

RETAIL BANKING MARKET INVESTIGATION

DRAFT ORDER – CONSULTATION

The Retail Banking Market Investigation Order 2017

Background

1. On 6 November 2014, the Competition and Markets Authority (CMA) board, in exercise of its power under [sections 131](#) and [133](#) of the Enterprise Act 2002 (the Act) made a reference for a market investigation into the supply of retail banking services to personal current account customers and to small and medium-sized enterprises (SMEs) in the United Kingdom (the market investigation).
2. On 10 November 2014, the CMA [appointed](#) from its panel a group of five independent members to conduct the market investigation and publish a [final report](#). The group was required to decide whether any feature, or combination of features, of each relevant market prevents, restricts or distorts competition and thereby has an adverse effect on competition (AEC) and if so, what action should be taken.
3. In relation to personal customers, the CMA's [terms of reference](#) include only, in Great Britain and Northern Ireland the supply of personal current accounts (PCAs), which includes overdrafts. In relation to SMEs, they include business current accounts (BCAs), overdrafts, deposit accounts and lending products, but they exclude non-lending products such as insurance, merchant acquiring, hedging and foreign exchange.
4. On 9 August 2016, the CMA published its report on the market investigation, entitled [Retail Banking market investigation: Final report](#) (the Final Report), in which it concluded that:
 - (a) there are three separate (and, in certain circumstances, in combination) AECs in each of Great Britain and Northern Ireland in relation to PCAs, BCAs and SME lending;
 - (b) the CMA should take action to remedy, mitigate or prevent the AECs and detrimental effects flowing from them;

- (c) in order to address the AECs and resulting customer detriment, an integrated package of remedies should be imposed consisting of:
- (i) three cross-cutting foundation measures that will underpin increased competition in the reference markets which have the object of increasing customer engagement and making it easier for personal and business customers to compare the prices and service quality of different providers and of encouraging the development of new services;
 - (ii) additional measures to make current account switching work better, including building on and improving the existing current account switch service;
 - (iii) a set of measures aimed at PCA overdraft users, a group of customers who suffer particularly from the competition failures in the PCA market; and
 - (iv) a set of measures targeted at the specific problems in SME banking, enhancing SME access to information through new comparison tools, requiring banks to offer an indicative price quote and eligibility indicator tool, requiring banks to agree and adopt a core set of standards for SMEs opening a BCA and additional published information thereby reducing the hold that incumbent banks have in the market for BCAs and SME loans.
5. On 23 November 2016, in accordance with [section 165](#) of, and paragraph 2(1)(a) of Schedule 10 to, the Act, the CMA published a Notice of its intention to make an Order as part of a package of remedies to remedy, mitigate or prevent the AEC and any resulting customer detriment, which it had identified in the report.
6. The package of remedies will be implemented by: (a) this Retail Banking Market Investigation Order 2017; and (b) undertakings entered into by Bacs Payment Schemes Limited.
7. The Explanatory Note accompanying the Order provides an explanation of how the Order is expected to operate.

ORDER

Reference and power

The CMA makes this Order in performance of its duty under [section 138](#) and in exercise of the powers conferred by sections [86\(1\)](#) to (5) and [87](#) (each applicable by virtue of [section 164](#)), [161\(1\)](#), (3) and (4) and paragraphs 6, 8, 10, 17, 18, 21 and 22 of Schedule 8 to the Act, for the purpose of remedying, mitigating or preventing the adverse effects on competition and any detrimental effects on consumers so far as they have resulted, or may be expected to result, from the adverse effects on competition as identified in the report of the CMA entitled [Retail banking market investigation: final report](#) published on 9 August 2016.

PART 1

General

1. Title

- 1.1 This Order may be cited as the 'Retail Banking Market Investigation Order 2017'.

2. Commencement

- 2.1 Parts 1, 4, 10 (other than Articles 36, 39, 40 and 41), 12, 13 and 14 and Articles 10, 11, 16, 26, 27 and 43 come into force the day after this Order is made.
- 2.2 Article 12 of Part 2 (subject to Article 10.6) and Articles 36 and 39 of Part 10 come into force on 31 March 2017.
- 2.3 Article 40 of Part 10 comes into force once the winner or winners of the Open Up Challenge are in operation and actively providing their services to customers.
- 2.4 Article 41 of Part 10 comes into force upon the CMA giving notice to Providers that one of the trigger events described in Article 41.4 has occurred.
- 2.5 Parts 7 and 8 come into force 6 months after the day on which this Order is made.
- 2.6 Parts 5, 6 and 9 (other than Articles 26, 27, 33. 3 and 34) and Article 42 come into force 12 months after the day on which this Order is made.

- 2.7 Article 33.3 of Part 9 comes into force 15 months after the day on which the Order is made.
- 2.8 Article 34 of Part 9 comes into force (1) within 15 months after the day on which the Order is made (where providing access to at least any two finance platforms designated under the [Small Business, Enterprise and Employment Act 2015](#) (SBEE Act)) and (2) within 3 months of the end of the Open Up Challenge process where providing access to at least any two comparison sites, including one of the eventual winner(s) of the Open Up Challenge.
- 2.9 Part 3 (other than Article 16) and Article 13 of Part 2 comes into force 18 months after the day on which this Order is made.
- 2.10 Article 14 of Part 2 comes into force on 13 January 2018 subject to Article 10.6.

3. General application

- 3.1 Subject to Articles 4, 5 and 6:
 - 3.1.1 Part 2 applies to RBSG, LBG, Barclays, HSBCG, Nationwide, Santander in GB and NI and Danske, Bol and AIBG in NI;
 - 3.1.2 Parts 3, 4, 5 and 12 applies to all providers of PCAs or BCAs (or both) in GB and NI;
 - 3.1.3 Parts 6 and 7 apply to all providers of PCAs in GB and NI;
 - 3.1.4 Part 11 applies to all providers of BCAs in GB and NI;
 - 3.1.5 Part 8 applies to all providers of Unsecured Loans and standard tariff Business Overdrafts to SMEs, for values up to £25,000 in GB and NI;
 - 3.1.6 Part 9 applies to RBSG, LBG, Barclays and HSBCG in relation to the provision of SME Lending in GB;
 - 3.1.7 Part 10 (other than Articles 37 and 38.1) applies to RBSG, LBG, Barclays, HSBCG, Santander, Danske, Bol and AIBG in GB and NI;
 - 3.1.8 Article 37 applies to RBSG, LBG, Barclays, HSBCG and Santander in relation to the provision of SME Lending and BCAs in GB;
 - 3.1.9 Article 38.1 applies to RBSG, LBG, Barclays and HSBCG; and
 - 3.1.10 Parts 13 and 14 apply to any provider to whom any other part of this Order applies.

4. De minimis exemption

4.1 Subject to Articles 4.2 and 4.3, Part 3 does not apply in relation to the:

4.1.1 GB PCA market to Brands with fewer than 150,000 active PCAs in GB;

4.1.2 GB BCA market to Brands with fewer than 20,000 active BCAs in GB;

4.1.3 NI PCA market to Brands with fewer than 20,000 active PCAs in NI;
and

4.1.4 NI BCA market to Brands with fewer than 15,000 active BCAs in NI;

(the 'Part 3 Thresholds').

4.2 Part 3 will continue to apply to Brands in either the PCA or BCA markets (or both) that lose customers so that fewer active PCAs or BCAs are provided under the Brand than the relevant Part 3 Thresholds until:

4.2.1 there have been two consecutive calendar years in which at the end of each year the number of active PCA or BCAs (or both) provided under the Brand is below the Part 3 Thresholds; or

4.2.2 there has been a single calendar year in which at the end of that year the number of active PCAs or BCAs (or both) provided under the Brand is below 75% of the Part 3 Thresholds.

4.3 Where, on the 31 December 2016, a Brand did not exist or had fewer active PCAs or BCAs (or both) than the Part 3 Thresholds but has subsequently gained accounts such that in respect of one or more of the markets set out in Article 4.1 the Part 3 Thresholds are exceeded, the provisions of Part 3 will come into force in respect of that Brand and that market (or markets) in accordance with Articles 4.4 and 4.5.

4.4 In the circumstances provided for in Article 4.3, Article 16 will come into force on the 1 March in the calendar year immediately following:

4.4.1 two consecutive calendar years in which at the end of each of those years the number of active PCAs or BCAs (or both) provided under the Brand in the relevant market was above the Part 3 Thresholds; or

4.4.2 a single calendar year in which at the end of that year the number of active PCAs or BCAs (or both) provided under the Brand in the relevant market was above 125% of the Part 3 Thresholds.

- 4.5 In the circumstances provided for in Article 4.3, Articles 15 and 17 shall come into force on 1 August in the calendar year immediately following the year in which Article 16 came into force.
- 4.6 Parts 4 and 5 do not apply:
- 4.6.1 in relation to PCA customers, to providers of PCAs that had fewer than 150,000 active PCAs in GB and NI combined at either:
- (a) the end of the preceding calendar year; or
 - (b) the end of the calendar year immediately before the preceding calendar year;
- 4.6.2 in relation to BCA customers, to providers of BCAs that had fewer than 20,000 active BCAs in GB and NI combined at, either:
- (a) the end of the preceding calendar year; or
 - (b) the end of the calendar year immediately before the preceding at any point in calendar year.
- 4.7 Part 6 does not apply to providers of PCAs that had fewer than 150,000 active PCAs excluding Basic Bank Accounts in GB and NI combined at either:
- 4.7.1 the end of the preceding calendar year; or
- 4.7.2 the end of the calendar year immediately before the preceding calendar year.
- 4.8 Part 11 does not apply to providers that had fewer than 20,000 active BCAs in GB and NI combined at either:
- 4.8.1 the end of the preceding calendar year; or
- 4.8.2 the end of the calendar year immediately before the preceding calendar year.
- 4.9 The number of active BCAs and PCAs at year end shall be provided to the CMA as part of the monitoring and reporting requirements set out in Article 45 which are to be submitted on the 1 March 2017 and the 1 February (or first Working Day thereafter if it is not a Working Day) in each subsequent year.
- 4.10 Where, due to the application of the de minimis thresholds set out in Articles 4.6, 4.7 or 4.8, parts of this Order apply to providers of PCAs or BCAs (or both) to previously subject to them those parts will come into force on 1 March immediately following the submission date of the relevant compliance report.

5. Exceptions to the application of the Order

- 5.1 This Order does not apply to PCA products that are available exclusively to some or all of the following:
- 5.1.1 individuals holding assets to the value of not less than £250,000 calculated in accordance with Paragraphs 2 and 3 of Regulation 10 of [The Financial Services and Markets Act 2000](#) (Ring-fenced Bodies and Core Activities) Order ('Specified Individuals');
 - 5.1.2 family members or dependents of Specified Individuals; and
 - 5.1.3 employees of the PCA provider.
- 5.2 Where a division or Brand of a PCA provider provides PCAs alongside specialist or private banking services (e.g. wealth management or investment services) to individuals who are not Specified Individuals, such PCA provider may apply to the CMA for it to make a determination that the provision of PCAs to such individuals, together with any provision of PCAs to Specified Individuals, is operated independently from the provision of PCAs to other customers.
- 5.3 Where the CMA has made the determination required by Article 5.2, the Order shall not apply to the PCA customers of that division or Brand if it has fewer than 150,000 active PCAs in GB and NI combined.
- 5.4 In making a determination required by Article 5.2 the CMA may have regard to whether the Brand or division providing the PCAs:
- 5.4.1 has a distinct Brand;
 - 5.4.2 uses separate IT systems;
 - 5.4.3 uses separate operational systems;
 - 5.4.4 uses a separate branch network;
 - 5.4.5 has separate management;
 - 5.4.6 has dedicated staff;
 - 5.4.7 has a separate governance structure;
 - 5.4.8 has a PCA product or service offering which, in light of its features, is materially different from the PCAs offered to other customers of the provider, in particular, by reference to the following non-exhaustive list of differences:

- (a) an eligibility threshold which is significantly higher than any of the eligibility thresholds applicable to PCAs offered to other customers of the provider;
- (b) offering relationship management services that are not available to other PCA customers of the provider;
- (c) the possibility of bespoke negotiated terms;
- (d) overdraft limits which are materially higher than those attached to other PCA customers of the provider.

