

CAPABILITY AND INNOVATION FUND: TERMS AND CONDITIONS

1. INTRODUCTION

- 1.1 These terms and conditions (“**Terms and Conditions**”) form part of the agreement between you (the “**Applicant Company**”) and us, Banking Competition Remedies Limited (the “**Independent Body**”) in relation to your application for, and (if successful) receipt of, funding from the Capability and Innovation Fund.
- 1.2 The Independent Body shall have absolute discretion on the interpretation and application of these Terms and Conditions and any determination or decision of the Independent Body in relation to any matter related to the Capability and Innovation Fund shall be conclusive.
- 1.3 The Independent Body may amend these Terms and Conditions from time to time and shall, upon such amendment, promptly provide each Applicant Company with a copy of the revised Terms and Conditions.
- 1.4 Any award of funding from the Capability and Innovation Fund will be subject, amongst other things, to the Applicant Company and the Independent Body entering into a legally binding agreement on terms satisfactory to the Independent Body (the “**Capability and Innovation Fund Agreement**”).
- 1.5 If any provision of these Terms and Conditions is inconsistent with the Capability and Innovation Fund Agreement, the Capability and Innovation Fund Agreement will take priority.

2. ELIGIBILITY, APPLICATION AND SUPPORTING DOCUMENTS

- 2.1 In order to be eligible to receive funding from the Capability and Innovation Fund, the Applicant Company must:
- (A) be a deposit-taking entity:
- (i) which has a Business Current Account offering;
 - (ii) which is authorised by the PRA to take deposits;
 - (iii) which is an entity domiciled in the United Kingdom, the European Union, the European Economic Area or Switzerland;
 - (iv) which has gross assets in the United Kingdom of less than £350 billion shown in its latest published consolidated accounts (or interim balance sheet);
 - (v) whose income in the United Kingdom relates primarily to the provision of deposit-taking, lending or payment services to individuals and businesses in the United Kingdom; and

- (vi) which has expressed an intention to expand its business offering to SMEs in the United Kingdom through the development of new products, expansion into new geographical markets or new business segments and/or investing in its customer service levels ("**Pool A Body**");
 - (B) be a deposit-taking entity which meets the criteria set out in items (ii) to (vi) (inclusive) of condition 2.1(A) above and has, or has publicly stated its intention to launch, a Business Current Account offering (and shall include any Pool A Body) ("**Pool B Body**");
 - (C) be: (i) a Pool A Body; (ii) a Pool B Body; or (iii) an entity (not being a Pool A Body or a Pool B Body): which (a) is domiciled in the United Kingdom, the European Union, the European Economic Area or Switzerland; (b) derives (or, if such entity is part of a group, such group derives) the majority of its revenue from the provision of financial services to individuals and businesses; and (c) offers, or has expressed an intention to expand its business offering to include, lending or payment services to SMEs in the United Kingdom or international payments services to SMEs in the United Kingdom ("**Pool C Body**"); or
 - (D) be an entity: (i) which is domiciled in the United Kingdom, the European Union, the European Economic Area or Switzerland; (ii) which (a) provides or develops financial products or services predominantly to or for SMEs in the United Kingdom or (b) provides products or services to the businesses described in (a); and (iii) which has raised capital of at least £1,000,000 in the three years prior to the date of submission of its Business Case ("**Pool D Body**").
- 2.2 Eligibility to receive funding from the Capability and Innovation Fund will be determined at the absolute discretion of the Independent Body and any determination of the Independent Body as to eligibility of an Applicant Company to receive funding from the Capability and Innovation Fund shall be conclusive.
- 2.3 The Applicant Company must provide to the Independent Body on request such information as the Independent Body considers necessary or desirable in order to determine whether such applicant is eligible to receive funding from the Capability and Innovation Fund.
- 2.4 The Applicant Company must submit a business plan in a form acceptable to the Independent Body (the "**Business Case**") along with its completed application form (the "**Application Documents**") by the date specified by the Independent Body in the relevant marketing materials or such later date as the Independent Body may specify (the "**Application Period**"). If the Application Documents are not submitted within the Application Period, the Independent Body reserves the right not to consider the application.
- 2.5 If the Applicant Company is either a Pool A Body, Pool B Body or a Pool C Body, the Business Case must:
- (A) set out the amount of funding which the Applicant Company is seeking from the Capability and Innovation Fund;

