *[redacted]*. A considerable amount of work

⁷⁶ See above in respect of Remedy 4.

⁷⁷ See paragraph 88 above.

was undertaken in 2015 to scope out potential improvements to the survey. There are three core work streams that are currently being undertaken within the BBI to enhance the quality of the survey and profile of the website:

- a. **Research sub-committee** – The role of this sub-committee is to work alongside the Federation of Small Business (FSB), British Chamber of Commerce (BCC) and the survey partner to provide guidance improvements that can be made to the quality of the BBI survey, including on survey methodology, sample sizes and the analytical framework.
- b. **Website sub-committee** – The role of this sub-committee is to work alongside the FSB, BCC and the designated website partner to provide advice on improvements that can be made to the BBI website, including on the functionality and the “look and feel” of the website.
- c. **PR sub-committee** – The role of this sub-committee is to work alongside the FSB, BC and the designated PR partner to provide advice on improvements that can be made to enhance the PR aspect of the BBI survey, specifically on raising awareness of the BBI survey and related promotion of the website.

105. The CMA should focus on building on the investment that has already been made on the BBI survey to realise its full potential, rather than seeking to secure funding and procuring a third party to start a separate initiative. HSBC would encourage the CMA to engage with the BBI in order to explore the degree to which the current work addresses this remedy. The BBI Advisory Group commissioned research in Sept/Oct 2015 with SMEs which found that (a) the concept of BBI appealed strongly to all SMEs who reported that they wanted insight into the tangible aspects of service, though (b) awareness of this survey was very low. The Advisory Group will be using the insight from this research to address the issues around usability and awareness.

Dissemination of service quality information

106. In terms of the dissemination of the service quality information, the PCW for SMEs (Remedy 4) can also be used as a key channel for the dissemination of the BBI survey results, to allow SMEs to compare service quality alongside price as between providers as they shop around for their BCAs, small business loans and formal overdrafts. The Advisory Group of the BBI survey suggested that banks could or should provide a link on their websites to the BBI. Such a requirement could boost awareness. While some SMEs will want to interrogate BBI for particular aspects, we consider that scoring for a small number of categories of key parameters (for example, such categories could relate to product offering, customer service and channels) should be displayed on the PCW for simplicity. Minimal oversight or monitoring will be required if arrangements can be put in place for the BBI survey results to be fed into the PCW directly on a regular basis, so that the information will be accurate, up-to-date and not misleading.

Remedy 6 – Standardise and simplify BCA opening procedures

107. The CMA provisionally found that the account-opening process can be lengthy and onerous for SMEs, particularly because of banks' processes for undertaking anti-money laundering (*AML*) compliance and Know-Your-Customer (*KYC*) checks. In order to facilitate the account-opening process, the CMA is considering requiring firms to agree to adopt a "common form and common data and evidence requirements" during the account opening process, which banks would be able to use to undertake their own risk assessments.

HSBC's views on remedy 6

108. This remedy also forms a constituent part of *[redacted]*. HSBC is supportive of the industry adopting a "common form, common data, and common evidence" approach as the standardisation and simplification of BCA opening procedure would make BCA customers' first and formative experience as clear and straight forward as possible. BCA customers would also become more familiar with the requirements and know, for any subsequent switching, which account opening data could be substantially "recycled" and which information would be required to be "refreshed" in order to fully supplement/update the CDD data pack. This Remedy would be effective in addressing the CMA's concerns regarding perceived costs and hassle of switching, especially given that across the market there are c. 500,000 new SMEs every year that need a BCA. It would also reinforce the PCW and other proposals aimed at stimulating engagement on the demand side.

109. The standard account opening form should cover information that all BCA providers typically require for BCA opening, including for example:

- a. Basic information about the business, its owners, principal contacts and activities. This will include trading name, trading address, any registration and stock exchange listing information, a description of activities and where in the world these are undertaken and an understanding of the customers;
- b. The legal status and ownership of the business, such as the date the business was established, the country and date of registration supported by any business structure and organisational charts to understand levels of ownership including ownership splits and ultimate beneficial owners (and where the business ownership is through more complex structures such as trusts or with overseas operations, additional information would be required);
- c. Proof of identify and address from the shareholders, directors and those who control the accounts (e.g. driving licence or other ID requirements);
- d. Questions and supporting information to understand source of funds (i.e. origin of any money to be transferred into the account) and source of wealth (how the money was originated);
- e. Supporting information to understand trading activities, such as evidence of registration to any professional bodies, or that regulation permission and registrations have been obtained;
- f. Information to support legislative requirements in the UK and overseas (e.g.: Immigration Act in the UK and Common Reporting Standards and Foreign Account Tax Compliance (FATCA) recently introduced by the US Internal Revenue Service);
- g. Product details including the expected payments into and out of the account, whether these are cash, domestic or originated / sent cross-