5.5 Providers subject to the Order may apply to the CMA for it to make a determination of whether a division or Brand owned that provider which provides PCAs or BCAs is both:

5.5.1 as of the date this Order is made closed to new customers; and

5.5.2 operated separately from the provision of:

- (a) PCAs to other customers, in the case of an application for a determination relating to the provision of PCAs; or
- (b) BCAs to other customers, in the case of an application for a determination relating to the provision of BCAs.

5.6 Where the CMA has made such a determination under Article 5.5, for so long as, subject to Article 5.8, the Brand or division remains both closed to new customers and is operated separately, the Order shall not apply to:

5.6.1 the PCA customers subject to the application for a determination if the Brand or division has fewer than 150,000 active PCAs in GB and NI combined; or

5.6.2 the BCA customers subject to the application for a determination if the Brand or division has fewer than 20,000 active BCAs in GB and NI combined.

5.7 Should the Brand or division reopen to new customers its relevant PCA or BCA products that are subject to the CMA's determination, or if such Brand or division ceases to be operated separately, the provider must give notice to the CMA of this fact and the CMA will determine the point at which the determination made under Article 5.5 will cease to apply.

5.8 For the purposes of Article 5.5.1, in determining whether a Brand or division is closed to new customers the CMA may have regard to whether the Brand or

division providing the PCAs or BCAs subject to the application for determination:

- 5.8.1 accepts new customers for the products subject to the CMA's determination;
 - 5.8.2 advertises or markets its existing products subject to the CMA's determination to new customers;
 - 5.8.3 launches any new products subject to the CMA's determination to existing customers, or makes any changes to existing products subject to the CMA's determination or their features other than those required to comply with regulatory obligations.
- 5.9 For the purposes of this Article, 'new customers' excludes those persons identified in Article 5.1.
- 5.10 For the purposes of Article 5.5.2, in determining whether a Brand or division is operated separately, the CMA may have regard to the factors listed in Article 5.4.
- 5.11 Where the CMA receives an application for a determination under this Article 5, it shall make the determination within one month of having received all the information it deems necessary to make the determination, and it shall subsequently publish a notice of its determination.

6. Derogation

- 6.1 PCA providers (including individual Brands within a corporate group) subject to Part 6 who do not currently have an overdraft alert capacity that could be adapted to comply will this Order may apply to the CMA for a derogation that would delay the application of Part 6 to that provider or certain of that provider's divisions or brands. Such an application must:
- 6.1.1 be made no more than one month after the day on which this Order is made;
 - 6.1.2 specify the length of the extension sought, up to a maximum of six months; and
 - 6.1.3 be accompanied by supporting evidence demonstrating that such a derogation is justified.
- 6.2 Where the CMA receives an application for a derogation under this Article 6, it shall make its decision within one month of having received all the information

it deems necessary to make the decision, and it shall subsequently publish a notice of its decision.

7. Variation

- 7.1 Subject to Article 8, this Order shall continue in force until such time as it is varied or revoked under [section 162](#) of the Act. The variation or revocation shall not affect the validity or enforceability of any rights or obligations that arose prior to such variation or revocation.

8. Expiry of certain provisions

- 8.1 The provisions of Part 11 shall cease to have effect five years after the day on which this Order is made.

9. Interpretations

- 9.1 In this Order:

‘**Act**’ means the Enterprise Act 2002.

‘**Active BCA**’ means a BCA that has had at least one customer-generated payment or transfer (including standing orders and direct debits, but excluding charges and interest on the account) coming into, or leaving, the account in the previous 12 months.

‘**Active PCA**’ means a PCA that has had at least one customer-generated payment or transfer (including standing orders and direct debits, but excluding charges and interest on the account) coming into, or leaving, the account in the previous 12 months.

‘**AEC**’ means an adverse effect on competition for the purposes of [section 134\(2\)](#) of the Act.

‘**Agreed Arrangements**’ has the meaning given to it in Article 10.3.

‘**AIB**’ means Allied Irish Banks plc (trading as First Trust Bank in Northern Ireland and Allied Irish Bank (GB) in Great Britain) with company number NI018800.

‘**AIBG**’ means AIB Group, the parent company of AIB and First Trust Bank.

‘**Alert**’ has the meaning given in Article 24.7.1.

‘**API**’ means an application programme interface.

‘**APR**’ means the total cost of the credit to the SME customer on a loan, expressed as an annual percentage of the total amount of credit.

‘**Arranged Overdraft**’ means a type of Overdraft that is agreed in advance between the customer and their provider, allowing them to borrow money up to a certain amount if there is no money left in the account.

‘**Barclays**’ means Barclays Bank plc registered with company number 1026167.

‘**Basic Bank Account**’ means a payment account with basic features as defined by Regulation 19(1) of PAR.

‘**BBA**’ means British Bankers’ Association, a trade association for the UK banking sector.

‘**BBI**’ means British Banking Insight, the quality comparison service run by the FSB and BCC with support from Barclays, HSBCG, LBG and RBSG.

‘**BCA**’ means a Business Current Account. These are core payment accounts denominated in sterling, generally used to make and receive payments and to manage cash flow, offered to business customers and designed to meet all of their everyday banking needs.

‘**BCC**’ means British Chambers of Commerce.

‘**BCOB Rules**’ means the rules contained in the FCA Banking Conduct of Business sourcebook.

‘**BoE**’ means Bank of England.

‘**BoI**’ means Bank of Ireland (UK) plc registered with company number 7022885.

‘**BoS**’ means Bank of Scotland plc, registered with company number SC327000, a subsidiary of LBG.

‘**Brand**’ means the name or image that links **PCAs BCAs**, or **SME Lending** products (and possibly other products and services) provided by a single Provider under that name or image together for the purposes of providing a common identity for marketing and other purposes.

‘**Business Overdraft**’ means a type of Arranged Overdraft relating to a BCA, which is classified as **SME Lending**, where the agreement is entered into by the borrower wholly or predominantly for the purposes of the borrower’s business.

'Charge Card' means a credit card for use with an account which must be paid in full when a statement is issued.

'CMA' means Competition and Markets Authority.

'CMA nominated representative' is the person notified by the CMA to Nesta from time to time.

'Commercial Credit Card' means a Credit card that is intended for use by SMEs for business purposes.

'Commercial Mortgage' means any SME Lending product secured by a charge over land.

'CPA' means a continuous payment authority.

'Credit card' means a credit agreement which is a credit-token agreement within the meaning of the Consumer Credit Act 1974, other than a Store Card.

'Danske' means Northern Bank Limited, trading as Danske Bank (registration number R568).

'DPA' means the Data Protection Act 1998.

'EAR' means Equivalent Annual Rate, being the actual annual interest rate of an Overdraft.

'Explanatory note' means the explanatory note accompanying this Order.

'FCA' means the Financial Conduct Authority.

'Finance platform' means 'designated finance platform' means a finance platform that has been designated by the Treasury by virtue of section 5(9) of the [SBEE Act](#).

'Finance provider' means a body corporate that—

- (a) lends money or provides credit in the course of a business,
- (b) arranges or facilitates the provision of debt or equity finance in the course of a business, or
- (c) provides, arranges or facilitates invoice discounting or factoring in the course of a business.

'first direct' means first direct division and a subsidiary bank brand of HSBCG.

'First Trust Bank' is the trading name of AIBG in Northern Ireland.

'FSB' means the Federation of Small Businesses.

'GB' means Great Britain.

'Halifax' is a subsidiary bank brand of LBG.

'HBOS' means HBOS plc registered in Scotland with company number SC218813, a wholly owned subsidiary of LBG, comprising the Halifax and BoS brands.

'HSBC' means HSBC Bank plc registered with company number 14259, a subsidiary of HSBCG.

'HSBCG' means HSBC Group, the parent company of HSBC, first direct and M&S Bank.

'Implementation Entity' has the meaning given in Article 10.1

'Implementation Trustee' means the person appointed in accordance with Article 11.1 to carry out the Implementation Trustee Functions.

'Implementation Trustee Functions' means the functions set out in Schedule 1 to the Order.

'LBG' means Lloyds Banking Group plc registered in Scotland with company number SC95000, the parent company of HBOS and Lloyds.

'Lloyds' means Lloyds Bank plc registered with company number 2065, a subsidiary bank of LBG.

'Mandate' means the agreement between the Implementation Trustee and those Providers to which Part 2 of this Order applies.

'MMC' means the Monthly Maximum Charge as provided for in Part 7.

'M&S Bank' is the trading name of Marks and Spencer Financial Services plc registered with company number 1772585, a wholly owned subsidiary of HSBC Bank plc.

'Nationwide' means Nationwide Building Society with an FCA registration number of 106078.

'NatWest' means National Westminster Bank plc, a subsidiary bank of RBSG, registered with company number 929027.

'Nesta' refers to an independent charity and its wholly owned subsidiary, Nesta Enterprises Limited, which will administer the Open Up Challenge.

'Nesta Assessment Criteria' means the detailed criteria to be applied by the judging panel and assessors as part of the Nesta Challenge Prize process.

'Nesta Funding Banks' are RBSG, LBG, Barclays, HSBCG, Santander, Danske, Bol and AIBG.

'NI' means Northern Ireland.

'Open APIs' means a public interface that provides a means of accessing data based on standards which are developed and maintained collaboratively and transparently by the Implementation Entity, and can be accessed without charge.

'Open Up Challenge' means the challenge prize to be administered by Nesta that will incentivise the development of innovative and sustainable solutions that help small businesses to make more informed choices about financial products and services. The challenge will reward solutions that make innovative and secure use of data, enable intelligent comparison, provide actionable insight and added value to users, integrate with other services and stimulate engagement.

'Open Up Challenge Data Sandbox' means the sandbox solution that will support the development and testing of the applications developed by teams who participate in the Nesta Challenge Prize.

'Overdraft' means a facility provided by a PCA or BCA provider when a customer has no money left in their account but their provider provides them with a limited extension of credit enabling the customer to continue to withdraw money or make payments. They can be arranged or unarranged.

'PAR' means the Payment Accounts Regulations 2015.

'Part 3 Thresholds' has the meaning given to it in Article 4.1.

'Payment Transaction History' means the information contained in the regular statement of account referred to in BCOBS 4.2.1.

'PCA' means a personal current account. That is an account marketed to individuals rather than businesses, which provides the facility to place funds, withdraw cash, hold deposits and to execute payment transaction to and from third parties but does not include any of the following types of accounts:

- (a) an account in which money is held on deposit in a currency other than sterling;
- (b) an account in which credit funds are held and offset against mortgage debt or a loan other than an overdraft facility, i.e. a current account mortgage;
- (c) provided that the account is not used for day-to-day payment transactions:
 - (i) savings accounts (including instant access savings accounts);
 - (ii) credit card accounts where funds are usually paid in for the sole purpose of repaying a credit card debt; and
 - (iii) e-money accounts.

'Pre-agreed credit limit' means, in respect of:

- (a) a **PCA** with a single arranged overdraft, the point at which that arranged overdraft limit is exceeded;
- (b) a **PCA** without an arranged overdraft, £0;
- (c) a **PCA** with more than one arranged overdraft limit, the point at which the first arranged overdraft limit is exceeded; and
- (d) a **PCA** with a single arranged overdraft limit given on the same terms as the second arranged overdraft limit is given in c), £0.

'Programme of Alerts' has the meaning given to it in Article 23.1.

'Prominent and Prominently' means displayed in such a way that it is likely that the attention of the average customer to whom the communication is directed would be drawn to it. Additionally, for the purposes of Parts 8 to 10, 'Prominently' means:

- (a) displayed in such a way that it is likely that the attention of the average customer to whom the communication is directed would be drawn to it (as is required in personal lending under CONC 3.2.3G or its successor regulations) and in accordance with the FCA's guidance from time to time on prominence for financial promotions;
- (b) that the display of APR/EAR in accordance with Article 30.3.3 must be no less prominent than the trigger points identified at Article 30.3.3 (a) to (c); and

(c) for the purpose of Part 9, Article 33.1 and Part 10, Articles 39.1.2, 40.1.2 and 41.7.2, that links must be no more than one click away from the business banking homepage and must be on the product or related pages for BCAs, standard tariff Overdrafts and Unsecured Loans.