- (B) outline how the Applicant Company intends to develop the Relevant Business(es) and how funding from the Capability and Innovation Fund would assist the Applicant Company in doing this;
- (C) provide details of the way in which, and the purposes for which, any funding received from the Capability and Innovation Fund would be used;
- (D) demonstrate how the proposals set out in the Business Case seek to improve (i) customer outcomes for SMEs and/or mid-corporates in the United Kingdom; and/or (ii) the current products or services offered to SMEs and/or mid-corporates in the United Kingdom;
- (E) comply with any relevant legal or regulatory requirement (including any rules and guidance made by the FCA and/or PRA);
- (F) set out the amount (if any) of its own funds that the Applicant Company is proposing to invest in relation to the proposals outlined in its Business Case; and
- (G) set out whether such Applicant Company commits to purchasing innovative financial services or software from SMEs in the United Kingdom and, if so, how such purchases would contribute to the commercialisation of such services.

2.6 If the Applicant Company is a Pool D Body, the Business Case must:

- (A) set out the amount of funding which the Applicant Company is seeking from the Capability and Innovation Fund;
- (B) describe the product or service ("**Fintech Product or Service**") that it intends to develop using any funds received from the Capability and Innovation Fund;
- (C) provide details of the way in which, and the purposes for which, any funding received from the Capability and Innovation Fund would be used;
- (D) comply with any relevant legal or regulatory requirement (including any rules and guidance made by the FCA and/or PRA); and
- (E) set out the amount (if any) of its own funds that the Applicant Company is proposing to invest in relation to the proposals outlined in its Business Case.

2.7 The Application Documents must be approved by the board of directors (or equivalent body) of the Applicant Company and proof of such approval in certified form must be submitted to the Independent Body with the Application Documents.

2.8 The application form and any marketing materials in respect of the Capability and Innovation Fund have been prepared for information and discussion purposes only and should be treated as indicative only. No warranties or representations, express or implied, are being made as to the completeness or accuracy of any facts or information contained therein and no liability shall attach to the Independent Body, RBS or HMT as

a result of making such materials available to Applicant Companies. Applicant Companies should seek their own independent legal, financial, tax, regulatory and/or accounting advice before making any decision to apply for funding from, or participate in, the Capability and Innovation Fund.

- 2.9 The publication of an application form and/or any marketing materials by the Independent Body does not:
- (A) constitute an offer for funding;
 - (B) oblige the Independent Body to provide any funding; or
 - (C) create any commitment or obligation of the Independent Body to enter into any Capability and Innovation Fund Agreement.
- 2.10 The Independent Body shall be free at its sole discretion to establish the process in connection with the grant of funding from the Capability and Innovation Fund and to supplement or change this process from time to time. Without limiting the foregoing, the Independent Body expressly reserves the right, at its sole discretion, at any time and without specifying any reason, without any liability or obligation of any kind to:
- (A) accept or reject any and all applications, not grant any funding or proceed with the Capability and Innovation Fund in whole or in part and/or cancel or withdraw funding at any stage; and/or
 - (B) alter this process in any manner (including any requirements in respect of the Business Case as set out in these Terms and Conditions) or terminate this process entirely and decide not to proceed with granting funding from the Capability and Innovation Fund,

and the Applicant Company acknowledges that it is not relying on any express or implied representation of any kind concerning the manner in which such process will proceed.

- 2.11 The Applicant Company shall bear all its own costs and expenses in relation to: (i) any application for funding from the Capability and Innovation Fund and participation in the Capability and Innovation Fund; and (ii) any review of the information provided to the Applicant Company in connection with the Capability and Innovation Fund. To the fullest extent permitted by law, neither the Independent Body, nor RBS, nor HMT have any liability for any losses, costs or expenses (including any loss of profit or indirect or consequential loss or any loss of goodwill or possible business, whether actual or prospective), incurred by any Applicant Company in connection with, by reason of or arising out of any participation in the Capability and Innovation Fund.
- 2.12 In submitting an application for funding from the Capability and Innovation Fund, the Applicant Company agrees not to make any claim against the Independent Body, RBS or HMT with respect to the application process in the event that its application is not accepted by the Independent Body and the Independent Body does not enter into a Capability and Innovation Fund Agreement with such Applicant Company or provide

such Applicant Company with funding from the Capability and Innovation Fund (whether or not the Independent Body accepts the application of, enters into a Capability and Innovation Fund Agreement with, and/or provides funding from the Capability and Innovation Fund to, any other Applicant Company).

