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## **Current Account Switch Remedies – CMA Proposed Undertakings**

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### **Executive Summary**

As owners of the Current Account Switch Service (CASS), we are delighted to provide this response to the CMA's (Competition and Market Authority) public consultation concerning the Undertakings that we will be required to give once the consultation process has been finalised.

We have noted that the CMA package of remedies will be implemented in two parts. The first is through the Retail Banking Investigation Order 2017 and the second via undertakings entered into by us. This response is solely in respect of the second.

Overall we are content with the Retail Banking Market Investigation Current Account Switch Service Remedies and the proposed Undertakings. However there is one area where we have made comment and this relates to the proposed reforms to CASS corporate governance where the Undertakings include detail regarding the inclusion of non-participant organisations / representatives on the CASS Management Committee and its sub-committees. It is the final element where we do not think the outcome matches the intent. In this regard we have proposed alternative wording and will be happy to work with the CMA to ensure the underlying objective of this remedy is delivered.

We have copied the Undertakings for each section in the body of our response, providing our comments and feedback in the boxes below.

### **The Undertakings**

#### 1. Reforms to CASS Corporate Governance (Section 3)

- 3.1: Bacs shall appoint an independent chair to the Management Committee (the Management Committee Chair).

*A new independent non-executive director (INED) has been appointed to our Board with specific responsibility for chairing the CASS Management Committee. The appointment (to Board) has been approved by the Bank of England and we believe this undertaking has been met. Details surrounding this appointment have been shared with the CMA.*

- 3.2: For the purposes of sub-paragraph 3.1, a Management Committee Chair is someone who is independent from the CASS participants and Bacs.

*This Undertaking has been met (see 3.1 above).*

- 3.3: Bacs shall ensure that the Management Committee Chair is someone with strong reputation, customer focus and marketing or negotiation skills and is invited to attend relevant meetings of Bacs' Board, where decisions related to CASS are to be discussed.

*This Undertaking has been met.*

- 3.4: Bacs shall ensure that the membership of the Management Committee and its sub-committees or groups includes independent non-bank or building society members and representatives of relevant consumer groups and intermediaries such as price-comparison websites who shall:

- i. have adequate opportunity to voice their views and contribute in CASS decision-making; and
- ii. have voting rights, where a vote is required

to ensure a balanced representation of the views of a wide range of stakeholders in the CASS decision-making processes.

*We have embraced this requirement through the appointment of one of the world's top independent consultancy firms to help us deliver a governance framework for consideration by our Management Committee. The delivery date for this work is expected to be mid-February 2017.*

*We do have one concern however and that is with the statement in the Undertaking that appears to require **all** Management Committee sub-committees or groups to include independent non-bank or building society representatives. We do not think attendance at all sub-committees or groups is necessarily relevant and where it is we think this can be agreed at the Management Committee where the views expressed by the independent non-bank or building society representatives will be captured in the published minutes. In addition, if a situation arises (e.g. for a specific agenda item) where an independent non-bank or building society representative wishes to attend one of the committees excluded from this remedy this can easily be accommodated. The overarching 'control' will reside with our independent Chair of the Management Committee and we think this should provide the necessary comfort that Bacs will not only comply with this Undertaking as written, but also with the spirit of it.*

*In this connection we would like to propose an amendment to the wording of this undertaking by inserting the words "where relevant" as follows:*

*".....membership of the Management Committee and **where relevant** its sub-committees or groups includes independent ....."*

*In connection with the above we would welcome the opportunity to work with the CMA to agree a final form for words that, for us, brings the necessary clarity to this Undertaking.*

- 3.5: Bacs shall also ensure that the new non-bank or building society members and representatives of relevant consumer groups and intermediaries who are members of the Management Committee and its sub-committees or groups have suitable skills and experience to contribute effectively towards developing and implementing CASS' strategy and improving its performance.

*We are content with this Undertaking as it stands (subject to our comments in respect of 3.4 above) and will ensure our recruitment policy reflects these requirements.*

- 3.6: Bacs shall ensure greater transparency around decisions of the Management Committee by publishing on its website within the periods specified below:
  - i. minutes of each meeting of the Management Committee and a summary of each decision taken by other sub-committees or groups reporting to the Management Committee within five Working Days of the following Management Committee meeting;
  - ii. Quarterly reports on CASS' performance against its KPIs and in the event the KPIs are not met, details of why this is and plans to enable Bacs to meet its KPIs going forward; and
  - iii. an annual report by the Management Committee Chair detailing CASS' performance for the past year and strategy for the forthcoming year by 31 March each year, starting with 2018.