'Prompts Research Programme' means the research programme to be undertaken by the FCA set out in Article 18.2.

'Provider' means a provider of one or more of PCAs, BCAs and any SME lending product or service to which the relevant Article or Part of this Order applies as provided for in Articles 3, 4, 5 and 6.

'PSR' means the Payment Systems Regulator.

'Rate' means a Representative APR for Unsecured Loans to SMEs for borrowing up to the value of £25,000 and a Representative EAR for standard tariff Business Overdrafts to SMEs for borrowing up to the value of £25,000.

'RBS' means Royal Bank of Scotland plc, a UK retail bank and subsidiary of RBSG with registration number SC090312.

'RBSG' means Royal Bank of Scotland Group plc, the parent company of RBS, NatWest and Ulster, with registration number SC045551. RBSG is used to refer to the group of companies that includes the RBS, NatWest and Ulster Bank brands.

'Read-only Data Standard' means the data standard provided for in Article 10.1.1.

'Read/Write Data Standard' means the data standard provided for in Article 10.1.2.

'Representative' means the Rate at or below which the Provider reasonably expects, at the date on which the publication, display or communication is made, that credit would be provided under at least 51% of the credit agreements which will be entered into with SME customers as a result of the publication, display or communication.

'Santander' means Santander UK plc, a retail bank operating in the UK, registered with company number 2294747.

'SBEE Act' means [Small Business, Enterprise and Employment Act 2015](#).

'Scheduled Payments' has the meaning given in Article 24.7.2.

‘Selected Prompts Providers’ means those providers selected by the FCA in accordance with Article 18 to participate in the Prompts Research Programme.

‘SME’ means small and medium-sized enterprise and means a business that, in respect of a given financial year applying to it, has annual sales revenues (exclusive of VAT and other turnover-related taxes) not exceeding £25 million. For this purpose a ‘business’ shall have the same meaning as an ‘undertaking’ under the Competition Act 1998.

‘SME Lending’ means lending products or services offered to SMEs.

‘Store Card’ means a card provided by a retailer which can only be used for purchases with that retailer and which is not part of a card scheme.

‘Ulster Bank’ refers to Ulster Bank Limited, a subsidiary bank of RBSG, with registration number R733.

‘Unsecured Loan’ means, in the context of SME lending, a loan that does not require security in that the lender does not take a mortgage or other form of security in respect of the credit provided to the customer. For the avoidance of doubt, this does not include a Commercial Credit card, Charge Card, asset finance or invoice finance, but does include a loan supported by a personal guarantee (where the personal guarantee is not itself supported by a mortgage or other form of security over property).

‘Working Day’ means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the relevant part of the United Kingdom.

9.2 In this Order, unless an alternative definition is expressly provided for, any reference to:

9.2.1 ‘day’ means calendar day;

9.2.2 ‘month’ means calendar month;

9.2.3 ‘oral’ or ‘orally’ relates to the transmission of information or the completion of a process made orally including in person or by telephone;

9.2.4 a ‘person’ includes any individual, firm, partnership, body corporate or association;

- 9.2.5 'written' or 'in writing' includes the transmission of information or the conclusion of a process made on, by, or through the internet or by a postal service;
- 9.2.6 'turnover' refers to turnover generated by a business in its preceding financial year exclusive of VAT and other turnover related taxes;
- 9.2.7 a government department or non-departmental public body or organisation or person or place or thing includes a reference to its successor in title;
- 9.2.8 a reference to an 'Article' or a 'Part' is a reference to an article or part of this Order;
- 9.2.9 a reference to the feminine gender shall be taken to include the masculine and any reference to the masculine gender shall be taken to include the feminine; and
- 9.2.10 a reference to the singular shall also include the plural (and vice versa).
- 9.3 The headings used in this Order are for convenience and have no legal effect.
- 9.4 If there is a conflict between this Order and the Explanatory Note, this Order prevails.
- 9.5 References to any statute, statutory provisions or regulation shall be construed as references to that statute, statutory provision or regulation as amended, re-enacted, modified or superseded, whether by statute or otherwise.
- 9.6 The Interpretation Act 1978 applies to this Order except where words and expressions are expressly defined.

PART 2

Open API standards and data sharing

10. Creation of the Implementation Entity

- 10.1 Providers shall, if not done in advance of the date of this Order, within two weeks of this Article coming into force set up an entity (the 'Implementation Entity') that will agree, implement, maintain and make widely available, without charge, open and common banking standards for:

- 10.1.1 read only access to data set out in Articles 12 and 13 (the 'Read-only Data Standard'); and
 - 10.1.2 both read and write access which allows a third party to initiate a payment on behalf of the customer (subject to the customer's explicit consent) for data set out in Article 14 (the 'Read/Write Data Standard').
- 10.2 The Read-only Data Standard and Read/Write Data Standard shall include provisions relating to:
- 10.2.1 an Open API standard;
 - 10.2.2 data format standards;
 - 10.2.3 security standards (including those to be adopted by third party providers) including as a minimum for confidential data as set out in Article 14:
 - (a) authorisation and authentication standards;
 - (b) standardised permission frameworks; and
 - (c) whitelisting as a system for approving third party providers fairly and quickly unless there is sufficient existing regulatory oversight;
 - 10.2.4 governance arrangements; and
 - 10.2.5 customer redress mechanisms for the Read/Write Data Standard.
- 10.3 The composition, governance arrangements, budget and funding for the Implementation Entity (the 'Agreed Arrangements') shall, subject to Article 10.6, be those proposed by the Providers and approved by the CMA, and which are set out in Part A of Schedule 1 to the Explanatory Notes.
- 10.4 The Providers shall comply with, the Agreed Arrangements and shall use their best endeavours, both individually and collectively, to ensure that the Implementation Entity complies with the Agreed Arrangements. This may include but is not limited to:
- 10.4.1 providing funds in line with the Agreed Arrangements;
 - 10.4.2 providing or procuring specific resources including staff and staff time.
- 10.5 The Implementation Trustee will propose a project plan and timetable which, once approved by the CMA, will become the 'Agreed Timetable and Project

Plan'. The Agreed Timetable and Project Plan is, subject to Article 10.6, the timetable and project plan set out in Part B of Schedule 1 to the Explanatory Notes. The Providers shall:

10.5.1 comply with the Agreed Timetable and Project Plan; and

10.5.2 use best endeavours both individually and collectively to ensure that the Implementation Entity complies with the Agreed Timetable and Project Plan.

10.6 Changes to the Agreed Arrangements or the Agreed Timetable and Project Plan:

10.6.1 may be proposed by the Implementation Trustee but will require the approval of the CMA; or

10.6.2 may be made by the CMA following consultation with the Provider and the Implementation Trustee.

10.7 For the purposes of this Article:

10.7.1 BCA and SME lending products referred to in Article 12 only refer to those products offered to SMEs with a turnover below £6.5million;

10.7.2 BCA transaction data referred to in Article 14 need only be made accessible to and for SMEs with a turnover below £6.5million.

11. Appointment of the Implementation Trustee

11.1 Providers shall, if not done in advance of the date of this Order, appoint, following approval of the CMA, a suitably qualified, independent person to be the Implementation Trustee to carry out the Implementation Trustee Functions in accordance with the Agreed Arrangements and Agreed Timetable and Project Plan. The Implementation Trustee Functions shall be as set out in Schedule 1 to the Order. As of the date of the Order the Implementation Trustee shall be the person set out in Part C of Schedule 1 to the Explanatory Notes.

11.2 The person appointed to be the Implementation Trustee shall remain in that position unless the CMA considers that:

11.2.1 a conflict of interest that impairs or may be likely to impair the objectivity or independence of the Implementation Trustee in discharging the Implementation Trustee Functions arises;

- 11.2.2 the Implementation Trustee has ceased, is likely to cease, or wishes to cease to perform the Implementation Trustee Functions; or
 - 11.2.3 there is good cause for the appointment to be terminated in advance of the satisfactory fulfilment of the Implementation Trustee Functions.
- 11.3 In the event that the appointment of the Implementation Trustee is terminated in accordance with Article 11.2 the Providers shall, if requested to do so in writing by the CMA, use their best endeavours to appoint a replacement Implementation Trustee from a person or persons nominated by the CMA. The Providers shall use their best endeavour to make such an appointment within 10 Working Days of the CMA's nomination.
- 11.4 The Providers shall provide all assistance reasonably requested by the CMA in relation to the termination of the appointment of an Implementation Trustee and the appointment of a successor. This may include but is not limited to:
- 11.4.1 proposing, either collectively or individually, a qualified, independent person who would be a suitable person for the CMA to nominate in accordance with Article 11.3; and
 - 11.4.2 funding or procuring resources to undertake a process to identify candidates that could be proposed in accordance with Article 11.4.1.
- 11.5 Providers shall provide the Implementation Trustee with all such cooperation, assistance and information as the Implementation Trustee may reasonably require to discharge the Implementation Trustee Functions and comply with the Mandate.
- 11.6 The Implementation Trustee may give written directions to the Providers on matters relevant to the Implementation Trustee Functions and Mandate. Providers shall comply with the written directions and decisions of the Implementation Trustee on all matters relevant to the activities of the Implementation Trustee Functions and Mandate unless these conflict with this Order or CMA written directions.

12. Release of product and reference information

- 12.1 Providers shall release and make continuously available without charge, in accordance with the Read-only Data Standard:
- 12.1.1 reference information which shall include:
 - (a) all branch locations;
 - (b) all branch opening times;

- (c) all ATM locations; and
- (d) any other reference information reasonably stipulated by the Implementation Trustee and agreed by the CMA.

12.1.2 product information, before the application of any negotiated changes, for each of their on-sale PCA products, BCA products and SME lending products, which shall include, where relevant:

- (a) product prices including credit interest;
- (b) all charges, including the interest rates (credit and debit) which apply to the product, the fees and charges which may apply to activity on the account, and the circumstances in which these charges apply;
- (c) benefits, including credit interest and constituent parts of packaged accounts;
- (d) MMC once MMCs have been introduced in accordance with Part 7;
- (e) terms and conditions;
- (f) customer eligibility criteria; and
- (g) any other product information reasonably required by the Implementation Trustee and agreed by the CMA.

12.2 The Implementation Trustee may, subject to approval in advance from the CMA, direct Providers to make more, less or different information available under this Article.

12.3 The information released pursuant to Article 12.1 shall be as accurate and comprehensive and up-to-date as reasonably practicable.

12.4 For the purposes of this Article:

12.4.1 'PCA products' includes:

- (a) any PCA whether or not it includes an overdraft facility;
- (b) Basic Bank Accounts;
- (c) packaged accounts;
- (d) reward accounts;

- (e) student or graduate accounts;
- (f) youth accounts; and
- (g) any other product reasonably specified by the Implementation Trustee provided it falls within the [terms of reference](#) of the CMA's retail banking market investigation and the AECs identified and has been agreed by the CMA.

12.4.2 'BCA products' includes:

- (a) BCAs;
- (b) Business Overdrafts; and
- (c) any other product reasonably specified by the Implementation Trustee provided it falls within the terms of reference of the CMA's retail banking market investigation and the AECs identified and has been agreed by the CMA.

12.4.3 'SME lending products' includes:

- (a) Commercial Credit Cards;
- (b) Unsecured Loans; and
- (c) any other product reasonably specified by the Implementation Trustee provided it falls within the terms of reference of the CMA's retail banking market investigation and the AECs identified and has been agreed by the CMA.

But does not include:

- (d) Charge Cards;
- (e) enterprise finance guarantee loans;
- (f) managed loans;
- (g) partnership capital loans;
- (h) property development loan;
- (i) Commercial Mortgages; and
- (j) investment property loans.