- 2.13 By submitting an application for funding from the Capability and Innovation Fund, the Applicant Company represents and warrants to the Independent Body that:
- (A) it is not a Sanctioned Person; and
 - (B) none of its group members, or, to the best of its knowledge and belief, Substantial Shareholders are Sanctioned Persons.
- 2.14 Each Applicant Company is entitled to the benefit of, is bound by, and is deemed to have notice of, the provisions of the Trust Deed (to the extent that the provisions of such document have been made available publicly or to such Applicant Company by the Independent Body).
- 2.15 The Independent Body is not authorised to carry out regulated activities and so will not be able to consider applications where receipt or processing of those applications would require any form of regulatory authorisation or permission.

3. USE OF FUNDS

- 3.1 By submitting an application for funding from the Capability and Innovation Fund, the Applicant Company agrees that the use of the Funding Amount must be in accordance with its Business Case and will be restricted to the purposes set out in: (i) conditions 3.2(A) and 3.2(B) if the Applicant Company is a Pool A Body, Pool B Body or Pool C Body; or (ii) condition 3.3(A) if the Applicant Company is a Pool D Body; and (iii) the relevant Capability and Innovation Fund Agreement.
- 3.2 If an Applicant Company is either a Pool A Body, Pool B Body or Pool C Body and its application is successful:
- (A) The Applicant Company shall use the Funding Amount for purposes which have a demonstrable link to (i) improving customer outcomes for SMEs in the United Kingdom; and/or (ii) expanding the Applicant Company's business capacity, product offering and/or target markets in order to improve its offering to SMEs in the United Kingdom (the "**Overarching Principles**").
 - (B) Subject to condition 3.2(A), the Funding Amount may be used by the Applicant Company to cover its capital expenditure or operating expenses in relation to the following purposes:
 - (i) the development of systems and/or infrastructure required to expand its Relevant Business(es);
 - (ii) the recruitment and payment of employees in order to expand and/or operate its Relevant Business(es);

- (iii) the marketing of products related to its Relevant Business(es);
 - (iv) the acquisition or leasing of premises required to expand its Relevant Business(es); or
 - (v) any other purpose which is (in the opinion of the Independent Body) consistent with the Overarching Principles.
- (C) The Applicant Company shall not use the Funding Amount for the following purposes:
- (i) to subsidise temporary price cuts for banking products and/or services;
 - (ii) to repay any existing liability;
 - (iii) to provide financing directly to customers;
 - (iv) to finance capital expenditure and/or operating expenses which the Applicant Company had specifically planned to incur or which had been specifically committed prior to the date of the application and: (a) that the Applicant Company would make regardless of whether or not any amount from the Capability and Innovation Fund is received; or (b) that had been included in the Applicant Company's business plan prior to the date of the application;
 - (v) to return capital by any means to existing shareholders of the Applicant Company; or
 - (vi) for a purpose which is inconsistent with the Overarching Principles and/or its Business Case.

3.3 If the Applicant Company is a Pool D Body and its application is successful:

- (A) The Applicant Company shall use the Funding Amount to develop improve, operate, expand and/or commercialise (or support the development, improvement, operation, expansion and/or commercialisation of) its Fintech Product or Service and the Funding Amount may be used by the Applicant Company to cover its capital expenditure and operating expenses in relation to the following purposes:
- (i) the development of systems and/or infrastructure required to develop, improve, operate, expand and/or commercialise the Fintech Product or Service in the United Kingdom;
 - (ii) the recruitment and payment of employees in order to develop improve, operate, expand and/or commercialise the Fintech Product or Service in the United Kingdom;
 - (iii) the marketing of the Fintech Product or Service; or

(iv) any other purpose which (in the opinion of the Independent Body) furthers the development, improvement, operation, expansion and/or commercialisation of the Fintech Product or Service in the United Kingdom.

(B) The Applicant Company shall not use the Funding Amount for the following purposes:

(i) to repay any existing liability;

(ii) to provide financing directly to customers;

(iii) to return capital by any means to existing shareholders of the Applicant Company; or

(iv) for a purpose which is inconsistent with its Business Case.

