

To: UK Banks

From: Colin Garland

1 July 2019

## **PART 6 OF THE RETAIL BANKING MARKET INVESTIGATION ORDER 2017**

I am writing to each of the personal current account (**PCA**) providers subject to Part 6 of the [Retail Banking Market Investigation Order 2017](#) (the **Order**).<sup>1</sup> We have some concerns about compliance with Part 6 of the Order, which requires those banks to send Alerts to customers where they have exceeded or are attempting to exceed Pre-agreed credit limits. Further, we have today launched a review of Part 6 of the Order, in recognition that the FCA has introduced rules on overdraft alerts, which come into effect on 18 December 2019.

### **Compliance with Part 6 of the Order**

As you may be aware, the CMA has recently published [a letter to Santander](#) regarding breaches of Part 6 of the Order relating to Alerts. We are also aware that there have been other breaches of Part 6 of the Order. As such, we consider that this is a good time to suggest areas where PCA providers subject to Part 6 should check that they are fully compliant. For example:

- are newly-introduced PCA products included within your process for auto enrolment, ensuring customers of these new products are sent Alerts following an Alert Trigger?
- are your systems capable of processing sufficient numbers of Alerts to ensure customers are capable of receiving Alerts?
- have you checked that Alerts are capable of being received as soon as possible after the Alert Trigger, to give customers the best opportunity to avoid charges?

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<sup>1</sup> Please note capitalised terms refer to terms defined in article 24.7 of the Order

- have you put provisions in place for planned systems outages? If you know that Alerts will not be sent, how do you ensure that customers do not receive charges?
- is the wording of your Alerts consistent with the requirements of the Order, for instance, clearly warning of the significant and imminent risk of incurring Charges where necessary?
- are Alerts sent to customers who exceed or are expected to exceed a Pre-agreed credit limit due to circumstances outside their control, for example their PCA provider lowering the Pre-agreed credit limit?
- where an Alert Trigger is brought about by a Scheduled Payment, is the corresponding Alert initiated by 10am on the day of the Alert Trigger?
- are there any instances of non-compliance that you have been aware of that have not been notified to the CMA?

If, having reviewed the above, you consider that you may have breached Part 6 of the Order, you should inform the CMA within 14 days of becoming aware of the breach. You can provide full details at a later date, but the initial report, containing whatever details are available at that time, should be provided within this timescale so as to remain compliant with Article 56.2 of the Order.

In considering whether you are compliant with the Order, please refer to the Order itself and the [Explanatory Note to the Order](#), as this letter only summarises our key concerns.

### **Responsibility for Alerts moving to the FCA**

The FCA announced on 18 December 2018 [rules on overdraft alerts](#), which enter into force on 18 December 2019. Further, on 7 June 2019 the [FCA announced reforms](#) to the way banks charge for overdrafts. We are considering whether from 18 December 2019 Part 6 of the Order will be superseded and should be revoked. We are also considering whether associated provisions, such as those relating to compliance reporting for Part 6 only, should also be revoked. As such, the CMA has today launched a review of Part 6 of the Order, and you may wish to comment on the CMA's proposals.

Please note, should a change of circumstances be found, the CMA proposes only to revoke Part 6 of the Order. The rest of Order will be unaffected and remain in force.

Yours sincerely

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