- h. Details of the product required (e.g. whether the company is seeking foreign currency accounts, savings accounts in addition to cheque and paying-in books).
110. The “CDD pack” could take the form of a pre-populated version of the standard account opening form completed from existing bank records via open API. BCA switcher customers will be able to re-use much of this “CDD pack” and supply only additional information by way of a refresh where necessary, and with customer verifying the information supplied. While HSBC is supportive of the adoption of a common form and common data capture, individual banks would remain responsible and accountable for their own Financial Crime Compliance and AML assessments as FCA / PRA principles require that banks adopt their own risk-based approach to assessing these risks and BCA providers may choose not to solely rely on CDD that has been undertaken by the customers’ current bank (and verified by the customer). For each BCA switcher customer, the switching provider would therefore need to conduct their own KYC checks on the basis of the customer’s “CDD pack” (which may contain additional information as supplied by the customer).
111. For this Remedy to work effectively, the CMA will need to give careful consideration to the types of SMEs to which this Remedy should apply. It will benefit most smaller SME customers with simpler business structures (such as sole traders, simple partnerships and incorporated bodies with a single layer of ownership) that are generally “low risk” from an AML standpoint. It is envisaged that the majority of these SMEs will not need to provide additional CDD information at the account opening stage and in subsequent refreshes. This Remedy is unlikely to suit SMEs considered a higher risk from an AML perspective with complex business structures (including charities, trusts, non-bank financial institutions and financial institutions), or business with multiple levels of ownership or overseas ownership, as BCA providers would typically require more information and supporting evidence from these types of businesses in order to conduct more in-depth AML and KYC checks. It is essential for these customers to understand that banks may need to request further information above and beyond those required in the standard form. *[redacted]*.
112. *[redacted]*.
113. While we are supportive of measures to streamline account opening procedures, we do not consider any outcome measures (for example, prescribing the time allowed for banks to complete BCA account opening) to be appropriate. As noted in our previous submissions, the time it takes to open an account (or indeed any product) is dependent on factors including: (i) when all the necessary information has been received from the customer; (ii) the channel (internet, branch, relationship manager) used to make the application; and (iii) where the customers requires confirmation of lending products such as loans or overdrafts before opening the account, whether a scored or judgemental credit process is utilised. HSBC strives to and remains incentivised to open BCAs and other banking products/services as quickly as possible in order to both fulfil our customers’ expectations for speed of product approval and actively compete for new business.
114. Standardisation of account opening processes can never cover every aspect of procedures and data capture: banks must be free to improve and compete on certain aspects of the account opening process: for example, HSBC has invested heavily in our Multi-Channel Account Opening (*MCBAO*), a pioneering service aimed at simplifying and streamlining the BCA opening process, allowing customers to complete the process in their channel of choice.
115. In the short term, there will necessarily be some diversion of resources to adapt existing tools to incorporate the standardised account opening form and conform to industry standards. We expect that it

would take approximately 24 months to implement this Remedy once common industry standards are agreed. We strongly encourage the CMA to engage with HMT and financial regulators to devote additional resources to develop open APIs and drive providers to adopt as a priority.

Other considerations

116. As there will be no change to the protections currently provided under applicable AML legislation and regulations, the dynamic nature of CDD/KYC and related regulatory requirements mean that any standardisation would need to adapt to the changing regulatory requirements on an on-going basis. For instance, since this Remedy was proposed at the UIL stage, there have been significant external regulatory changes (including the Immigration Act, FATCA and Common Reporting Standards) that have had an impact on the information required for BCA account opening. Whilst regulatory change will apply across the industry, individual banks should and do take a risk based approach which will always lead to different interpretations to regulations. As there is scope for disagreement amongst BCA providers on information requirements, an appropriate body (for example within CASS) will need to be in place to manage and agree future changes to the standardised approach.

Remedy 7 – Make it easier for prospective PCA customers to find out, before initiating the switching process, whether the overdraft facilities they were seeking would be available to them from another provider

117. The CMA wishes to ensure that customers are able to obtain the required overdraft facilities prior to closing their old account. The CMA has identified two possible variants of the remedy:
- a. Requiring providers to make a tool available on their website to help potential customers assess whether they would be likely to be granted an overdraft facility of a certain size or type.
 - b. Requiring providers to give customers a firm decision on an overdraft before the customer closes his old account. The CMA prefers this option (as it is more definitive).

HSBC's views on remedy 7

118. HSBC already provides customers with a firm decision on the overdraft facility that would be available to them at account opening, prior to the initiation of any switch through CASS.
119. We support the option to make a tool available which enables a customer to gain an indication of the likely overdraft facility he may have available to him, based on two or three key financial data points (for example, gross annual income, credit card balances, monthly loan repayments). This would not be a contractually binding quotation. Such a tool could be developed along similar lines to the current, "how much can I borrow" tool we have in place for mortgages, which does not leave any credit footprint.
120. We do not believe that a partial CASS switch would affect the overdraft facilities available to a customer with a new provider. Partial switching does allow customers to retain their existing overdraft.

Remedy 8 – Require payments into the old account to be redirected to the new one for a longer period than at present

121. The CMA considers that the limit on the redirection period of 36 months may deter customers from initiating a switch, because of the risk that payments made into their old account at the end of the period would be lost.

HSBC's views on remedy 8

122. An initiative is in place to move to an indefinite redirection period for regular payments such as standing orders and direct debits, combined with a period of 36 months for one off payments. The deadline for implementation is September 2016.

123. A move to an indefinite redirection period for payments other than regular payments would face obstacles. A constantly expanding redirection database, potentially with multiple redirections per account, would generate increased risk for the proper functioning of payment systems, as new types of complexity would be added into payments system infrastructure. The CMA is correct to highlight the incentives of payors: an indefinite redirection period may indeed have an adverse impact on their incentives to change payment details.

124. We consider that the redirection period for other payments could be extended to five years, without generating the risks that an indefinite period would generate. We consider that this would complement the indefinite period for regular payments. We consider that this approach should stop customers being deterred from initiating the switching process because of the risk that payments made into their old account would be lost.