3.4 The Independent Body will have certain rights under the Capability and Innovation Fund Agreement which it will be entitled to exercise if the Applicant Company breaches any of the requirements of conditions 3.1 to 3.3. The exercise of such rights may result in the Applicant Company being required to repay the Funding Amount or a proportion of it.

4. INFORMATION, REPORTING AND AUDIT RIGHTS

4.1 The Independent Body is entitled to request additional information and clarification of information, request one further iteration of the Business Case submitted by an Applicant Company, request face-to-face meetings and access to personnel, and make all enquiries it considers necessary or desirable in relation to the application and the Independent Body's assessment of the application. Refusal to provide such information, grant and facilitate such meetings and/or respond to such enquiries may lead to an Applicant Company's application being rejected. If the Independent Body does not receive a response from any Applicant Company within ten Business Days, the Independent Body shall be entitled to assume that such Applicant Company has withdrawn its application.

4.2 The Applicant Company will report to the Independent Body on a regular basis in accordance with the terms set out in the Capability and Innovation Fund Agreement.

4.3 The Independent Body will have certain audit rights during the term of the Capability and Innovation Fund Agreement and these audit rights will give the Independent Body the right to access the Applicant Company's records, premises, and employees.

5. CONFIDENTIALITY AND DISCLOSURE

5.1 Applicant Companies should note that information received by the Independent Body may be published or disclosed in accordance with the access to information regimes (including under the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). Applicant Companies should mark as confidential or commercially sensitive any information that they consider should be

treated as such and explain why this is the case (automatic confidentiality disclaimers produced by IT systems will not, in themselves, be regarded as binding). The Independent Body will take account of such explanations, but no assurance can be given that confidentiality will be maintained in all circumstances.

- 5.2 No part of the application form or any other marketing materials in connection with the Capability and Innovation Fund should be published, reproduced or otherwise made available (in whole or in part): (i) to any other person without the prior written consent of the Independent Body; and (ii) in any jurisdiction where to do so would be unlawful.
- 5.3 The Applicant Company shall not (and shall procure that members of its group shall not) make any statement or representation about (or otherwise disclose any terms of or information regarding) the Capability and Innovation Fund, these Terms and Conditions, any Capability and Innovation Fund marketing materials or any Capability and Innovation Fund Agreement without the prior written consent of the Independent Body except if and to the extent: (i) required by Applicable Laws; or (ii) such information has come into the public domain other than as a result of a breach of confidence or contractual obligations.

6. DEFINITIONS AND INTERPRETATION

- 6.1 In these Terms and Conditions:

“Applicable Laws”	means any and all law (whether civil, criminal or administrative), common law, statutes, statutory instruments, treaties, conventions, directives, regulations or rules made thereunder, by-laws, demands, decrees, injunctions, resolutions, orders or judgments in any applicable jurisdiction, including the PRA Rules, the FCA Rules and any related or similar rules of any other authority, in each case which is binding on the relevant person or in respect of the relevant matter as the context requires;
“Applicant Company”	has the meaning given to it in condition 1.1, 6.2(A) and 6.2(B);
“Application Documents”	has the meaning given to it in condition 2.4;
“Application Period”	has the meaning given to it in condition 2.4;
“Business Case”	has the meaning given to it in condition 2.4;
“Business Current Account”	means an account marketed to businesses rather than individuals, which provides the facility to hold deposits, receive and make payments by cheque and/or debit card, use automated teller machine facilities and make regular payments by direct debit and/or standing order, but does not include an account in which money is

held on deposit in a currency other than the official currency of the United Kingdom or an account in which credit funds are held and offset against mortgage debt or a loan (other than an overdraft facility);

“Business Day”

means any day (other than a Saturday or Sunday) on which clearing banks are open for business in London;

“Capability and Innovation Fund”

means the fund to be established by the Independent Body to provide funding to eligible businesses to: (i) develop the capability to compete with RBS (and any relevant subsidiaries of RBS) in the provision of banking services to SMEs; and/or (ii) develop and improve the financial products and services which are available to SMEs;

“Capability and Innovation Fund Agreement”

has the meaning given to it in condition 1.4;

“FCA”

means the United Kingdom Financial Conduct Authority or any successor regulatory body;

