

Directions to Clydesdale Bank plc 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 (PCA) 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. On 2 February 2017 the CMA made the Retail Banking Market Investigation Order 2017 (the Order).¹ For the purposes of these Directions all terms unless expressly stated otherwise shall be as defined in the Order.
4. The integrated package of remedies in the Order contains, amongst others, a requirement for all providers of PCAs or BCAs (or both) in GB and NI to provide customers with a transaction history at the time of account closure (the Transaction History Remedy). Part 5 of the Order provides for the Transaction History Remedy.
5. Pursuant to Article 2.6 of the Order, Part 5 comes into force on 2 February 2018.

¹ 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.

6. On 23 January 2018, Clydesdale Bank plc (Clydesdale) updated the CMA on the progress it had made towards complying with Part 5 of the Order. It requested a delayed launch date in respect of Part 5 of the Order since it would be unable to comply until 2 March 2018.
7. The CMA and Clydesdale have agreed to this delay. In the meantime, Clydesdale has agreed to ensure that no customers are adversely affected by the delay in complying fully with Part 5, in particular that Clydesdale will supply any affected customers as soon as practicable after 2 March 2018.
8. Having taken into consideration:
 - (a) the provision of a new deadline to achieve full compliance with Part 5;
 - (b) the potential detriment to Clydesdale's customers (and ex-customers) arising from non-compliance with Part 5 being mitigated;
 - (c) Clydesdale's:
 - (i) explanation for why it was not in a position to comply with Part 5 from 2 February 2018; and
 - (ii) engagement with the CMA to develop an appropriate implementation plan;

the CMA has decided to give directions to Clydesdale.
9. On 24 January 2018 the CMA provided Clydesdale with draft directions specifying and describing the steps to be taken by Clydesdale for the purpose of securing future compliance with the Order.
10. The CMA has had regard to the representations received on the draft directions, and now issues the directions set out below (the Directions).

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The CMA makes these Directions to Clydesdale under Article 57 and Article 58 of the Order.

1. Duration

- 1.2 These Directions come into force on 29 January 2018.
- 1.3 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.
- 1.4 The CMA shall revoke these Directions once it is satisfied that Clydesdale is compliant with Part 5 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 Part 5 of the Order and monitoring

- 3.1 Clydesdale shall comply with Part 5 of the Order on or before 2 March 2018 and thereafter.
- 3.2 Changes to the date in paragraph 3.1 may be:
 - (a) proposed by Clydesdale in which case they will require approval by the CMA; or
 - (b) proposed by the CMA in which case they will require approval by Clydesdale.
- 3.3 Clydesdale shall provide to the CMA:
 - (a) a statement on 16 February 2018 which confirms that Clydesdale is not aware of any information from which it could be reasonably concluded that there is a significant risk that it will not be compliant with paragraph 3.1 above; or, as the case may be,
 - (b) a report providing a detailed explanation of why it is unable to make the statement provided for in Article 3.3(a) and what course of action

Clydesdale proposes to take to address the issues identified in such explanation. Such report shall be supported by evidence where relevant.

3.4 Clydesdale shall provide to the CMA any information and assistance it reasonably requests to assess compliance with paragraph 3.1 above or Part 5 of the Order more generally.

4. **Actions specified with respect to avoiding detriment for adversely affected customers**

4.1 While these Directions remain in place, for any customer who does not receive a Payment Transaction History in full compliance with Part 5, Clydesdale shall provide it as soon as practicable after 2 March 2018.

4.2 Clydesdale shall ensure that its staff who are likely to be contacted by customers are sufficiently briefed to be able to explain the delay in complying fully with Part 5.