125. As a further safety net, we consider that changes could be made to who is notified in the event that a payment continues to be made to an account which is subject to a redirection. At present only the payor (not the customer benefitting from the payment) is notified if they have remitted funds to an account that has had a 'redirection' in place. It would make sense to extend notifications to payees as well as payors. A notification to payors that the redirection period is about to expire may also be an effective way to ensure that payors update their details.

126. As regards ANP, we consider that CASS – especially a CASS which benefits from some of the enhancements identified above - offers all of the key benefits offered by ANP. ANP is unnecessary, ineffective and disproportionate: CASS is already highly effective in its execution of "hassle-free" switching - it is unclear that there is any material additional customer benefit by introducing ANP. The CMA's focus should be on enhancing CASS and improving levels of awareness of, and confidence in, CASS (i.e. Remedies 2, 8, 10, 11 and 12). Further, the high costs and complexities of implementing ANP outweigh any benefits (e.g. Moorhouse report as part of the FCA's review stated costs estimates ranging from £1 billion to £10 billion (with further running costs). Finally, ANP is already being assessed by the PSR, which may be better placed to take forward any work.

Remedy 9 – Require banks to retain and provide ex-customers, on demand, with details of their BCA and PCA transactions over the five years prior to their account closure

127. The CMA considers that customers may be deterred from switching because they may lose access to their account transaction history (which is now likely held only online and not in paper form). The CMA is considering a requirement for banks to make available on demand to customers transaction histories for five years prior to the closure of their accounts.

HSBC's views on remedy 9

HSBC's current retention policy for BCA and PCA transaction history

128. HSBC already offers what the CMA is proposing under this Remedy and agrees with the CMA that all PCA and BCA providers should make available ex-customer's transactional data if that would facilitate switching.

129. As required by various laws and regulations, HSBC already retains 6 years' worth of account transaction history for PCA and BCA customers, which we make available to all existing and ex-customers on demand via copy statements for a small fee. Any current and ex-customers can demand their account transaction history provided that the request falls within the retention period. We do not currently provide account transaction history to customers at the time of account closure as a matter of standard practice as we have not identified a demand for such requests. It is worth noting that, prior to account closure, PCA and BCA customers also have the option of downloading their statements going back 6 and 8 years (respectively) via internet banking at no charge.

Appropriate retention period of account transaction history to facilitate switching

130. We consider five years' worth of data (to be made available by copy statements) to be more than sufficient. If all PCA and BCA providers were mandated to provide account transaction history covering a five-year period on-demand, ex-customers should be able to obtain records from their previous account providers that fall within the retention period. In other words, ex-customers making a request two years after account closure should be able to obtain their account transaction history of their most recent three years with HSBC prior to account closure (as two years have already elapsed).

Whether account transaction history should be provided automatically or on demand

131. We believe that requiring providers to offer copy statements of account transaction history on demand is more efficient both for the providers and the customer than if providers were mandated to automatically provide all ex-customers with transaction history at account closure which they may not require. We currently charge a fee for the provision of copy statements for both existing and ex-customers and providers should continue to be permitted to charge for the provision of this service as there are costs associated with storing data and also administrative costs of making the data available. It should be noted that the charge applies to both existing and ex-customers.

132. We do not foresee any technical or regulatory obstacles (whether from PSD2 or other regulations under the SBEE Act) in implementing this remedy, given HSBC (and other banks) already provide this service. On this basis, we also do not consider it to be either necessary or appropriate for Bacs/CASS to play a role in this process.

133. Overall, HSBC already offers what the CMA is proposing under this Remedy. Notwithstanding that, with the emergence of open data and API standards (as further detailed below in relation to Remedy 14),

account transaction history may well become accessible via those channels without the need for customers to approach their former PCA/BCA provider directly, thus partially obviating the need for this Remedy. We therefore recommend that a “sunset” clause be put in place to allow providers to periodically revisit the need to maintain the service required under this Remedy to provide customers with their transaction histories.

Remedy 10 – Require Bacs to transfer continuous payment authorities on debit cards when switching through CASS

134. The CMA considers that customers may be deterred from switching because they would have to transfer continuous payment authorities from their debit cards themselves. The CMA is therefore considering a requirement for all providers to include debit card CPAs within the scope of the switching service.

HSBC’s views on remedy 10

135. We refer the CMA to the submissions of the UKCA and Bacs on this issue, with which we agree. We do not have anything further to add to those submissions.

Remedy 11 – Require all banks to support the partial switching service and to provide an equivalent guarantee to that offered as part of CASS

136. The CMA considers that CASS partial switching addresses three of the problems which it has identified in its analysis:
- a. Customers can experience a new provider’s service quality before they leave their existing provider.
 - b. By retaining the old account, the customer will continue to be able to benefit from continuous payment authorities on the old debit card.
 - c. Customers may be able to retain their existing overdraft facility until they are clear that the new provider will offer them an equivalent facility.
137. In light of these benefits, the CMA is considering a requirement for providers to offer a guarantee to partial switching customers in respect of:
- a. the ability to choose a switch date;
 - b. the ability to transfer all or selected payment arrangements automatically;
 - c. the completion of the switch within seven working days;
 - d. the option for the customer to ask for automatic redirection of incoming payments accidentally sent to the old account (in place for 36 months);
 - e. the option to ask for transfer of balance in the old account to the new account on the date of the switch; and
 - f. the refunding of any interest paid or lost and any charges made on either the old or new account if anything goes wrong with the switching process.