“FCA Rules”

means any rules and guidance made by the FCA under FSMA and set out in the FCA’s handbook of rules and guidance as amended from time to time, and includes any rules and guidance made by any successor regulatory body;

“Fintech Product or Service”

has the meaning given to it in condition 2.6(B);

“FSMA”

means the Financial Services and Markets Act 2000 (as amended, modified, re-enacted or replaced from time to time), including any regulations made pursuant thereto;

“Funding Amount”

means any funds that an Applicant Company, if its application is successful, receives from the Capability and Innovation Fund;

“HMT”

means the Commissioners of Her Majesty’s Treasury of 1 Horse Guards Road, London SW1A 2HQ;

“Independent Body”

has the meaning given to it in condition 1.1;

“OFAC”

means the Office of Foreign Assets Control of the US Department of the Treasury;

“Overarching Principles”

has the meaning given to it in condition 3.2(A);

“Pool A Body”	has the meaning given to it in condition 2.1(A);
“Pool B Body”	has the meaning given to it in condition 2.1(B);
“Pool C Body”	has the meaning given to it in condition 2.1(C);
“Pool D Body”	has the meaning given to it in condition 2.1(D);
“PRA”	means the United Kingdom Prudential Regulation Authority (as defined by FSMA) or any successor regulatory body;
“PRA Rules”	means any rules and guidance made by the PRA under FSMA and set out in the PRA’s handbook of rules and guidance as amended from time to time, and includes any rules and guidance made by any successor regulatory body;
“RBS”	means The Royal Bank of Scotland Group plc, a public company incorporated in Scotland with registered number 45551 and whose registered office is at 36 St Andrew Square, Edinburgh, Scotland EH2 2YB;
“Relevant Business(es)”	means: (i) in the case of a Pool A Body or Pool B Body, its SME banking business in the United Kingdom; or (ii) in the case of a Pool C Body, its SME lending business and/or SME payments business in the United Kingdom;
“Sanctioned Country”	means, at any time, a country or territory that is subject to country- or territory-wide Sanctions;
“Sanctioned Person”	means, at any time: (i) any person listed in any Sanctions-related list of designated persons maintained by the United Nations Security Council, HMT, the European Union, OFAC or the US Department of State; (ii) any person operating, organised or resident in a Sanctioned Country; or (iii) any person owned or controlled by a person or persons included in paragraph (i);
“Sanctions”	means any sanctions administered or enforced by the United Nations Security Council, HMT, the European Union or the United States Government (including, without limitation, OFAC);
“SME”	means a small or medium-sized enterprise, being a business (including incorporated legal entities, sole traders, partnerships, not-for-profit organisations and

clubs, charities and societies) that, in respect of any given financial year applying to it, has annual revenues (exclusive of VAT and other turnover-related taxes) not exceeding £25 million;

“Substantial Shareholder”

means any person who: (a) owns 10% or more of the shares in the Applicant Company or any member of the Applicant Company’s group; or (b) is entitled to exercise, or control the exercise of, 10% or more of the votes able to be cast on all or substantially all matters at general meetings of the Applicant Company or any member of the Applicant Company’s group;

“Terms and Conditions”

has the meaning given to it in condition 1.1; and

“Trust Deed”

means a trust deed entered into by RBS and the Independent Body in order to establish, amongst other things, the trust in respect of the Capability and Innovation Fund.

6.2 In these Terms and Conditions:

- (A) references to “Applicant Company” shall be deemed to include, where applicable and where the context requires, the Applicant Company’s holding company (which is domiciled in the United Kingdom, the European Union, the European Economic Area or Switzerland) and wholly-owned subsidiaries and the wholly-owned subsidiaries of such holding company (in each case where such subsidiaries are domiciled in the United Kingdom, the European Union, the European Economic Area or Switzerland);
- (B) the expressions “holding company”, “wholly-owned subsidiary” “subsidiary” and “subsidiary undertaking” shall have the meaning given in the Companies Act 2006;
- (C) any reference to a statute, statutory provision or rules or regulations made thereunder shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified, re-enacted or replaced; and
- (D) references to RBS shall be read as including, where applicable, a reference to any relevant subsidiary of RBS undertaking the relevant activity within the Group and, in this context, any obligation on RBS shall be read as including, where applicable, an obligation on RBS to procure that the relevant subsidiary complies with the relevant obligation.