13. Release of service quality indicators

- 13.1 Providers must release and make continuously available without charge, in accordance with the Read-only Data Standard:
- 13.1.1 service quality indicators that the Provider is required to publish and release pursuant to Article 15; and
 - 13.1.2 all underlying data anonymised so that it is no longer personal data for the purposes of the DPA generated from the responses to survey questions commissioned in accordance with Article 16 unless such information has already been made public via other means. Such information may include survey results relating to providers who are not subject to this Part 2.

14. Release of PCA and BCA transaction data sets

- 14.1 Providers must make up to date PCA and BCA transaction data sets continuously available without charge, in accordance with the Read/Write Data Standard.

PART 3

Service quality indicators

15. Requirement to publish service quality indicators

- 15.1 Providers shall publish, in relation to each of their Brands to which this Part 3 applies, service quality indicators showing the willingness of their customers holding a PCA who have used the account or a relevant service in a defined period prior to the survey taking place:
- 15.1.1 to recommend the Brand to friends and family;
 - 15.1.2 to recommend the Brand's online and mobile banking services to friends and family;
 - 15.1.3 to recommend the brand's branch services to friends and family; and
 - 15.1.4 to recommend the brand's overdraft services to friends and family.
- 15.2 Providers shall publish, in relation to each of their Brands to which this Part 3 applies, service quality indicators showing the willingness of their customers holding a BCA who have used the account or relevant service in a defined period prior to the survey taking place:

- 15.2.1 to recommend the Brand to other SMEs;
 - 15.2.2 to recommend the Brand's relationship/account management to other SMEs;
 - 15.2.3 to recommend the Brand's online and mobile banking services to other SMEs;
 - 15.2.4 to recommend the Brand's branch and business centre services to other SMEs;
 - 15.2.5 to recommend the Brand's credit (overdraft and loan) services to other SMEs.
- 15.3 The service quality indicators required to be published pursuant to this Article 15 shall be generated from data collected in accordance with Article 16 and shall be published in accordance with Article 17.
- 15.4 The first set of service quality indicators shall be published by all Providers on 1 August 2018 falling four weeks after all the data (incorporating results from 1 July 2017 to 30 June 2018) is collected. The service quality indicators shall thereafter be updated on the first Working Day after 31 January and 31 July each year based on data collected on a rolling basis over the 12 months from the beginning of January to the end of December of the previous calendar year and from the beginning of July to the end of June respectively incorporating six months of results from the previous calendar year and six months from the prevailing calendar year.

16. Collection of service quality information

- 16.1 The service quality indicators required to be published pursuant to Article 15 shall be wholly based on survey responses collected:
- 16.1.1 on a standard, common basis with robust sampling techniques and data collection methods approved by the CMA based on a proposal to be submitted to it by the Providers by 1st May 2017;
 - 16.1.2 using survey methodologies and questionnaires that have been approved by the CMA based on a proposal to be submitted to it by the Providers by 1st May 2017; and
 - 16.1.3 over a 12 month period on a rolling basis with data collection undertaken each month.
- 16.2 Providers shall ensure that GB and NI are each surveyed separately (although potentially by a single independent survey agency) and in

accordance with Article 16.1. In each case, the survey may be undertaken by either:

16.2.1 a single independent survey agency for both PCA and BCA customers; or

16.2.2 two separate independent survey agencies one for PCA customers and one for BCA customers.

16.3 Providers shall ensure that any survey commissioned pursuant to Article 16.2 grants permission, without restriction, to those providers subject to Part 2 to publish all anonymised underlying data on each Provider in accordance with the Read-only Data Standard.

16.4 Solely for the purpose of survey sampling, and subject to the requirements of the Data Protection Act 1998 or any successor legislation, Providers shall, if required by the data sampling, data collection and survey methodology approved by the CMA in accordance with Article 16.1, provide to the relevant survey agency a list of the names of their Active PCA customers and Active BCA customers alongside the following information:

16.4.1 the Brand of PCA or BCA they hold;

16.4.2 their contact details.

16.5 Providers shall fund each of the surveys required by Article 16.2 and any related activity based on the following formula:

100;

divided by;

the total number of Active PCAs or Active BCAs in either NI or GB (as appropriate) held by all Brands included within the relevant survey; and

multiplied by;

the total number of accounts held by Brands owned by the Provider that are included in the relevant market survey; and

rounded to two decimal places and then multiplied by;

the total cost of the survey in the relevant market including any related activity:

16.6 The calculations required to generate market share will be carried out by the CMA based on the number of active accounts at the end of each calendar

year submitted to it in accordance with the Providers compliance monitoring obligations (see Article 45.2.3). The percentage amount each Provider is required to provide in funding based on this formula will be notified to them by the CMA within one month of the submission date of the relevant compliance report.

17. Specification of publication

17.1 Providers shall, pursuant to Article 15.4 and in accordance with Articles 17.2, 17.3 and 17.4, publish:

17.1.1 prominently, in all branches (other than mobile branches) of the relevant Brand (if any), the service quality indicators set out in Article 15.1 and Article 15.2;

17.1.2 prominently, in all business centres (if any), the service quality indicators set out Article 15.2;

17.1.3 on the Brand's website (including where it has been optimised for mobile use) and mobile banking app (if any):

(a) the service quality indicator set out in Article 15.1.1 on the main personal banking page of the Brand's website such page shall be no more than one click away from the Brand's GB or NI website home page;

(b) the service quality indicator set out in Article 15.2.1 on the main business banking page of the Brand's website such page shall be no more than one click away from the Brand's GB or NI home page;

(c) the remaining service quality indicators set out in Article 15.1 on the Brand's website no more than one click away from the page specified in Article 17.1.3(a);

(d) the remaining service quality indicators set out in Article 15.2 no more than one click away from the page specified in Article 17.1.3(b); and

(e) the service quality indicator set out in Article 15.1 within two steps of the Brand's primary mobile banking app screen.

17.1.4 in information leaflets (or inserts inside such leaflets) likely to be seen by prospective PCA or BCA customers, such as those setting out the features and benefits of the PCAs or BCAs the Provider is offering, at

least the service quality indicators set out in either Article 15.1.1 or Article 15.2.1 as relevant. For the avoidance of doubt this requirement does not impose an obligation on any Provider to publish such leaflets.

17.2 The service quality indicators to be published in accordance with Article 17.1 shall include the following information:

17.2.1 in respect of the Brand publishing the indicator:

- (a) its name;
- (b) its percentage score in relation to the relevant indicator, this should be expressed as a whole number; and
- (c) its rank out of all the Brands surveyed in relation to the relevant indicator. This may be a joint rank.

17.2.2 in respect of the top five Brands included within the relevant indicator based on their percentage score expressed as a whole number:

- (a) their names;
- (b) their percentage scores in relation to the relevant indicator, expressed as a whole number; and
- (c) their ranks out of all the Brands surveyed in relation to the relevant indicator. This may be a joint rank.

17.3 Other than as provided for in Article 17.2 the format, presentation and content of the published service quality indicators shall, subject to modification made in accordance with Article 17.4, be that notified to the Providers by the CMA as specified in Schedule 2 of the Explanatory Notes.

17.4 The CMA may, by notice to the Providers, modify the format, presentation or content of the published service quality indicators to be required to be published pursuant to this Part 3 (a 'Modification Notice') if:

17.4.1 the CMA has given notice to the Providers of its intention to make a Modification Notice stating:

- (a) the proposed modification;
- (b) the reason for the proposed modification;
- (c) the date from which the proposed modification is intended to apply which must be consistent with the date on which the survey

data is updated and not less than three months from the publication date of the Modification Notice; and

(d) a period (not less than 30 days) within which representations may be made by Providers in relation to the Modification Notice;

17.4.2 it has considered any representation made in response to the proposed Modification Notice; and

17.4.3 no fewer than 12 months have elapsed since any previous Modification Notice enters into force.

PART 4

Prompts

18. Prompts research programme

18.1 For the purposes of this Article 18, 'Selected Prompts Providers' are those Providers notified by the FCA as such.

18.2 Selected Prompts Providers shall cooperate fully with the FCA for the purposes of the research programme relating to prompts described in the FCA's response to the CMA Final Report (the 'Prompts Research Programme') and take such action as the FCA may reasonably direct for these and related purposes including but not limited to:

18.2.1 selecting a sample of customers in accordance with criteria specified by the FCA, including sample size and customer characteristics;

18.2.2 assigning each customer in the sample to either a treatment or control group(s), in accordance with any requirements for treatment or control allocation specified by the FCA;

18.2.3 implementing changes to IT and other systems as necessary to deliver such Alerts as may be specified by the FCA for the purposes of the Prompts Research Programme;

18.2.4 delivering prompts in accordance with the requirements as the FCA may specify including (but not limited to) message content, timing, design and delivery method;

18.2.5 monitoring outcomes of the prompts in accordance with the measurement criteria or indicators specified by the FCA (and putting

systems in place to support this), and providing information on outcomes to the FCA on request;

- 18.2.6 complying promptly with any request by the FCA in relation to the Prompts Research Programme;
- 18.2.7 subject to compliance with legal and regulatory requirements, using their best endeavours to avoid taking any action that might have the effect of impeding or interfering with the Prompts Research Programme, and avoiding omitting to take any action where that omission might have that effect; and
- 18.2.8 providing information to the FCA on request relating to analysis of or outcomes from other events undertaken otherwise than in connection with the Prompts Research Programme.

19. Sending prompts to larger SMEs

- 19.1 If, following the Prompts Research Programme, the FCA makes rules requiring Providers to send prompts to BCA customers, Providers shall, unless notified otherwise by the CMA, also send equivalent prompts to any BCA customers which are not covered by those rules and which generate a turnover of less than £6.5 million per year.

PART 5

Transaction history

20. Provision of transaction history at account closure

- 20.1 Subject to Article 20.2 and Article 20.3, at the time of account closure Providers shall, in relation to the account that has been closed, provide one copy of the corresponding Payment Transaction History free of charge to:
 - 20.1.1 any PCA customer (or, in the case of a joint account, any one of the PCA customers) that has closed their account; and
 - 20.1.2 any BCA customer with an annual turnover of less than £6.5 million which has closed its account,who has not opted out of receiving such information.
- 20.2 Providers are not required to provide a Payment Transaction History covering any payment transaction that occurred five or more years prior to the date of

account closure and shall provide it for a shorter period of time if requested to do so by the customer.

20.3 Notwithstanding Article 20.1, Providers are not required to provide a Payment Transaction History to a PCA or BCA customer who:

20.3.1 retains access to the information otherwise required to be provided under this Article 20 on an ongoing basis after the relevant account is closed;

20.3.2 has had their PCA or BCA closed due to:

(a) fraud or other unlawful activity;

(b) the death of the account holder;

(c) impairment; or

(d) the account being dormant such that there has been no payment transactions in the past five years.

20.4 Subject to compliance with other legal or regulatory requirements, the Provider may choose whether to provide the Payment Transaction History in either paper form or electronic form which may include giving access through an API.

20.5 The Payment Transaction History to be provided under this Article 20 shall be provided within a reasonable period which shall be no later than:

20.5.1 seven Working Days from the date the customer has closed their account in respect of 95% of account closures in any 12 month period; and

20.5.2 40 days from the date the customer has closed its account in respect of all other account closures.

20.6 For the purpose of this Part 5, in the context of the provision of the Payment Transaction History in electronic format, the word 'provide' includes making it available for download by the customer. In such instances the Provider must notify the customer within the time periods set out in Articles 20.5 and 21.4 of how to download this information.

21. Provision of payment transaction history up to five years after account closure

21.1 Subject to Articles 21.2 and 21.3 Providers shall provide a Payment Transaction History held by the Provider to:

21.1.1 any previous PCA customer for a period of five years after the closure of the account; and

21.1.2 any previous BCA customer with an annual turnover of less than £6.5 million (at the time of account closure) for a period of five years after the closure of its account,

who has requested their transaction history and is able to provide sufficient evidence of their identity to satisfy the reasonable requirements of the relevant Provider. Such requirements shall be no more onerous than those required in relation to a subject access request made pursuant to the [Data Protection Act 1998](#) or any successor legislation.