HSBC's views on remedy 11

138. HSBC supports this remedy as it will be address potential barriers to switching for certain customers, and therefore be effective in encouraging additional customers to switch or multi-bank.
139. We consider that partial switching is likely to be of particular interest to SME customers (with turnovers below £6.5m), who may have more complicated banking arrangements than PCA customers, requiring them to retain their old bank account for a short while. . There is however a risk that SME customers could leave their old account open, and continue to incur “double” charges, and/or build up an overdraft balance over time: this concern could be addressed through a reminder sent to the customer a period of time after the partial switch has taken effect. Customers would benefit from partial switching where banks hold a debenture as security for an overdraft, or other lending product, which require customers to place all debtor collections through the BCA: a partial switching process would allow time to switch the debenture and overdraft from the old bank to the new bank, as a package.
140. It is likely to continue to be of interest to PCA customers, who wish to try before they buy, or who may have more complex banking arrangements.
141. Some of the features identified by the CMA already available to customers:
- a. The customer can already choose to transfer all or only selected payments.
 - b. The service determines the date from which the new payment arrangements will take effect. This in effect amounts to the partial switch date.
 - c. Payment arrangements can be transferred within seven working days of the customer instruction. The seven working days can only commence when the customer instruction is given.
142. There are some risks inherent in enabling customers to redirect all incoming payments, but not transfer all outgoing payments. For example, if the customer chooses to transfer some, but not all payments, and then transfers his balance to the new account, he will need to remember to put funds back into the old account to meet the ongoing payment obligations that have not been transferred. This risk would need to be mitigated by careful customer contact strategies.
143. We agree that the provision of a guarantee to refund any lost/paid interest in the event of any errors in the switching process would increase confidence in the process.

Remedy 12 – Changes to CASS governance

The CMA considers that the current balance of influence between providers who are likely to be net losers and providers who are likely to be net winners from the switching process may not align with the objective of promoting CASS. The CMA considers that providers who are net losers may be able to frustrate attempts to improve and promote CASS or develop new products.

If the governance of CASS was changed to give more influence to net gainers, it would provide those managing the service with the necessary incentives to promote CASS and operate the service in the interests of customers. CASS's management would have a great motivation to continue to seek out ways to improve the switching service over time.

The CMA considers that changes could be made to the size or composition of CASS's management committee, or its voting arrangements, or higher level oversight.

HSBC's views on remedy 12

144. There are 26 member banking groups on the CASS management committee. Each banking group has a right to only one vote. A 75 per cent voting majority (i.e. 20 or more votes if all members vote) is required for measures to be implemented. This means that smaller banks have a significant influence over policies, and it is not possible for larger banks to veto proposals.
145. Nonetheless, we consider that the governance of CASS can be improved, to ensure more strategic and customer focused approach:
 - a. Independent oversight (independent directors with votes) would ensure that the board had a clearer focus on delivering better outcomes for customers.
 - b. In combination with point (a), attendance by more senior members of staff from each member bank would ensure that a more strategic approach is adopted. Each staff member should have PCA and BCA understanding.
 - c. Smaller providers do not currently attend all meetings. They should be encouraged to attend, or a mechanism should be found to reduce the number of members, through smaller providers pooling their resources into the support of a single representative.
 - d. PCWs should be given an opportunity to sit on the governance committee for CASS (provided they are prepared to make a small contribution to its costs). PCWs are likely to have incentives to ensure that CASS is highly effective.

SME Lending – Remedies 13, 14, 15

Remedy 13 – Data sharing with credit reference agencies

146. The CMA is considering making recommendations to HMT that it uses its powers under the SBEE Act to require banks to pass to CRAs such SME transaction data as will enable them to provide reliable credit assessment information in respect of loan applications.

HSBC's views on remedy 13

147. HSBC has been an advocate of regulatory proposals aimed at increasing access to SME credit data and has previously submitted to the CMA back in January 2014 (as part of the HSBC-UIL package *[redacted]*⁷⁸) that it should encourage the government to give legislative priority to proposals that would enhance the quality of credit decisions of all providers for new-to-bank customers and reduce any barriers to entry and expansion.
148. Lenders (including HSBC) already provide transaction data to Credit Reference Agencies (**CRAs**) on a voluntary basis and the legislation will extend the data pool to cover all SMEs and provide access to a greater number of SME lenders, including non-BCA providers that do not currently have access to BCA transaction data.

The Small and Medium Sized Business (Credit Information) Regulations 2015

149. As the CMA will be aware, the government published a consultation (Competition in Banking: improving access to SME credit data⁷⁹) in December 2013 which sets out its proposal to require banks to share information on their SME customers with other lenders through CRAs. The consultation focused on the detail of what the legislation should cover, in particular what data should be shared. Following the consultation, the data sharing requirements have been set out in the Small and Medium Sized Business (Credit Information) Regulations 2015 (the **Regulations**)⁸⁰, which have been laid before Parliament and will become law on 1st January 2016. The British Business Bank is currently undertaking due diligence prior to making a recommendation to HMT on which CRAs and BCA providers shall be designated as the recipients and providers of the BCA transaction data.
150. In our view, the data sharing requirements as required under the Regulations are entirely fit for purpose and meet the CMA's objectives in connection with this remedy. These Regulations will stimulate competition and innovation in SME lending as they will improve the ability of challenger banks and alternative finance providers to conduct more accurate SME risk assessments and, by levelling the playing field between providers, make it easier for SMEs to inquire for and take out a loan from a lender other than their BCA provider. In particular, the Regulations will complement and support Remedy 4 (PCW for SME) and Remedy 15 (loan pricing and eligibility indicator tool).
151. The majority of the respondents to the consultation (which included major banks, challenger banks, alternative finance providers, CRAs, business groups, trade associations and other interested parties) agreed with the principle that data should only be shared when an SME has given its permission. In general this permission is given through the SME agreeing to the terms and conditions of a product,

⁷⁸ *[redacted]*.