*We can confirm our acceptance of this Undertaking and would add in relation to the third sub-point noted above we will be producing an annual report this year (from the outgoing Management Committee Chair) by 31 March 2017. Thereafter the annual report will be provided, as noted above, by the independent MC Chair.*

- 3.7: Bacs shall provide to the PSR the information set out in sub-paragraph 3.6 by 30 June each year, or on such other date as agreed by the PSR and Bacs.

*We can confirm our acceptance of this Undertaking.*

- 3.8: Bacs shall provide available information as and when required by the PSR to enable it to review and/or report on CASS' performance against the KPIs and CASS' annual strategy.

*We can confirm our acceptance of this Undertaking and note that there is potential for duplication here in respect of information we already submit to the PSR as part of the CASS Designation process (as required by the Payment Accounts Regulations 2015).*

- 3.9: Bacs agrees that the PSR may report to HMT and the CMA on the information received under sub-paragraphs 3.7 and 3.8, including any confidential information, and more generally about CASS' performance, and agrees that the PSR may share the information provided under sub-paragraphs 3.7 and 3.8 with the FCA.

*We can confirm our acceptance of this Undertaking.*

- 3.10: Bacs shall consult with the PSR on proposed changes to the KPIs as well as its annual strategic plans.

*We can confirm our acceptance of this Undertaking, noting our obligation to consult with the PSR before implementing proposed changes to KPIs and in respect of our annual strategic plans.*

- 3.11: Bacs shall implement the undertakings under paragraph 3 within six months of the Commencement Day with the exception of the undertaking under sub-paragraphs 3.6 to 3.10 which Bacs undertakes to implement from the Commencement Day.

*We can confirm our acceptance of this Undertaking.*

## 2. Extending the CASS Redirection Period (Section 4)

- 4.1: Bacs shall maintain the current 36-month CASS redirection period, which redirects payments to the current PCA or BCA for customers who have switched PCA or BCA and receive a payment into an old account, and provide a perpetual CASS redirection period for customers who have had a redirection payment within the preceding 13 months.

*We can confirm our acceptance of this Undertaking.*

- 4.2: In order to comply with sub-paragraph 4.1 Bacs shall ensure that CASS provides for:
  - i. in the first 36 months after a full switch, all incoming and outgoing payments to and from a customer's old account will be automatically redirected to their new account; and
  - ii. after the first 36 months after a full switch, if a customer has had a redirected payment from an old account within the preceding 13 months, all incoming and outgoing payments to and from a customer's old account will be automatically redirected to their new account.

*We can confirm our acceptance of this Undertaking.*

- 4.3: For the purposes of sub-paragraph 4.2, a 'redirected' payment means a payment made by Bacs, i.e. Direct Debits, Bacs Direct Credits, Faster Payments which include Standing Orders and 'incoming and outgoing payments' include a redirected payment and other payment types such as CHAPS, SEPA Credit Transfers, Cross-Border Payments, cheque, and on-us.

*We can confirm our acceptance of this Undertaking.*

- 4.4: Bacs undertakes to implement the undertakings under paragraph 4 within twelve months of the Commencement Day.

*We can confirm our acceptance of this Undertaking.*

3. Measures to Increase Awareness of and Confidence in CASS (Section 5)

- 5.1: Bacs shall work with CASS participants to ensure their commitment to its long-term promotional campaign to meet and then exceed the KPIs.

*We can confirm our acceptance of this Undertaking.*

- 5.2: Bacs shall ensure that its future promotional activity reflects:
  - i. any changes made to CASS as a result of the current account switching remedies set out in the Final Report and that it aligns with the CMA's measures (including where relevant the work of the FCA on customer prompts) to increase customer awareness of the potential benefits of switching; and
  - ii. communicates to customers the security and convenience of using CASS to switch accounts.

