

## **Directions to Barclays issued under the Retail Banking Market Investigation Order 2017**

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

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

<sup>2</sup>Barclays, LBG, HSBCG, RBSG, Santander, Nationwide, Danske, BoI and AIBG

- (a) Set up an entity (the Implementation Entity) to agree, consult upon, implement, maintain and make widely available, without charge open and common banking standards (Article 10);
  - (b) Appoint an Implementation Trustee who they shall provide all such cooperation, assistance and information as the Implementation Trustee may reasonably require to discharge the Implementation Trustee Functions and comply with the Mandate (Article 11);
  - (c) Release product and reference information and service quality indicators in accordance with the Read-only Data Standard (Articles 12 and 13); and
  - (d) Make up to date PCA and BCA transaction data sets available without charge for read and write access in accordance with the Read/Write Data Standard (Article 14).
6. Pursuant to Article 2.10 of the Order Article 14 comes into force on 13 January 2018. This is subject to Article 10.6 which provides for the Implementation Trustee (with the approval of the CMA) to make changes to the Agreed Timetable and Project Plan which would affect the date Article 14 comes into force.
7. On the 22<sup>nd</sup> November 2017, the CMA gave notice of its approval to a revision of the Agreed Timetable and Project Plan proposed by the Implementation Trustee pursuant to Article 10.6 of the Order. This revision did not alter the date on which Article 14 of the Order comes into force in respect of “release 1” of the Read/Write Data Standard.
8. On 14 November Barclays informed the CMA that it would like to request a delayed launch date in respect of Article 14 of the Order since its BCA and PCA customers would not have access to the open banking account information and payment initiation functionality until February 2018.
9. On 15 December, following discussions with the CMA and the Implementation Trustee, Barclays submitted an implementation plan which was reviewed by the CMA and the Implementation Trustee and, following Barclays’ acceptance of proposed amendments, agreed. This program plan is set out in Schedule 1 to these Directions (“the Implementation Plan”).
10. Having taken into consideration:
- (a) the potential detriment to Barclays’ PCA and BCA customers arising from non-compliance with the Order;
  - (b) the importance of ensuring compliance with Article 14 on the date it comes into force is balanced against risks that can be otherwise mitigated;

(c) the provision of the Implementation Plan (as discussed in paragraph 9 above); and

(d) Barclays'

- i. explanation for why it was not in a position to comply with Article 14 from 13 January 2018; and
- ii. engagement with the CMA to develop an appropriate implementation plan;

the CMA has decided to give directions to Barclays (the "Directions").

11. On 15 December 2017 the CMA provided Barclays with draft directions specifying and describing the steps to be taken by Barclays for the purpose of securing future compliance with the Order.
12. The CMA has had regard to the representations received on the draft directions, and now issues these Directions.

## **Directions issued under the Retail Banking Market Investigation Order 2017**

The CMA makes these directions (“Directions”) to Barclays under Article 57 and Article 58 of the Retail Banking Market Investigation Order 2017 (the Order).

### **1. Commencement**

- 1.1 The Directions come into force on 20 December 2017.
- 1.2 Once in force these Directions will continue to be in force until such time they are varied or revoked by the CMA under the Order. The variation or revocation of these Directions does not affect the validity or enforceability of any right or obligations that arose prior to such variation or revocation.
- 1.3 The CMA shall revoke these Directions on confirmation by the Implementation Trustee that Barclays are compliant with Article 14.1 of the Order.

### **2. Interpretation**

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

### **3. Actions specified with respect to complying with Article 14 of the Order and monitoring**

- 3.1 Barclays must comply with the Implementation Plan.
- 3.2 Changes to the Implementation Plan may be:
  - (a) proposed by Barclays in which case they will require approval by the CMA following consultation with the Implementation Trustee;
  - (b) proposed by the CMA following consultation with the Implementation Trustee in which case they will require approval by Barclays;
- 3.3 Barclays must submit to the CMA in writing, on a monthly basis, or as otherwise reasonably required by the CMA; either
  - (a) a statement which confirms ongoing compliance with the Implementation Plan and that they are not aware of any information from which it could be reasonably concluded that there is a significant risk that they will not be compliant with the Implementation Plan within a period of a month; or, as the case may be,
  - (b) a report providing a detailed explanation of why they are unable to make the statement provided for in Article 3.3(a) and what course of action Barclays propose to take to address the issues identified in such explanation. Such report shall be supported by evidence where relevant.

## Schedule 1 Implementation Plan

# Barclays Implementation Plan