⁷⁹ HM Treasury Consultation on "Improving Access to SME credit data" (<https://www.gov.uk/government/consultations/competition-in-banking-improving-access-to-sme-credit-data>).

⁸⁰ The Small and Medium Sized Business (Credit Information) Regulations 2015 (<http://www.legislation.gov.uk/ukdsi/2015/9780111138861>).

including those that allowed data to be shared with a CRA. Most financial institutions already require customers to agree that data would be shared with CRAs as part of the terms and conditions of offering their services. This is a recognised and established industry procedure and therefore there is no obstacle to obtaining consent from SME to share their bank data with CRAs.

152. Although we consider it unnecessary, if HMT were to mandate the sharing of more detailed BCA data, such as transactional data, to the extent this is not already covered in existing BCA terms and conditions, SME consent could be obtained through *[redacted]*. We do not foresee potential obstacles to the current proposal on grounds of data confidentiality. SMEs have the right to “opt out” under the current voluntary arrangement and will also be able to do so under the Regulations. We believe SME customers should be given this option as part of any new proposal.

Potential unintended consequences

153. We would caution the CMA against imposing any mandatory obligation on lenders to prompt SMEs to look for alternative sources of funding whenever SMEs have a borrowing requirement, or mandating the exposure of all lending applications made to an incumbent to a wider market. Not only may such initiatives wrongly signal to SMEs that the lender is not willing to lend, it could potentially delay the process for SMEs seeking finance, typically at short notice. As the CMA notes in the PFs, speed in lending decisions is a key requirement for SMEs looking for finance.⁸¹ Such intervention may well have the unintended consequences of SMEs not being able to obtain credit in a timely manner, leading to reduce lending to SMEs and customer dissatisfaction. Further, it may also remove incentives for lenders to compete for lending and distort the natural process of competition between lenders. It is important to note that these government designated portals are not ‘closed’ and SMEs have the ability to use them in the initial phase of seeking finance. We would expect that over time, as awareness and familiarity with the data sharing portals increases, a growing number of SMEs will approach these platforms directly. On this basis, we consider any mandatory obligations to be unnecessary and disproportionate, given Remedies 4 and 15 would provide SMEs with all the necessary tools to engage in an active assessment of competing offerings.
154. HSBC does not consider there are further enhancements either the CMA or providers can offer which will improve the impact of the new legislation which we believe will address any AEC the CMA may have identified in these respects.

⁸¹ CMA Provisional Findings, para 10.233.

Remedy 14 – Commercial open data and data sharing proposals

155. This remedy is intended provide a technical solution to the problems SMEs face in arranging loans with providers other than their BCA bank, by making those lenders better equipped to appraise the creditworthiness of SMEs. The proposal would allow SMEs to submit, or give others permission to access, a wide range of data in support of a loan application in a standard format, thus obviating the need for multiple applications using different supporting material and application forms. The CMA considers that the data concerned could include not just the SME's transaction or credit history but other information such as business plans and forecasts. The CMA envisages that this remedy could build on existing HMT initiatives to establish commercial networks through which commercial information could be shared between SMEs and financial services provider.

HSBC's views on remedy 14

Open Banking Working Group

156. As noted above, HSBC is supportive of measures that would increase the general availability of SME credit data. The UK Government has ambitions to be a market leader in open bank data and the Open Banking Working Group (comprising banking, open data and FinTech professionals) was established at their request to develop a framework for adopting an open API standard across banking and explore how open banking will impact consumers, regulators and industry. HSBC is already heavily engaged in work being carried out by HMT on this front. Apart from being a member of the Open Banking Working Group⁸² Steering Committee, *[redacted]*. There is general consensus (including amongst respondents to the HMT consultation on Open Data Initiative⁸³ that open API standards can be delivered in the UK within 2 years).

157. The adoption of an open API standard in the UK banking market will allow banks and third-party developers to create radical new ways to make available banking data for use by SMEs and lenders. The emerging thinking is that intermediaries (such as price comparators) will be able to gain access to customer data (subject to customer consent⁸⁴) which they can use to pro-actively recommend to customers a range of deals available in the marketplace. This could extend to BCAs and lending. The availability of such data to market participants will transform SMEs' current "shopping around" experience and overcome issues that the CMA has identified with Midata which relies on customers taking the initiative to download and evaluate their own data. Many of the remedies proposed by the CMA (in particular Remedy 1 (Trigger) and Remedy 4 (PCW for SME)) will benefit from the increase in access to data being made available this way via open API standard.

158. We note though that the open API standard would not provide a solution to the sharing of business plans and forecasts, which the CMA's proposal covers, unless there was an industry standard business plan/forecast template. In any event, we query the usefulness of including such information for smaller loans (intended to be covered by the loan price and eligibility indicator) where the credit risk assessment

⁸² Open Banking Working Group Terms of Reference (<http://theodi.org/news/open-banking-working-group-terms-of-reference>)

⁸³ HM Treasury - Data sharing and open data in banking: response to the call for evidence dated March 2015. (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/413766/PU1793_Open_data_response.pdf)

⁸⁴ For BCAs, for example, we envisage customers consenting to receive periodic evaluations say twice a year, at which time a decision to switch or renegotiate can be made. Careful consideration must be given about how to protect customers personal and banking information; which can be highly sensitive – and which will be accessible by third parties.

is driven by CRA scoring (as further discussed below in relation to Remedy 15). For larger loans, credit risk will usually need to be judgmentally assessed and require a qualitative (and often interactive) review of company business plans and forecasts.