*We can confirm our acceptance of this Undertaking.*

- 5.3: Bacs shall continue to target promotional activity at customer groups that have low awareness of CASS and/or could benefit most from switching current account providers, including SMEs covered by CASS, Overdraft users, customers with high credit balances, the young and the financially disadvantaged.

*We can confirm our acceptance of this Undertaking.*

- 5.4: In order to comply with sub-paragraph 5.3, Bacs shall:
  - i. establish effective ways in which customers could be segmented and targeted through paid, owned and earned media;
  - ii. tailor activity directly for and design specific campaigns for the target customer groups; and
  - iii. allocate a suitable proportion of its annual budget to the target customer groups and ensure that its annual and longer-term business plans reflect this allocation.

*We can confirm our acceptance of this Undertaking.*

- 5.5: Bacs shall establish, and review periodically, awareness and confidence metrics to measure customers' understanding of the switching process and the number of customers actively looking at offers in the market.

*We can confirm our acceptance of this Undertaking.*

- Bacs shall implement the undertakings under paragraph 5 within six months of the Commencement Day, with the exception of the undertaking under subparagraph 5.5 which shall be implemented within twelve months of the Commencement Day.

*We can confirm our agreement with the time periods outlined in the above noted Undertaking.*

4. Measures to Facilitate PCA Searching and Switching (Section 6)

- 6.1: Bacs shall work with CASS participants to ensure that PCA providers give a firm decision to a customer on the Arranged Overdraft offered after a customer has completed the PCA provider's application process but before they switch accounts.

*We can confirm our acceptance of this Undertaking.*

- 6.2: Bacs undertakes to work with CASS participants to review the account switching process to make it more suitable to the needs of Overdraft users.

*We can confirm our acceptance of this Undertaking.*

- 6.3: In order to comply with sub-paragraph 6.2, Bacs shall:
  - i. undertake further research to understand Overdraft customers' concerns about the switching process that could inhibit switching; and
  - ii. work with CASS participants to introduce common processes aiming at ensuring that PCA providers provide Overdraft customers with a clear message about the process and the decision steps.

*We can confirm our acceptance of this Undertaking.*

- 6.4: Bacs undertakes to implement the undertakings under paragraph 6 within six months of the Commencement Day.

*We can confirm our agreement with the time periods outlined in the above noted Undertaking.*

5. Monitoring and Compliance Reporting (Section 7)

- 7.1: In relation to the Undertakings, Bacs shall provide the CMA with bi-monthly progress reports detailing what it is doing to comply with the Undertakings, and after 12 months from the Commencement Day, annual reports to be provided within 5 Working Days of the Commencement Day anniversary confirming compliance with the Undertakings.

*We can confirm our acceptance of this Undertaking.*

- 7.2: Bacs agrees that the CMA may share these reports with the PSR to enable the PSR to review and/or report on CASS' performance against the KPIs and CASS' annual strategy.

*We can confirm our acceptance of this Undertaking.*

- 7.3: The reports referred to in sub-paragraph 7.1 shall include:
  - i. steps taken to put in place the Management Committee Chair;
  - ii. a list of Management Committee and sub-committee and group members and their roles;
  - iii. links to where the items listed at sub-paragraph 3.6 can be found on Bacs' website;
  - iv. details of the long-term promotional campaign to increase awareness of and confidence in CASS;
  - v. details of how the long-term promotional campaign is targeted at customer groups described at sub-paragraph 5.3; and
  - vi. details of the development of Bacs' awareness and confidence metrics.

*We can confirm our acceptance of this Undertaking.*

- 7.4: Bacs shall comply with such reasonable written directions as the CMA may from time to time give and to take such steps within its reasonable competence as may be required for the purpose of carrying out or securing compliance with the Undertakings.

*We can confirm our acceptance of this Undertaking.*

- 7.5: Unless approved in advance by the CMA, Bacs shall not enter into or carry out any agreement or arrangement with any person, if the carrying out of the agreement or arrangement is intended to result or is likely to result in the Undertakings no longer applying to the activities that are the subject matter of the Undertakings.

*We can confirm our acceptance of this Undertaking.*



6. Sections 8 to 12 (inclusive)

We do not have any comments to make in respect of the final five sections of the Draft Final Undertakings as part of this informal consultation.