21.2 Providers are not required to provide a Payment Transaction History in relation to any transaction that occurred five or more years prior to the date of the request and shall provide it for a more limited period of time if requested to do so by the previous customer.

21.3 Providers are not required to provide a Payment Transaction History unless they have requested and received a fee no greater than would be payable for a subject access request made under section 7 of the Data Protection Act.

21.4 The information to be provided under this Article shall be provided within a reasonable period which shall be no later than:

21.4.1 seven Working Days from the date the customer has made such a request and paid any applicable fee and complied with the reasonable identification requirements of the relevant Provider in respect of 95% of requests; and within 40 days for all cases.

21.4.2 40 days from the date the customer has made such a request, paid any applicable fee and complied with the reasonable identification requirements of the relevant Provider in respect of all other requests.

21.5 Subject to compliance with other legal or regulatory requirements, the Provider may choose whether to provide the Payment Transaction History in either paper form or electronic form which may include giving access through an API.

22. Publication of information related to the provision of transaction history

- 22.1 Each Provider shall publish on its website its policy regarding retention of Payment Transaction Histories, and the process and other requirements for requesting them, consistent with this Part 5.

PART 6

Automatic enrolment into a programme of alerts

23. Automatic enrolment

- 23.1 Subject to Article 23.2, Providers shall enrol all existing PCA customers into the alerts described in Articles 24 and 25 (the 'Programme of Alerts') for each Active PCA they hold within one month of this Article 23 coming into force and shall enrol all new PCA customers into the Programme of Alerts within three Working Days of account opening. Once enrolled PCA customers shall remain enrolled in a Programme of Alerts for each PCA unless they request not to be enrolled.
- 23.2 Article 23.1 does not apply in respect of any PCA customer who:
- 23.2.1 only holds a PCA in which there is no charge or any other cost for exceeding or attempting to exceed a Pre-agreed credit limit. This would, for example, include a customer with a Basic Bank Account;
 - 23.2.2 has requested not to be, or to no longer continue to be, enrolled in the Programme of Alerts in respect of the relevant PCA;
 - 23.2.3 has requested not to be enrolled in an alternative programme of alerts, in respect of the relevant PCA, that are the same as, equivalent to, or exceed the Programme of Alerts and for which enrolment was based on opt-out consent;
 - 23.2.4 has declined the option of being enrolled in a programme of alerts, in respect of the relevant PCA, which are equivalent to or exceed the Programme of Alerts, by mobile texts or by alerts via a mobile banking application in favour of delivery by an alternative medium offered by the Provider (for example email); or
 - 23.2.5 has not provided a valid UK registered mobile phone number (the Provider having complied with its obligations under Article 26) and has not opted to receive Alerts via a mobile banking application.

23.3 Where Article 23.2 prevented the application of Article 23.1 to a PCA customer but no longer applies, Providers shall enrol any such PCA customer in the Programme of Alerts within five Working Days of the point at which Article 23.2 no longer applies.

24. Timing of alerts

24.1 Unless instructed otherwise by the FCA in accordance with Article 27, Providers shall, in accordance with Article 24.4, initiate the sending of an Alert to customers enrolled in the Programme of Alerts in respect of the relevant PCA, following an Alert Trigger, as set out in Article 24.2 unless any of the circumstances specified in Article 24.3 apply.

24.2 An Alert Trigger is the point at which the Provider has information from which it:

24.2.1 knows that the relevant PCA has, at a specific point in time, moved into a position where the customer has exceeded a Pre-agreed credit limit;

24.2.2 knows that the relevant PCA has, at a specific point in time, moved into a position where the customer has attempted to exceed a Pre-agreed credit limit and will incur a charge; or

24.2.3 is reasonably able to determine that, taking into account information it knows or has received on transactions due to be settled, in the absence of any:

(a) action by the customer; or

(b) transaction other than those the Provider is aware of,

either of the circumstances set out in Article 24.2.1 or Article 24.2.2 will arise that day.

24.3 The specified circumstances where an Alert does not need to be sent despite there being an Alert Trigger are where:

24.3.1 the relevant Customer has expressly and freely opted to be sent equivalent Alerts under different circumstances;

24.3.2 one of the following alerts has either been sent in respect of the relevant PCA that day or there has been no credit on the PCA since such an alert was sent:

- (a) an Alert sent following the circumstances provided for in Article 24.2.2 which may, in addition, be a Retry alert;
 - (b) an Alert sent following the circumstances provided for in Article 24.2.3 after which the PCA did not move into a position where the customer exceeded a Pre-agreed credit limit; or
- 24.3.3 an Alert has been sent in respect of the relevant PCA following the circumstances provided for in Article 24.2.1 (or as relevant Article 24.2.3) and the PCA having moved into a position where the customer having exceeded a Pre-agreed credit limit is yet to move out of such position;
- 24.3.4 a Near limit alert has been sent in respect of the relevant PCA and the PCA, having moved into a position where the account balance is below the threshold of the Near limit alert has not yet moved above it.
- 24.4 The Provider shall use reasonable endeavours to ensure the Alert is capable of being received as soon as possible after the Alert Trigger.
- 24.5 Notwithstanding Article 24.4, where the Alert Trigger is brought about by a Scheduled Payment the sending of the Alert must be initiated by, at a minimum, 10am on the day of the Alert Trigger.
- 24.6 For the avoidance of doubt this Article 24 does not require, nor does it prevent, the sending of more than one Alert where the Provider wishes to do so, nor does it seek to discourage the sending of other types of alerts (such as retry alerts) which may be complementary to the Alerts and/or beneficial for the customer to receive more frequently.
- 24.7 For the purposes of this Part 6:
 - 24.7.1 an 'Alert' means either a text message sent to a mobile phone or a push alert from a mobile banking application including the contents required by Article 25;
 - 24.7.2 'Scheduled payments' are:
 - (a) direct debits;
 - (b) standing orders; and
 - (c) future dated payments.
 - 24.7.3 a 'Retry alert' means an alert that informs a customer about the retry system as agreed between providers and the FCA;

24.7.4 a 'Near limit alert' means an alert that informs a customer that either:

- (a) their PCA is approaching a Pre-agreed credit limit which may be based on a low balance threshold agreed by the customer; or
- (b) that there is a significant risk that an Alert Trigger circumstance will arise that day;

and as a result they could incur Charges and where relevant unpaid item fees.

25. Content of Alerts

25.1 Unless instructed otherwise by the FCA in accordance with Article 27, the Alert shall communicate, in wording/language determined by the Provider, such of the following content as is relevant to the Alert Trigger:

25.1.1 the customer:

- (a) has attempted to exceed;
- (b) has exceeded;
- (c) is at significant and imminent risk of exceeding; or
- (d) is at significant and imminent risk of incurring charges if they attempt to exceed

a Pre-agreed credit limit, and could incur Charges; and

25.1.2 in relation to the transactions specified in Article 25.2, the customer has a period of time during which they have an opportunity to take action to avoid or reduce Charges, in which case the Alert must inform the customer of the time by which they should take such action.

25.2 The transactions specified for the purpose of Article 25.1.2 are all transactions:

25.2.1 not declined by the PCA provider; and

25.2.2 of a type, which result in a PCA exceeding a Pre-agreed credit limit. Such transactions would include, but is not limited to, Scheduled payments, debit card transactions (regardless of how that transaction is made and including CPAs), ATM withdrawals, cheques, and other

payments originated through branch, telephone, online or mobile banking.

- 25.3 Reference to 'Charges' in Article 25.1 is a reference to all charges relating to exceeding a Pre-agreed credit limit. This would include (where applied by a provider) paid item fees, unpaid item fees, daily or monthly fees, debit interest and/or any other charges relating to the above circumstances.
- 25.4 Notwithstanding the requirements of this Article 25, message contained in the Alerts and the Alert itself shall be compatible with:
- 25.4.1 legal and regulatory requirements for customer communications to be fair, clear and not misleading;
 - 25.4.2 the Provider's contractual terms and conditions, as amended from time to time; and
 - 25.4.3 legal and regulatory requirements governing the provision of payment services.
- 25.5 The time to be communicated for customers to take action set out in 25.1.2 must be set in order to provide customers with as good an opportunity as possible to take action to avoid or reduce charges. For the avoidance of doubt, depending on the time of the Alert Trigger, such opportunity may be limited.

26. Collection of mobile numbers

- 26.1 Providers shall use reasonable endeavours to collect each PCA customer's mobile phone number, at a minimum at the time of account opening for new customers and in each instance when a PCA customer updates their contact details, unless:
- 26.1.1 the Provider already holds a mobile number for that customer for which it has no reason to doubt its validity;
 - 26.1.2 the customer has stated he does not have a mobile phone or explicitly refused to provide a mobile phone number and are made aware that this will mean that they will not be enrolled in the Programme of Alerts;
 - 26.1.3 the customer is enrolled in the Programme of Alerts without the Provider requiring a mobile phone number for that customer; or
 - 26.1.4 any of the circumstances set out in Article 23.2, with the exception of Article 23.2.5, apply.

27. Alerts research programme

- 27.1 For the purposes of this Article 27, 'Selected Alerts Providers' are those Providers notified by the FCA as such.
- 27.2 Selected Alerts Providers shall cooperate fully with the FCA in the Alerts research programme and take such action as the FCA may reasonably direct for these and related purposes including but not limited to:
- 27.2.1 selecting a sample of customers in accordance with criteria specified by the FCA, including sample size and customer characteristics;
 - 27.2.2 assigning each customer in the sample to either a treatment or control group(s), in accordance with any requirements for treatment or control allocation specified by the FCA;
 - 27.2.3 implementing changes to IT and other systems as necessary to deliver such Alerts as may be specified by the FCA for the purposes of the Alerts Research Programme;
 - 27.2.4 delivering Alerts in accordance with the requirements as the FCA may specify including (but not limited to) message content, timing, design and delivery method;
 - 27.2.5 monitoring outcomes of the Alert in accordance with the measurement criteria or indicators specified by the FCA (and putting systems in place to support this), and providing information on outcomes to the FCA on request;
 - 27.2.6 complying promptly with any request by the FCA in relation to the Alerts Research Programme;
 - 27.2.7 subject to compliance with legal and regulatory requirements, using their best endeavours to avoid taking any action that might have the effect of impeding or interfering with the Alerts Research Programme, and avoiding omitting to take any action where that omission might have that effect; and
 - 27.2.8 providing information to the FCA on request relating to analysis of or outcomes from other events undertaken otherwise than in connection with the Alerts Research Programme.

PART 7

Monthly Maximum Charge

28. Specification of MMC

- 28.1 Providers shall, subject to Articles 28.2 and 28.3, specify for each PCA product they offer the maximum Relevant Charges that could accrue in relation to that PCA in any month as a result of exceeding or attempting to exceed a Pre-agreed credit limit on the PCA. This is the 'MMC'.
- 28.2 Providers may specify a different MMC for different PCA products and for different Brands.
- 28.3 Providers do not need to specify an MMC for Basic Bank Accounts or for any PCA in which no Relevant Charges apply.
- 28.4 Providers shall not impose any further Relevant Charges in relation to a PCA in any month where the cumulative Relevant Charges for that month incurred in relation to that PCA reaches the MMC.
- 28.5 For the purposes of this Part 7:
- 28.5.1 'month' means the Provider's monthly charging period;
- 28.5.2 'Relevant Charges' means all charges that could accrue to an account as a result of exceeding or attempting to exceed a Pre-agreed credit limit. This includes but is not limited to:
- (a) interest for the amount borrowed beyond a Pre-agreed credit limit;
 - (b) time-based charges such as monthly, weekly or daily charges;
 - (c) charges associated with allowing a payment due to lack of funds;
 - (d) charges associated with refusing a payment due to lack of funds; and
 - (e) administrative charges other than overdraft control charges.