Regulatory risks

159. The key obstacle to delivering open API standards in a shorter timeframe relates to regulatory rather than technical issues concerning data confidentiality and fraud risk, amongst other things. There is a specific sub-group within the Open Banking Working Group which is already looking at how such regulatory risks can be addressed, which include for example:
- a. *[redacted]*.
160. All participants in the initiative will have to meet a high level of security standards to help safeguard the integrity of customer data and to preserve the stability and trust in the banking system. Any breach of confidentiality will cause a serious loss of confidence and potentially a breakdown in the banker-customer relationship. An option is for the government to establish a body whose purpose is to regulate access to the banking API by third parties; or grant powers to an existing regulator such as the Data Protection Commissioner or FCA.
161. The HMT remains well placed to take forward the development the Open Data initiative. Given the number of existing work streams that the industry is already supporting HMT on in delivering this initiative, HSBC does not consider there to be other additional initiatives that can be built onto what the HMT is already leading on at this stage. We strongly encourage the CMA to engage with HMT and financial regulators to devote additional resource to develop open APIs and drive providers to adopt as a matter of priority.

Remedy 15 – Require banks to provide a loans price and eligibility indicator

162. This remedy is intended to make it easier for SMEs to obtain a quick and reliable loan estimate from a provider they do not already have an existing with. The CMA is considering requiring loan providers to make available on their websites a tool which would permit SMEs to enter the amount they wished to borrow and over what period, together with either their credit rating or questions which would enable the provider to assess their credit worthiness, and for the provider to give an indication as to whether and on what terms they would be willing to make a loan.

HSBC's views on remedy 15

163. As indicated in the Behavioural UIL package put forward in the CMA's Phase 1 inquiry, HSBC is supportive of measures aimed at increasing comparability of loan offers as it will facilitate easier and quicker comparison by SMEs of loans and overdraft offers across different finance providers.

Alignment with PCW for SMEs (Remedy 4)

164. HSBC is supportive of incorporating this tool into the PCW (Remedy 4) on the SME loan and overdraft section for it to apply across providers, such that it would be designed to auto-populate across the calculators of various lenders and present it in the standard way to the customers on the PCW. This would facilitate cross-providers comparison and significantly reduce the search time for SME customers. It would also eliminate any risk that customers may receive different indicative prices depending on whether they use the PCW or providers' websites.

Design of the loans price and eligibility indicator

165. In order for this loans price and eligibility indicator to function effectively, it should apply only to small business loans or formal overdraft arrangements that lenders are typically able to price quickly on the basis of credit score. On this basis, the tool should cover small business loans and formal overdrafts of up to £25k,⁸⁵ such that SME customers would benefit from being able to find out the indicative pricing of loans and overdrafts quickly for easy comparison across providers. The allocation of credit score band that drives the decision in principle in terms of both eligibility and price can be determined from the customer's CRA credit score (which banks are already able to source directly from CRA).

166. Any "indicative" offer in the decision in principle needs to be a reasonably reliable indicator and therefore of value to SMEs when comparing between providers. The use of a CRA credit score would enable lenders to determine eligibility and pricing more accurately (even if the score is subject to validation when a full credit assessment is undertaken), therefore minimising any potential discrepancies between the "indicative offer" and the "final offer" and any potential disappointment. Moreover, the use of a CRA credit score to provide an "indicative offer" (rather than to undertake a full credit assessment) would not leave a record on an SME's credit history and, therefore, would not have a negative impact on its credit score. SMEs are becoming increasingly aware of the use and value of credit scores.

167. To further improve lenders' ability to assess risk and pricing, the tool can include a set of 6-7 questions about the borrower's business (e.g.: *[redacted]*) to supplement the CRA score. The set of questions should be designed by an independent body such as the Business Information Providers Association (*BIPA*) and agreed across the industry. There should also be a standardised set of metrics for

⁸⁵ This would include small business loans covered by the Consumer Credit Act 2006.

the calculation of the credit banding. Lenders would remain free to adopt their own credit assessment based on customer input to assess and price risk in accordance with their own risk appetite.

168. We are in favour of this more tailored approach as a simplified proposal, such as providing headline or average historical rates by different providers, would be of limited practical use to SMEs given the pricing of loans and overdrafts can vary significantly depending on the SME's credit risk rating. At present, customers would only be able to obtain an indicative pricing of loans or overdrafts that reflect their credit risk rating by putting through a credit application, which may leave a record on their credit history and which may have a negative impact on their credit score. Lenders typically interpret multiple credit searches as potentially an indicator of higher credit risk as it could mean that the customers were (a) seeking and failing to secure lending on multiple occasions and/or (b) securing multiple lines of credit. This remedy would give customers more freedom to make comparisons of competing lending products, without having to worry about the negative impact that multiple applications for credit may have on their credit score when they are genuinely shopping around for the best offer.

169. It is though important to manage customers' expectation by making clear that the decision in principle is intended to operate as an indicative offer only that is subject to full credit, KYC and other assessment in the usual way. Given the borrowing is risk-assessed and priced based on input from customers (albeit as accurately as is permissible on the website), lenders must be able to reserve the right to vary or withdraw the indicative offer if the SME did go forward with the loan application.

