

## Notice of intention to vary the Retail Banking Market Investigation Order 2017

1. On 06 November 2014 the Competition and Markets Authority (CMA) board 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). 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) adverse effects on competition (AECs) in each of Great Britain and Northern Ireland in relation to personal current accounts (PCAs), business current accounts (BCAs) and SME lending;
  - (b) the CMA should take action to remedy, mitigate or prevent the AECs and detrimental effects flowing from them; and
  - (c) in order to address the AECs and resulting customer detriment, an integrated package of remedies should be imposed
2. The Retail Banking Market Investigation Order 2017 (the Order) was made as part of the package of remedies to remedy, mitigate or prevent the AECs and any customer detriment which had been identified in the Final Report. The Order, at Part 6, implements a programme of overdraft alerts with grace periods for PCA customers. It requires qualifying providers to automatically enrol all their customers into an unarranged overdraft alert; and to offer, and alert customers to the opportunity to benefit from, grace periods during which they can take action to avoid or reduce all charges resulting from unarranged overdraft use. This programme of alerts is set out at Part 6 of the Order.
3. Under section 162 of the Enterprise Act 2002 (the Act), the CMA has a statutory duty to keep under review orders from its investigations. From time to time, the CMA must consider whether, by reason of any change of circumstances, enforcement orders are no longer appropriate and need to be varied or revoked.

On 01 July 2019 the CMA launched a review of the Order. The CMA's approach to the variation of enforcement orders is covered in the CMA's guidance document published in [Remedies: Guidance on the CMA's approach to the](#)

*variation and termination of merger, monopoly and market undertakings and orders (CMA11).*

4. On 12 September 2019, the CMA published its report entitled [Review of the Retail Banking Market Investigation Order 2017: Provisional Decision](#). For the reasons given in that report, the CMA has provisionally concluded that a change of circumstances has taken place. This is due to the introduction of a new programme of overdraft alerts<sup>1</sup> by the Financial Conduct Authority (FCA). Consequently, the CMA has provisionally decided that retaining Part 6 of the Order is no longer appropriate and that the Order should be varied (through an order) to remove Part 6 of the Order and associated provisions, with the variation taking effect from the day the FCA's new programme of overdraft alerts comes into force.
5. The CMA now gives formal notice of its intention to vary the Order through the making of a variation order. The CMA has also published a draft Variation Order with accompanying Explanatory Note which can be accessed on the Retail Banking Market Investigation Order review web page<sup>2</sup>.
6. Any representations to the proposed variation of the Order should be made by 5pm on 15 October 2019 and sent to:

[remedies.reviews@cma.gov.uk](mailto:remedies.reviews@cma.gov.uk)

or

Remedies Review Team  
Competition and Markets Authority  
The Cabot  
25 Cabot Square  
London  
E14 4QZ

**Kirstin Baker**

***Chair of the Group***

**12 September 2019**

---

<sup>1</sup> <https://www.handbook.fca.org.uk/handbook/BCOBS/8/4.html?date=2020-04-06>

<sup>2</sup> <https://www.gov.uk/cma-cases/review-of-part-6-of-the-retail-banking-market-investigation-order-2017>