29. Communication of MMC

- 29.1 Providers shall disclose the level of MMC each time information relating to Relevant Charges is disclosed and no less prominently than the presentation of that information.

- 29.2 Providers shall use the standardised term and definition of MMC as set out in Schedule 2, in any communications which refers to the MMC and is intended to be used for the purpose of helping existing or prospective customers (or both) understand the terms of a PCA to which that MMC applies.

PART 8

Publication of rates for SME lending products¹

30. Display of cost of unsecured loans and overdrafts

- 30.1 Providers² shall, in accordance with Article 30.3, continuously publish and display current Rates showing the:
- 30.1.1 Representative annual percentage rate (APR) for Unsecured Loans to SMEs for borrowing up to a value of £25,000; and
 - 30.1.2 Representative effective annual rate (EAR) for standard tariff Business Overdrafts to SMEs for borrowing up to a value of £25,000.
- 30.2 For the avoidance of doubt, the obligation to continuously publish and display current Rates in accordance with Article 30.1 applies to:
- 30.2.1 existing SME Lending which is being offered to customers in scope of this remedy from the date which is six months from the day on which the Order is made; and
 - 30.2.2 any new SME Lending in scope of this remedy, which are not offered by Providers by the date which is six months from the day on which this Order is made, but are offered by Providers after that date.
- 30.3 Rates published and displayed in accordance with Article 30.1 must be:
- 30.3.1 displayed Prominently on Providers' websites (other than when such websites are not accessible to potential customers);
 - 30.3.2 accurate and kept up-to-date;
 - 30.3.3 published and displayed Prominently where Providers advertise prices for Unsecured Loans and standard tariff Business Overdrafts to SMEs up to a loan value of £25,000 in marketing and advertising

¹ Article 2.5 'Part 8 come[s] into force 6 months after the day on which this Order is made.'

² Article 3.1.5 'Part 8 applies to all providers of Unsecured Loans and standard tariff Overdrafts to SMEs, for values under £25,000 in GB and NI.'

materials in any medium (including for the avoidance of doubt in materials given to existing customers in the context of renewing their Unsecured Loan or standard tariff Business Overdraft or discussing their borrowing needs) and where such advertisement:

- (a) indicates a rate of interest or an amount relating to the cost of credit;
- (b) includes a favourable comparison relating to the credit; or
- (c) includes an incentive to apply for credit or to enter into an agreement under which credit is provided.

30.4 For the avoidance of doubt, the requirements to publish and display Rates for standard tariff Business Overdrafts in accordance with Article 30.1.2 applies where Providers are (a) offering a new standard tariff Business Overdraft to an existing or new SME customer, and (b) renewing an existing standard tariff Business Overdraft for an existing SME customer on different terms (e.g. by changing the size of the standard tariff Business Overdraft or the Rates).

30.5 In the case of a conflict between the provisions of Part 8 of this Order and rules under the [Consumer Credit Act 1974](#) or the [Financial Services and Markets Act 2000](#), the rules under those two statutes shall prevail.

31. Publication of additional contextual information

31.1 Providers shall continuously publish and keep up-to-date on their website and in marketing and advertising materials falling within the scope of Article 30.3.3 contextual information on how the APR to be published for Unsecured Loans was calculated and information reflecting any additional charges for standard tariff Business Overdrafts.

31.2 The contextual information to be published under 31.1 must show as a minimum:

31.2.1 For Unsecured Loans:

- (a) the size and term of the loan associated with the Representative APR;
- (b) the rate of interest, and whether it is fixed or variable or both, expressed as a fixed or variable percentage applied on an annual basis to the amount of credit drawn down;
- (c) the nature and amount of any other charge included in the total charge for credit;

(d) the total amount of credit; and

(e) the total amount repayable.

31.2.2 For standard tariff Business Overdrafts:

(a) a warning that charges will be involved;

(b) the nature and amount of any charges associated with the Overdraft; and

(c) any interest rate to be applied and, if interest rates are to be applied, the method for calculating the actual interest.

32. Making data available to intermediaries

32.1 Providers shall release, and keep updated, without charge to Third Parties;

32.1.1 charges, terms and conditions, and how they reasonably expect APR and EARs to vary with loan size and length (for borrowing up to a value of £25,000);

32.1.2 the information referred to in Articles 30.1 and 31.2; and

32.1.3 any ancillary information requested by the Third Party that is necessary or desirable to enable use of the information provided pursuant to Articles 32.1.1 or 31.1.2, and that is reasonably practicable for the Provider to provide, in providing intermediary services to customers.

32.2 Providers who are in scope of Part 2 shall, and other Providers may, release the data to Third Parties pursuant to Article 32.1 in accordance with the Read-only Data Standard.

32.3 In making the data available on how APR and EARs vary with loan size and length in accordance with Article 32.1.1 above, Providers shall at a minimum use the following increments for loan sizes and length:

Loan size increments

(a) £5,000

(b) £10,000

(c) £15,000

(d) £20,000

(e) £25,000

Loan length increments

(a) 1 year

(b) 2 years

(c) 3 years

(d) 4 years

(e) 5 years

Overdraft size increments

(a) £5,000

(b) £10,000

(c) £15,000

(d) £20,000

(e) £25,000

32.4 The information made available under this Article 32 shall be as accurate, comprehensive and up-to-date as practicable.

32.5 For the purposes of this Article 32, 'Third Parties' shall mean any person who supplies or intends to supply intermediary or other services to SMEs on the cost of lending, such as a comparison website or Finance Platform. This includes but is not limited to the Open Up Challenge winner or winners.

PART 9

Tool offering indicative price quotes and eligibility indicator³

33. Provision of tool on Providers' websites

33.1 Providers⁴ shall continuously offer a tool in a Prominent location on their websites to enable SMEs to obtain an indicative price quote and indication of their eligibility ('price and eligibility tool'). This would cover all Unsecured Loans and standard tariff Business Overdrafts to SMEs, for borrowing up to a value of £25,000.

33.2 The price and eligibility tool shall:

33.2.1 return, as a minimum, information to the user in accordance with the following guidelines:

- (a) provide the user with a percentage (%) giving the likelihood of being eligible for a given product at the requested credit limit; and
- (b) for Unsecured Loans, provide the user with an indicative APR which they consider to be Representative based upon the information submitted by the user; and
- (c) for standard tariff Business Overdrafts, provide the user with an indicative EAR which they consider to be Representative based upon the information submitted by the user; and
- (d) for Unsecured Loans and standard tariff Business Overdrafts, provide the user with the additional contextual information as is required in Article 31.

33.2.2 Return information to the user within a maximum of 24 hours.

33.3 Providers shall ensure the tool provides information to the user, at the time of application by the user (i.e. displayed on the tool at the time of application by the user), on the proportion of all users using the tool who received an end quote that was the same, better or no more than 10% above the indicative

³ Article 2.6 'Part 9 ... (other than Articles 33.3 and 34 come into force 12 months after the day on which this order is made.' Article 2.7 'Article 33.3 ... comes into force 15 months after the day on which the order is made.' Article 2.8 'Article 34 ... comes into force (a) within 15 months after the day on which the Order is made (when providing access to at least any two finance platforms ...) and (b) within 3 months of the end of the Open Up Challenge process when providing access to at least any two comparison sites ...'

⁴ Article 3.1.6 'Part 9 applies to RBSG, LBG, Barclays and HSBCG ...'

quote (e.g 'XX% of SME customers received an end quote that was the same, better or no more than 10% above their indicative quote').

34. Access to tool by third parties

34.1 Providers shall provide access to the price and eligibility tool to at least two Finance Platforms designated under the [SBEE Act](#) (or a single Finance Platform if only one platform is so designated) for a period of three years and at least any two comparison sites, including the eventual winner or winners of the Open Up Challenge, for a period of three years after the prize winners have begun providing their services to customers.

34.2 Providers shall provide access to third parties in accordance with Article 34.1 above:

34.2.1 within 15 months after the day on which the Order is made where providing access to at least any two Finance Platforms designated under the SBEE Act (or a single Finance Platform if only one platform has been designated); and

34.2.2 within 3 months of the end of the Open Up Challenge process where providing access to at least any two comparison sites, including at least one of the eventual winner(s) of the Open Up Challenge.

34.3 In providing access to the tool to third parties under Article 34.1 above, Providers should either:

34.3.1 connect up their systems such that Finance Platforms and comparison sites could transmit information entered by SME customers on their websites to the Providers, which would then run their algorithms and return the results to a platform or comparison site to display; or

34.3.2 enable a 'black box' provider to sit between the comparison site and bank, and to run the bank's algorithms on its behalf.

34.4 In providing access to the tool to third parties under Article 34.1 above, Providers shall comply with the requirements set out in Article 33.2 above.

34.5 In deciding on the format and information input requirements for the price and eligibility tool, Providers shall use their best endeavours to work with comparison sites to develop minimum standards.

PART 10

SME banking comparison tools⁵

35. Open Up Challenge funding and cooperation with process

- 35.1 Providers⁶ shall contribute in the proportions given in Schedule 3 to the costs of the Open Up Challenge process.
- 35.2 The costs of the Open Up Challenge process shall include funding Nesta's reasonable administrative costs, sufficient and appropriate prizes to encourage entry and participation and the costs arising from project delivery (including, for the avoidance of doubt, the costs of the Open Up Challenge Data Sandbox).
- 35.3 The funding contributions to be made in accordance with Article 35.1 shall be in a timeframe and manner agreed between Nesta and the Providers, and approved by the CMA.
- 35.4 In the event that no such agreement under Article 35.3 is reached by Nesta and the Providers, Providers shall contribute to Nesta in the proportions given in Schedule 3 the amount specified by the CMA in a timeframe and manner specified by the CMA.
- 35.5 Subject to Article 35.6 below, in the event that Nesta notifies the Providers and the CMA:
- 35.5.1 that one or more Provider has failed to contribute to the costs of the Open Up Challenge process in the timeframe or manner agreed (or specified by the CMA under Article 35.4);
 - 35.5.2 that the Open Up Challenge process has been or is likely to be adversely affected as a result; and
 - 35.5.3 of the amount it requires in order to allow the Open Up Challenge process to continue without being adversely affected,

⁵ Article 2.1 Part 10 (other than Articles 36, 39, 40 and 41) come into force the day after this Order is made. Article 2.2 'Articles 36 and 39 come into force on 31 March 2017.' Article 2.3 'Article 40 comes into force once the winner or winners of the Open Up Challenge are in operation and actively providing their services to customers. Article 2.4 'Article 41 comes into force upon the CMA giving notice to Providers that one of the trigger events described in Article 41.4 has occurred.'

⁶ Article 3.1.7 'Part 10 (other than Articles 37 and 38.1) applies to RBSG, LBG, Barclays, HSBCG, Santander, Danske, Bol and AIBG in GB and NI.

the remaining Providers shall contribute to Nesta in the proportions given in Schedule 3 (to be re-calculated to exclude the non-contributing Provider or Providers) that amount on the understanding that it will be repaid to those Providers promptly, plus interest at Bank of England base rate running from the date on which the contribution became due, when the amount is subsequently received from the Provider or Providers who had failed to contribute.

- 35.6 No contribution under Article 35.5 shall be required unless the CMA has confirmed to Nesta and the Providers that such contribution is appropriate.
- 35.7 Subject to compliance with legal and regulatory requirements, Providers shall use their best endeavours to avoid taking any action that might have the effect of impeding or interfering with the Open Up Challenge process and avoid omitting to take any action where that omission might have that effect.

36. Provision of product specification in connection to the Open Up Challenge

- 36.1 Providers shall provide, without charge and without any restriction as to its in relation to the Open Up Challenge complete product specifications for all BCAs and all SME standard tariff Business Overdrafts and Unsecured Loans for borrowing up to a value of £25,000. This shall include:

36.1.1 prices;

36.1.2 charges;

36.1.3 benefits including credit interest and loyalty discounts (if any);

36.1.4 terms and conditions; and

36.1.5 customer eligibility criteria (if any),

for use by entrants to the Open Up Challenge as and when reasonably required before, during and after the Open Up Challenge data sandbox process.