Requirement for lenders to set out terms of lending in standard form

170. There is already a degree of standardisation of loan documents for small business loans regulated by Consumer Credit Act, which prescribes the requirements for lenders (including HSBC) on how to present the terms of lending (including loan amount, term, charges, early repayment charge, pre-payment charge). This currently applies to small business loans to sole traders and partnerships only but we would support these standard form requirements being extended to small business loans to limited companies.

Promotion

171. Given we anticipate that this tool will be built into the PCW for SMEs (Remedy 4) and also be displayed on the website of individual lenders, marketing of the PCW can supplement any further promotion by individual lenders, either directly to customers via front-line staff or when launching specific SME lending initiatives, or more generally by raising awareness in various business groups.

Monitoring and enforcement

172. Once the design of the tool has been agreed and built into the PCW for SMEs and on individual lenders' website, there is little need for ongoing monitoring or enforcement. The commercial operator for the PCW will be incentivised to maintain the tool. Likewise, it is also in lenders' interests to ensure that any information presented on both the PCW and on their own website are current and accurate.

ANNEX 1

CONCERNS OVER THE ROBUSTNESS OF THE CMA'S PRICING ANALYSIS

1. The PFs overstate the extent and impact of customer disengagement in the PCA and SME banking markets, *inter alia*, by overstating the potential gains from switching PCA providers (from which disengagement is inferred by the PFs).
2. In particular, flaws in the CMA's pricing analysis have led to an overstatement of the potential monetary gains from switching PCAs for the following reasons:
 - (a) **The analysis excludes any benefits associated with customers holding other products with the same bank:** there are many different PCA models, and while the rewards for some PCAs focus on the product itself (e.g. credit interest), other PCAs (such as HSBC Advance) reward customers via preferential rates on other products (e.g. mortgages).⁸⁶ These additional benefits form part of a PCA's value proposition and so are often adjusted in light of changing competitors' offers.⁸⁷ HSBC has analysed the value of the 'other' benefits secured by recently switched Advance customers: the average annualised benefits were up to £[redacted] on the 'Regular Saver', £[redacted] on 'other savings products' and £[redacted] on the Loyalty Cash ISA with 'Save Together'.⁸⁸ These significant benefits are often important factors in decisions to switch accounts. In addition, these benefits are marketed to prospective PCA customers, not simply to existing PCA account holders. Consequently, the CMA's pricing analysis significantly overstates the price of PCAs with significant 'other product' benefits, thereby inflating the overall gains from switching.
 - (b) **The CMA has calculated gains from switching based on the average of the five cheapest products.** However, in a well-functioning market characterised by differentiated products, the long run equilibrium average price would not simply reflect the lowest observed prices. This is for three primary reasons:
 - (i) First, as the PFs note: "[i]n a market with fixed costs, providing the cheapest products to all customers may not be sustainable, because at these lower prices providers might not cover their fixed costs".⁸⁹
 - (ii) Second, as stated in paragraph 3.11 above, providers compete across a range of non-price parameters (as observed through many customers switching to providers with higher prices because they offer a better service proposition). A well-functioning market would not be characterised by all customers maximising their purely financial 'gains from switching'.

⁸⁶ See HSBC's response to the CMA's proposed PCA pricing analysis, dated 17 April 2015.

⁸⁷ For example, when Santander launched the 123 Account, HSBC responded in part by increasing the interest rates on its 'Regular Saver'. See the response to Question 14 of the HSBC PCA MQ Response.

⁸⁸ These numbers are based on HSBC's internal analysis of both CASS and non-CASS switchers from November 2014 to April 2015. This analysis was submitted to the CMA on 21 July 2015 in response to the CMA's further questions on SME relationship managers and proposed pricing analysis.

⁸⁹ See paragraph 26(e) of Appendix 5.4 to the PFs.

- (iii) Third, banks have different strategies and risk appetites, which will be one of many drivers of their pricing. This is again a source of differentiation and rivalry between providers, which would be expected in a well-functioning PCA market.
- (c) **The analysis of gains for overdraft users focuses on revenues rather than profitability, which is likely to lead to an overstatement of potential gains from switching.** This is because the analysis fails to take account of the fact that individual banks' pricing structures reflect expected losses associated with their specific customer mix and credit risk appetite. For example, a bank with a higher risk appetite (which is reflected in higher prices) may have permitted customers to incur a level of overdraft that would not have been offered by a bank with a lower risk appetite (which is reflected in lower prices). Therefore, a bank that is currently offering the lowest overdraft interest rates and charges may not have the risk appetite to take on higher risk customers who are currently paying higher interest rates and/or charges at other banks, or would charge higher prices to reflect the higher level of risk imposed by such customers.