- 36.2 The product specification data in Article 36.1 shall be made available in accordance with the Read-only Data Standard by 31 March 2017 unless a different timeframe and manner for making the data available is specified by Nesta provided that the timeframe is not before 31 March 2017. In addition, Providers shall comply with reasonable requests by Nesta for sample or draft product specification data to be made available at an earlier time.

- 36.3 Providers shall make more, less or different information available under this Article 36 and shall comply with such other directions as reasonably requested by Nesta and its designated agents and approved in advance by the CMA.
- 36.4 The information released pursuant to this Article 36 shall be accurate and comprehensive, and as up-to-date as practicable.

37. Provision of customer transaction data

- 37.1 Before, during and after the Open Up Challenge Data Sandbox process, Providers⁷ shall provide samples of anonymised BCA customer transaction data reasonably necessary for use by entrants to Nesta in a timeframe and manner reasonably requested by Nesta and approved in advance by the CMA.
- 37.2 Samples of transaction data under Article 37.1 would include at least the types of transaction history data currently available for PCAs through Midata as at 9 August 2016. It will also include details of the other factors which drive the costs of BCAs such as whether transactions are online or over the counter.

38. Transitional remedy

- 38.1 Until Article 15.4 of Part 3 of this Order comes into force RBSG, LBG, Barclays and HSBCG shall continue to fund the BBI in the proportions they were funding it as at 9 August 2016 and sufficiently to ensure that it continues to collect and publish survey information on the BBI website which permits comparisons between Providers on the basis of their service quality.
- 38.2 Providers' websites shall Prominently display hyperlinks to the BBI website.

39. Finance platforms

- 39.1 Providers shall, for a period of three years:
- 39.1.1 release without charge and in accordance with the Read-only Data Standard, to two or more of the Finance Platforms designated under the SBEE Act, details of their BCAs, and Unsecured Loans and standard tariff Business Overdrafts for borrowing up to a value of

⁷ Article 3.1.8 'Article 37 applies to RBSG, LBG, Barclays, HSBCG and Santander in relation to the provision of SME Lending and BCAs in GB.'

£25,000, including prices, fees, charges, benefits (if any), terms and conditions and eligibility criteria (if any); and

39.1.2 display Prominently on their websites hyperlinks to the Finance Platforms on which their products are listed.

40. Comparison tools

40.1 Once the winner or winners of the Open Up Challenge are in operation and are providing their services to customers, and for a period of three years, thereafter, the Providers shall:

40.1.1 subject to Article 40.1, release to two or more fair and independent comparison tools, one of which must be an Open Up Challenge Prize winner, details of their BCAs, and Unsecured Loans and standard tariff Business Overdrafts for borrowing up to a value of £25,000 including prices, fees, charges, benefits (if any), terms and conditions and eligibility criteria (if any); and

40.1.2 display Prominently on their websites hyperlinks to the comparison tool or tools on which their products are listed.

40.2 Where only one fair and independent comparison tool, including the Open Up Challenge winner, is in operation and provides services to customers, Providers shall release the information in Article 40.1 to that comparison tool.

41. Safeguard remedy

41.1 If the CMA gives notice to Providers that one of the trigger events described in Article 41.4 below has occurred, Providers shall within a timeframe to be approved in advance by the CMA provided that it is no more than nine calendar months from the notification to Providers under this Article (subject to any extensions granted by the CMA), commission a new SME comparison tool, to a project plan and specification approved in advance by the CMA, including measures to ensure the independence of the site from Providers and its commercial sustainability. Providers shall use their best endeavours to do this in two stages:

41.1.1 submission to the CMA of a project plan and specification within a timetable approved in advance by the CMA, provided this is no more than three months from notification being given under Article 41.1 (Stage One), unless this period is extended by the CMA; and

41.1.2 subject to approval by the CMA, commission the new SME comparison tool (Stage Two) within a timetable approved in advance

by the CMA, provided this is no more than nine calendar months from notification being given under Article 41.1, unless this period is extended by the CMA.

- 41.2 Providers shall use their best endeavours to ensure that the SME comparison tool commissioned under Article 41.1 shall be providing its services to customers within 12 months of having been commissioned, unless the CMA grants an extension which would be no longer than six months.
- 41.3 Providers' contributions to the funding of the SME comparison tool required by this Article 41 shall be in the proportions listed in Schedule 3.
- 41.4 The trigger events referred to in Article 41.1 are as follows:
- 41.4.1 Notification has been received by the CMA from the CMA's Nominated Representative that the Open Up Challenge process has failed or is likely to fail to produce a winner that meets the Nesta Assessment Criteria by the end of the Open Up Challenge process; or
- 41.4.2 The Open Up Challenge process does produce one or more winners, but within a period of no more than 18 months of providing the service the CMA concludes there is no successful winner as a result of the Open Up Challenge winner(s) either:
- (a) not being commercially sustainable; or
- (b) not providing services that enable customers to compare SME banking products in a clear and transparent manner.
- 41.5 In conducting an assessment in accordance with Article 41.4.2(a), the CMA will have regard to (a) whether there is a developing or established level of economic viability in the commercial model, and (b) the views of market participants at the time of the review.
- 41.6 In conducting its assessment in accordance with Article 41.4.2(b), the CMA will have regard to the following factors:
- 41.6.1 the extent to which the Open Up Challenge winner(s) are featuring a sufficiently broad range of products from across the relevant BCA SME Lending sectors including BCAs, standard tariff Business Overdrafts and Unsecured Loans;
- 41.6.2 whether the tools resulting from the Open Up Challenge process are capable of being, and are being, used by SMEs;

- 41.6.3 whether there is a good level of transparency and objectivity in the comparisons being generated; and
- 41.6.4 the views of market participants at the time of the review.
- 41.7 Where a new SME comparison tool has been established or commissioned under Article 41.1, Providers shall within one week of the new SME comparison tool notifying them that it is ready to provide its services to customers, and for a period of three years thereafter:
- 41.7.1 release to the new SME comparison tool or tools, without charge and in accordance with the Read-only Data Standard, details of their BCAs, Unsecured Loans and standard tariff Overdrafts for borrowing up to a value of £25,000, including prices, charges, benefits, terms and conditions and customer eligibility criteria; and
- 41.7.2 display Prominently on their websites hyperlinks to the comparison tool.
- 41.8 The information made available under this Article shall be:
- 41.8.1 made and kept continuously available from the date upon which the new SME comparison tool becomes operational free of charge and without any restriction on its use and;
- 41.8.2 shall be accurate and comprehensive and as up-to-date as practicable.

PART 11

Standardisation of BCA account opening⁸

42. Adoption of standard information and evidence requirements

- 42.1 Providers⁹ shall apply a Standard Information Set which shall include standard evidence requirements when deciding whether to approve an application to open a BCA from an Applicable SME. Receipt of the information and evidence set out in the Standard Information Set shall usually be sufficient to allow a Provider to open a BCA for an Applicable SME or make a

⁸ Article 2.4 'Article 42 come[s] into force 12 months after the day on which this Order is made.' Article 2.1 'Article 43 comes into force on the day on which this Order is made.'

⁹ Article 3.1.4 'Part 11 applies to all providers of BCAs in GB and NI;' Article 4.6 'Part 11 does not apply to providers that, at any point in the past two years, have had fewer than 20,000 active BCAs.'

decision not to. The circumstance in which further information may be required are set out in Article 42.2.

42.2 The circumstances in which Providers may require additional or supplemental information to that set out in the Standard Information Set to open a BCA are:

42.2.1 where the information provided is, in the view of the Provider, incomplete or is otherwise deficient;

42.2.2 where the information provided raises regulatory or other risk-related concerns which the Provider, in its discretion, considers require further investigation before a decision may be made on an application to open a BCA;

42.2.3 where, for any other reason, it would be unreasonable not to seek further information.

42.3 Article 42.1 does not restrict Providers seeking further information, which may include asking the Additional Questions as well as any other information which the Provider considers relevant, in order to assess Applicable SMEs suitability for other products or to provide features ancillary to the BCA.

42.4 For the purposes of this Part 11:

42.4.1 the 'Standard Information Set' shall be the set of information including evidence requirements provided in Part A of Schedule 3 of the Explanatory Notes subject to any variations to the set of information which are made in accordance with Article 43. The BBA shall display on their website the Standard Information Set taking into account all relevant future variations made to this as determined by the BCA Account Opening Steering Group.

42.4.2 'Applicable SMEs' means a business, whether established as a sole trader, a profit making private limited company or partnership, which meets each of the following criteria:

(a) annual turnover in its last financial year (exclusive of VAT and other turnover-related taxes) of no more than £6.5 million;

(b) a UK business having regard to its ownership and the location of its operation, trading and payments activities;

(c) a business which is not engaged in activities in high risk industrial sectors (such as gambling and betting, currency exchange and money transfer, and consumer credit or money lending sectors);

- (d) a business which does not have a complex ownership structure (for example businesses with overseas, multiple or layered ownership structures) or whose ownership interests are held by politically exposed persons as defined by the Money Laundering Regulations 2007.

42.4.3 'Additional Questions' means the set of questions provided in Part B of Schedule 3 of the Explanatory Notes.

43. Creation of the Steering Group

43.1 Providers shall work with the BBA to establish the BCA Standard Information and Evidence Requirements Steering Group (the 'BCA Account Opening Steering Group') to maintain the content of the Standard Information Set and which duties include the following:

- 43.1.1 reviewing the content of the Standard Information Set and agreeing any changes to the Standard Information Set in light of new regulation, developments and innovations as well as to ensure it continues to meet the requirements of relevant regulatory bodies including but not limited to the FCA and the Joint Money Laundering Steering Group.

43.2 The Steering Group shall be established in accordance with the BBA proposal set out in Schedule 4 of the explanatory notes.

PART 12

Monitoring and compliance reporting

44. Investigation powers

44.1 Section 174 of the Act shall apply to the enforcement functions of the CMA under this Order.

45. Obligation to submit Account Number Compliance Reports

45.1 Providers of PCAs or BCAs (or both) must submit an Account Number Compliance Report to the CMA by 1 March 2017 and 1 February (or first Working Day thereafter if it is not a Working Day) each year thereafter, if, on 31 December of the previous calendar year, they

- 45.1.1 have more than:

- (a) 150,000 active PCAs in GB and NI combined;
 - (b) 20,000 active BCAs in GB and NI combined;
- 45.1.2 provide PCAs or BCA's (or both) under a Brand and that Brand has more than:
 - (a) 150,000 active PCAs (including Basic Bank Accounts) in GB;
 - (b) 20,000 active BCAs (including Basic Bank Accounts) in GB;
 - (c) 20,000 active PCAs in NI; or
 - (d) 15,000 active BCAs in NI.
- 45.2 The Account Number Compliance Report must include the following:
 - 45.2.1 where Article 45.1.1(a) applies, as of the 31 December of the previous calendar year, the total number of:
 - (a) active PCAs in GB;
 - (b) active PCAs in NI;
 - (c) Basic Bank Accounts in GB; and
 - (d) Basic Bank Accounts in NI;
 - 45.2.2 where Article 45.1.1(b) applies, as of the 31 December of the previous calendar year, the total number of:
 - (a) active BCAs in GB; and
 - (b) active BCA's in NI;
 - 45.2.3 where Article 45.1.2 applies, as of the 31 December of the previous calendar year, the number of active accounts by Brand broken down by:
 - (a) PCAs (including Basic Bank Accounts) in GB;
 - (b) PCAs (including Basic Bank Accounts) in NI;
 - (c) BCAs in GB; and
 - (d) BCAs in NI.

46. Obligation to submit Compliance Statement on compliance with Part 2

46.1 Providers subject to Part 2 must submit a Part 2 Compliance Statement to the CMA within one month of each of Article 12, Article 13 and Article 14 coming into force and every February 1st thereafter (or first Working Day thereafter if it is not a Working Day). Each Part 2 Compliance Statement shall confirm whether those Articles of Part 2 that are in force at the time are being complied with.

47. Obligation to submit Compliance Report on compliance with Part 3

47.1 Providers with Brands subject to Part 3 must submit a Part 3 Compliance Report to the CMA:

47.1.1 on 1 August 2017 confirming whether Article 16 is being complied with;

47.1.2 on 1 August 2018 confirming whether all of the requirements of Part 3 are being complied with; and

47.1.3 thereafter, on every 1 February (or first Working Day thereafter if it is not a Working Day) confirming whether all the requirements of Part 3 are being complied with.

48. Obligation to submit Compliance Reports on compliance with Part 4

48.1 Providers subject to Part 4 must submit a Part 4 Compliance Report to the CMA on 1 August 2017 and every February 1st thereafter (or first Working Day thereafter if it is not a Working Day) as long as the Provider is a Selected Prompts Provider and the FCA Prompts Research Programmes is still in progress. Each Part 4 Compliance Statement shall confirm whether Article 18 is being complied with.

48.2 Should the FCA make rules such that Article 19 applies Providers subject to Part 4 shall submit a compliance report annually on 1 February (or first Working Day thereafter if it is not a Working Day) confirming whether they are complying with Article 19 and include the following information:

48.2.1 the prompts being sent and proposed to be sent to BCA customers pursuant to FCA rules;

48.2.2 the prompts being sent and proposed to be sent to larger BCA customers pursuant to Article 19.

49. Obligation to submit Compliance Report on compliance with Part 5

49.1 Providers subject to Part 5 must submit a Part 5 Compliance Report to the CMA within one month of Part 5 coming into force and every February 1st thereafter (or first Working Day thereafter if it is not a Working Day). Each Part 5 Compliance Report shall provide a link to the information required pursuant to Article 22 and confirm whether:

49.1.1 that information is accurate; and

49.1.2 the requirements of Part 5 are being complied with.

50. Obligation to submit Compliance Reports on compliance with Part 6

50.1 Providers subject to Part 6 must submit a Part 6 Compliance Report to the CMA:

50.1.1 within the first month of Article 26 confirming whether Article 26 is being complied with;

50.1.2 on 1 August 2017 confirming whether Article 27 is being complied with;

50.1.3 within one month of the remaining Articles contained within Part 6 coming into force confirming whether Part 6 is being complied with and provide the information set out in Article 50.2;

50.1.4 thereafter, on every 1 February (or first Working Day thereafter if it is not a Working Day) confirming whether all the requirements of Part 6 are being complied with and provide the information set out in Article 50.3.

50.2 The information required to be provided pursuant to Article 50.1.3 is:

50.2.1 confirmation of the type of alerts (e.g. Retry alerts, Near-limit alert etc) and medium of alerts (e.g. text message or push alert) that customers are being automatically enrolled into whether or not they are in the Programme of Alerts, and the template content by medium;

50.2.2 the auto-enrolment policies (and the supporting data collection policies) implemented;

50.2.3 what is communicated to customers about these alert;

50.2.4 how and when the alerts are triggered and sent;

50.2.5 the messages included in the Alert.

50.3 The information required to be provided pursuant to Article 50.1.4 is:

50.3.1 any change to the information provided pursuant to Article 50.1.3;

50.3.2 The number and percentage of new and existing accounts for which a mobile number is held and/or subscribed to mobile banking;

50.3.3 By medium:

(a) The number and percentage of new and existing accounts registered for the Alert;

(b) The number and percentage of new and existing accounts that had opted out of the Alert;

(c) Where possible, the number and timing of successful and failed deliveries of these alerts;

(d) Effectiveness measures, such as the percentage of accounts receiving an Alert for which charges were not subsequently applied.

51. Obligation to submit Compliance Reports on compliance with Part 7

51.1 Providers subject to Part 7 must submit a Part 7 Compliance Report to the CMA:

51.1.1 within one month of Part 7 coming into force confirming that the requirements of Part 7 are being complied with and setting out the MMC set for each relevant PCA product; and

51.1.2 thereafter on every 1 February (or first Working Day thereafter if it is not a Working Day) confirming that the requirements of Part 7 are being complied with and setting out:

(a) the MMC that is set for each relevant PCA product where it differs from that previously reported or is a new product and if so when the change was made (including all variations); and

(b) the number of customers, by month, who reach the MMC that has been set for each relevant PCA product.

52. Obligation to submit Compliance Reports on compliance with Part 8

52.1 Providers subject to Part 8 must submit a Part 8 Compliance Report to the CMA:

52.1.1 Within one month of Part 8 coming into force and thereafter on every 1 February (or first Working Day thereafter if it is not a Working Day) confirming that the requirements of Part 8 are being complied with and setting out:

- (a) details of the Rates published; and
- (b) details of the format in which prices were published; and
- (c) details of the proportion of customers who received Rates which were the same or better than the published Rate; and
- (d) an explanation as to how Providers reached reasonable expectations of the Representative Rate which may be published; and
- (e) where Providers consider that a conflict has arisen between the provisions of Part 8 and rules under the Consumer Credit Act 1974 or the Financial Services and Markets Act, details of the conflict and how this has been addressed; and
- (f) details of which intermediaries Providers have released data to in compliance with Article 32.1.

53. Obligation to submit Compliance Reports on compliance with Part 9

53.1 Providers subject to Part 9 must submit a Part 9 Compliance Report to the CMA:

53.1.1 Within one month of Part 9 coming into force and thereafter on every 1 February (or first Working Day thereafter if it is not a Working Day) confirming whether those Articles of Part 9 that are in force at the time are being complied with and setting out:

- (a) details of the online location of their tools at the appointed time for the tools to go live. This could be in the form of an internet link; and
- (b) information on the accuracy of the tools which they report to users as provided in Article 33.3 above (such information to be continuously correct); and

- (c) details of which Third Parties have been given access to the tool by Providers in compliance with Article 34.

54. Obligation to submit Compliance Reports on compliance with Part 10

54.1 Providers subject to Part 10 must submit a Part 10 Compliance Report to the CMA:

54.1.1 within one month of Part 10 coming into force and thereafter on every 1 February (or first Working Day thereafter if it is not a Working Day) confirming whether those Articles of Part 10 that are in force at the time are being complied with and setting out:

- (a) locations of the links to the BBI website in compliance with Article 38.2; and
- (b) details of which Finance Platforms the Providers' products are listed on and the location of the links to the Finance Platforms in compliance with Article 39.1; and
- (c) details of which comparison tools Providers have listed on and the location of the links in compliance with Article 40.1; and
- (d) should it be required, the location of the links to the comparison tool developed under the safeguard remedy.

55. Obligation to submit Compliance Reports on compliance with Part 11

55.1 Providers subject to Part 11 must submit a Part 11 Compliance Report to the CMA within one month of Part 11 coming into force confirming that the requirements of Part 11 are being complied with and thereafter on every 1 February (or first Working Day thereafter if it is not a Working Day) confirming that the requirements of Part 11 are being complied with.

56. Additional compliance report requirements

56.1 A Provider must ensure that:

56.1.1 any compliance report required by this Part 12 includes a signed certificate stating that:

- (a) the relevant compliance report has been prepared in accordance with the requirements of this Order; and

(b) for the period to which the compliance report relates, the Provider has complied in all material aspects with the requirements of this Order and is reasonably expected to continue to do so; and

56.1.2 the certificate must be signed by a director and non-executive director or where there are no non-executive directors, two directors of the Provider.

PART 13

Directions by the CMA as to compliance

57. Directions by the CMA as to compliance

57.1 The CMA may give directions falling within Article 56.2 to:

57.1.1 a person specified in the directions; or

57.1.2 a holder for the time being of an office so specified in any body of persons whether incorporated or unincorporated.

57.2 Directions fall within this paragraph if they are directions:

57.2.1 to take such actions as may be specified or described in the directions for the purpose of carrying out, or ensuring compliance with, this Order; or

57.2.2 to do, or refrain from doing, anything so specified or described which the person might be required by this Order to do or refrain from doing.

57.3 In Article 49.2 above, 'actions' includes steps to introduce and maintain arrangements to ensure that any director, employee or agent of a Provider carries out, or secures compliance with, this Order.

57.4 The CMA may vary or revoke any directions so given.

PART 14

Supply of information to the CMA

58. Supply of information to the CMA

58.1 Any person to whom this Order applies is required to provide any information and documents required by the CMA for the purposes of enabling the CMA to

monitor the carrying out of this Order or any provisions of this Order and/or to review the effectiveness of the operation of this Order, or any provision of this Order.

- 58.2 Any person to whom this Order applies may be required by the CMA to keep and produce those records specified in writing by the CMA that relate to the operation of any provisions of this Order, other than information or documents covered by legal professional privilege.
- 58.3 Any person to whom this Order applies and whom the CMA believes to have information which may be relevant to the monitoring or the review of the operation of any provisions of this Order may be required by the CMA to attend and provide such information in person.
- 58.4 Subject always to Part 9 of the Act, the CMA may publish any information or documents that it has received in connection with the monitoring or the review.

Schedule 1 – Implementation Trustee Functions

1. The Implementation Trustee shall act on behalf of the CMA and shall carry out its Implementation Trustee Functions set out in paragraph 2 to the best of his abilities.
2. The Implementation Trustee Functions comprise:
 - (a) being accountable to the CMA for the delivery of the open and common banking standards set out in Article 10.1 to enable release of data as described in Articles 12 to 14 to the timetable set out in Article 2 and the Agreed Timetable and Project Plan;
 - (b) leading and chairing an Implementation Entity comprising UK financial services industry specialists, resourced by the Providers, supported by a Programme Director, and other stakeholders, such as HM Treasury and the Financial Conduct Authority;
 - (c) take into account the views of a wide range of stakeholders including Fintechs, banks/building societies, consumer and SME groups, price-comparison websites, credit reference agencies, regulators and other interested third parties;
 - (d) seek to identify consensus amongst the Implementation Entity steering group and where such consensus cannot be achieved or agreed deadlines within the Agreed Timetable and Project Plan are put at risk to impose a decision;
 - (e) drive the project forward and take decisions in the interest of customers and the promotion of competition;
 - (f) ensure that the Implementation Entity is adequately resourced and properly managed – in particular that sufficient and appropriate resources are available to the Implementation Entity to allow it to conduct the work necessary to achieve its aims. The Implementation Trustee will oversee the work of the Programme Director, who reports directly to him;
 - (g) to ensure transparency of decision making via an ‘open forum’ for the debate and discussion of the implementation options by technically qualified participant stakeholders;
 - (h) report to and communicate to the CMA via:
 - (i) attendance at the CMA Remedies Implementation Programme Board;

- (ii) monthly update reports detailing the progress of the Implementation Entity in establishing the data standards referred to in Article 10.1 including any cause(s) for concern, present or future, about the timely delivery and adoption of the standards;
 - (i) identify (and supervise if necessary) the arrangements made by the Providers for ensuring compliance with the Order; and
 - (j) monitor compliance by the Providers with the Order.
- 3. The Implementation Trustee will undertake such steps as it reasonably considers necessary in order to carry out its functions effectively.
- 4. The Implementation Trustee shall comply with any requests made by the CMA for the purpose of ensuring the full and effective compliance by the Providers with the Order.

Schedule 2 – Communication of MMC

Monthly cap on unarranged overdraft charges

1. Each current account will set a monthly maximum charge for:
 - (a) going overdrawn when you have not arranged an overdraft; or
 - (b) going over/past your arranged overdraft limit (if you have one).
2. This cap covers any:
 - (a) interest and fees for going over/past your arranged overdraft limit;
 - (b) fees for each payment your bank allows despite lack of funds; and
 - (c) fees for each payment your bank refuses due to lack of funds.

Schedule 3 – Share of contributions to the funding of the Open Up Challenge process

1. Providers shall contribute in the following proportions to the costs of the Open Up Challenge process.

<i>Banking group</i>	<i>% Funding share</i>
RBSG	30
LBG	25
Barclays	20
HSBCG	15
Santander	5
Equally divided between the three NI-only banking groups	5

Source: CMA calculations using data provided by the eight providers (see Table 16.1 Final Report).