ANNEX 2

THE PHASE 2 BDRC SURVEY: ROBUSTNESS AND KEY FINDINGS

1. The Phase 2 BDRC survey is an independent, ISO-compliant survey of 1,311 SMEs providing robust quantitative data on key areas that are directly relevant to the CMA's three theories of harm.
2. HSBC considers that it is unreasonable for the CMA to place more weight on the Charterhouse BBS simply because it is a telephone survey for the following reasons:
 - (a) The PFs provide no evidence as to why surveys sampled from online panels are likely to be biased in the context of the SME banking markets. A much higher proportion of SMEs conduct their banking activities using internet banking rather than telephone banking: according to the Charterhouse BBS, approximately 64% of SMEs reported online banking as their main channel in 2014.⁹⁰ Therefore, the types of SMEs that take part in online panels are likely to be more representative (and certainly no less representative) of the overall SME population than individuals that take part in telephone surveys (such as the Charterhouse BBS).
 - (b) Moreover, the CMA fails to consider that telephone based surveys suffer from biases: respondents will consist only of those who are available to be contacted by phone during business hours. This may not be representative of the wider SME population.
 - (c) The Charterhouse BBS presents an incomplete picture of customer engagement. As explained previously,⁹¹ the Charterhouse BBS provides limited evidence on the incidence of shopping around, the drivers of switching, why customers choose not to shop around, and how customer behaviour varies between different customer segments. These areas are covered in greater depth in the Phase 2 BDRC survey.
 - (d) The Phase 2 BDRC survey sought to capture a balanced and accurate view of SMEs' usage of different channels and their relative importance. Unlike the Charterhouse BBS, the Phase 2 BDRC survey asked detailed questions on SMEs' usage of different channels before asking questions on: (i) the importance that they place on branches and digital banking channels; and (ii) their impact on decision-making when shopping around and switching. As such, respondents would have had in mind their actual usage of branches and digital banking channels when answering such questions.
3. The CMA's failure to consider the findings of the Phase 2 BDRC survey properly means the PFs:
 - (a) **understate the level of customer engagement in the SME banking markets, in particular the levels of shopping around and switching.** The Phase 2 BDRC

⁹⁰ See paragraph 50 of HSBC's Branches WP Response.

⁹¹ AlixPartners, *Analysis of likely gaps in customer research for SME banking*, 3 December 2014, paragraphs 4.1 to 4.8.

survey shows that consideration of switching and actual switching is significantly higher over a two to five year time period (e.g. 32% of SMEs considered switching in the last two years and 43% considered doing so in the last 5 years).⁹² This suggests that customers are engaged in the SME banking markets, but over a timeframe that is longer than one year. Since a significant proportion of the SME population is still within the first few years of their life (and likely benefitting from free banking), and SMEs that have recently switched are likely to be on free banking tariffs, it is much more realistic to expect SMEs to consider switching over a longer timeframe than annually;

- (b) **underestimate the likely future usage of digital banking channels and non-traditional providers.** In particular, the Phase 2 BDRC survey found that:
- (i) before the use of digital technology, branches were visited once a week or more by 55% of SMEs; now only 29% use branches once a week or more; and SMEs' forecasts of their branch usage indicate that in three years' time only 21% will use branches once a week or more; and
 - (ii) 55% would consider an alternative to a "traditional" bank when considering where to open a new BCA⁹³ and 59% would consider an alternative to a "traditional" bank when considering where to obtain new external finance;⁹⁴ and
- (c) **overstate any "gateway" between PCAs and BCAs.** The Phase 2 BDRC survey found that when choosing their initial BCA: (i) 30% of SMEs did not consider their PCA provider at all; (ii) 30% considered several BCA providers (including a provider where they held a PCA); and (iii) only 40% considered just their PCA provider. Therefore, any "gateway" between PCAs and BCAs is not significant: when choosing their initial BCA, almost as many SMEs did not consider their PCA provider at all as those who only considered their PCA provider; and the same proportion considered several BCA providers.⁹⁵

⁹² See paragraph 4.61(b) of the HSBC UIS Response.

⁹³ A challenger bank with a few branches or an internet only bank.

⁹⁴ A challenger bank with a few branches, an internet only bank or a non-bank provider (e.g. peer-to-peer lenders).

⁹⁵ See paragraphs 6.54 to 6.59 of the HSBC UIS Response.

CONFIDENTIAL ANNEX 3 (REDACTED VERSION)

**CONCERNS WITH THE CMA'S ANALYSIS OF ANY RELATIONSHIP BETWEEN
INCUMBENCY AND AVERAGE PRICE**

1. The PFs assert that longer-established banks are able on average to charge higher prices. This is based on evidence presented in Figure 1 of Appendix 5.4 to the PFs, which shows a positive relationship between the length of time account-holders have held their main PCA account and weighted average prices.
2. However, our advisers' review of the CMA's analysis underlying Figure 1 of Appendix 5.4 has found that this alleged relationship is not based on robust evidence. In particular:
 - (a) While the data suggests that there may be a correlation between account tenure and price, the performance of the pricing model in explaining variations in prices is weak (with an r-square of only 0.489). This suggests that there are other factors that are driving price differences.
 - (b) Four smaller banks have skewed the suggested relationship between account tenure and price.⁹⁶ These four banks should be excluded from the pricing analysis for the following reasons:
 - (i) the four banks have been offering PCAs for a very limited time, which means their account tenure data will not reflect their long-run equilibrium position once these banks have been operational for a longer period of time;⁹⁷
 - (ii) *[redacted]* and *[redacted]* were unable to provide any account tenure information; and
 - (iii) their market shares are very small (all below **[5]**%), and three of the four banks have *[redacted]*. These banks are therefore not representative of the wider market.

Our sensitivity analysis suggests that excluding these four banks reduces the model's ability to explain variation in prices significantly (i.e. the r-square falls further to just 0.264). As such, this suggests that differences in prices are being driven by factors other than account tenure.
3. The account tenure information from banks is unreliable because IT system changes for certain banks have led to inaccurate account start dates for many customers.⁹⁸
4. Therefore, HSBC considers that the CMA's analysis is insufficient to be used to posit any relationship between incumbency and average price.

⁹⁶ These four banks are: *[redacted]*.

⁹⁷ For example, *[redacted]*.

⁹⁸ The PFs note: "Some banks have a large number of accounts which have the same start date. This is likely to be because customers have been transferred from one IT system to another, possibly as a result of a merger or acquisition, and all given the same account opening date regardless of when accounts were actually opened" (see the notes to Figure 1 of Appendix 5.4 to the PFs).