

Directions to Monzo Bank Limited issued under the Retail Banking Market Investigation Order 2017

Introduction

1. The Competition and Markets Authority (CMA) is issuing Directions to Monzo Bank Limited (Monzo) concerning a breach under Part 5 of the Retail Banking Market Investigation Order 2017 (the Order). The breach relates to the failure to provide Payment Transaction Histories (PTHs) to 13,566 customers between 31 May 2021 and 11 March 2022. The breach was reported by Monzo to the CMA on 15 March 2022.
2. Part 5 of the Order requires a PTH to be sent to Personal Current Account (PCA) and Business Current Account (BCA) customers on account closure, free of charge. The underlying purpose of the provision of PTHs is to remove barriers to switching PCA and BCA providers.

Background

3. On 6 November 2014, the CMA board, in exercise of its powers under sections 131 and 133 of the Enterprise Act 2022 (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).
4. 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 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 customers detriment, an integrated package of remedies should be imposed.

5. On 2 February 2017, the CMA made the [Order](#)¹. For the purposes of these Directions, all terms unless expressly stated otherwise shall be as defined in the Order.
6. The integrated package of remedies in the Order contains, amongst other things, a requirement for all providers to send a PTH to PCA and BCA customers on account closure free of charge under Part 5 of the Order, subject to the exceptions listed in Part 5 of the Order.
7. The PTH must be provided within a reasonable time period which shall be no later than:
 - (a) 10 Working Days from the date the customer has closed their account and, where necessary, complied with reasonable identification requirements in respect of 95% of account closures over a 12-month period calculated on a monthly basis; and
 - (b) 40 days from the date the customer has closed their account and, where necessary, complied with reasonable identification requirements in respect of all other account closures.
8. Part 5 of the Order came into force on 2 February 2018, 12 months after the day on which the Order was made (Article 2.6 of the Order).

Previous breaches

9. The CMA previously [published a letter](#) to Monzo in relation to a breach of Part 5 of the Order. Monzo failed to send PTHs to 143,437 customers on account closure.

Current breach

10. Monzo notified the CMA on 15 March 2022 that it had failed to send PTHs to 13,046 personal account and 506 joint account holders between 31 May 2021 and 11 March 2022, and 14 business account holders between 1 March 2022 and 11 March 2022.
11. Monzo discovered the coding error after a customer who closed their account failed to receive a PTH and queried this.

¹ The Order was made in performance of the CMA's duty under section 138 of the Act for the purposes 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.

12. Monzo informed the CMA that it fixed the coding error on the day of discovery, 11 March 2022.
13. Monzo wrote to all affected customers, notifying them that Monzo failed to send a PTH on account closure, and asked customers if they would like to receive their PTH. Monzo sent PTHs to customers in all instances where a PTH was requested.

CMA's decision

14. The CMA has decided to issue Directions to Monzo in relation to the breach described above.
15. The CMA notes that:
 - The breach affected customers that switched away from Monzo using the Current Account Switching Service (CASS).
 - Monzo's policy was to send customers who closed their accounts with Monzo a PTH on account closure.
 - Due to a coding error, Monzo failed to send PTHs to customers who used the CASS system.
 - Monzo had compliance controls and processes in place, albeit these were ineffective in preventing the breach.
16. The CMA notes that Monzo has committed to taking the following steps to ensure its future compliance:
 - Carried out a review of its automated approach and confirmed that it has been designed in line with Article 20 of the Order for all account closure reasons.
 - Built a monitoring data dashboard which ensures that any cases that are not sent as part of Monzo's automated solution are flagged, reported, assessed and where relevant, customers are manually sent their PTH.
 - Designed and implemented a new change governance process which has enhanced the level of oversight and control over all changes across Monzo.
 - Included the alerting mechanisms (notify Monzo's customer operations staff whenever there is a failure to send a PTH) in its key control repository and testing schedule.
17. The CMA has decided to issue Directions to Monzo in relation to this breach. In reaching this decision, the CMA has considered:

- (a) The explanation provided by Monzo for the breach and its subsequent engagement with the CMA, including the consideration of the information provided by Monzo.
 - (b) The severity of the breach and detriment to Monzo's customers. The CMA notes that the breach affected 13,566 customers over a period of nine and a half months.
 - (c) The actions and proposed actions taken by Monzo to address the breach. The CMA notes that Monzo has contacted all affected customers and has sent a PTH where this was requested. Monzo has also fixed the coding error that led to the breach.
 - (d) Previous conduct/breaches. The CMA notes that Monzo previously breached Part 5 of the Order. Monzo failed to send PTHs to 143,437 customers on account closure. The CMA published a letter in relation to this breach and included it on the CMA's Register of Breaches.
 - (e) The need for further action, including whether this is necessary to address the risk of future breaches. The CMA considers that issuing Directions is a necessary and proportionate step, taking into consideration Monzo's previous breach and the failure of its internal measures to prevent a recurrence.
18. Based on the failure of Monzo to provide PTHs to 13,566 account holders on account closure, the CMA has decided to issue directions to:
- Carry out an initial assurance engagement of Monzo's compliance with Part 5 of the Order (covering, among other things, Monzo's processes and procedures), with the possibility of a subsequent assurance engagement in certain circumstances; and
 - Impose stronger reporting obligations on Monzo in relation to Part 5 of the Order.

The CMA gives these Directions (the Directions) to Monzo Bank Limited with company number 09446231 and registered address at Broadwalk House, 5 Appold House, London, England, EC2A 2AG under the Retail Banking Market Investigation Order 2017

1. Commencement and Duration

1.1. The Directions come into force on 26 July 2022.

1.2. The Directions continue to remain in force until such time as 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 rights or obligations that arose prior to such variation or revocation.

2. Interpretation

2.1. In the 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.

2.3. The following definitions apply in these Directions:

2.3.1. 'the Bank' - means Monzo Bank Limited a UK registered company with company number 09446231.

2.3.2. 'the CMA' – means the Competition and Markets Authority.

2.3.3. 'Incident Response Team' – means the Bank's team that is responsible for reviewing the customer, regulatory and technical impact of breaches of the Order and contribute to resolving breaches of the Order.

2.3.4. 'Independent Body' - means an auditor with sufficient expertise to carry out the Initial Assurance Engagement and any Subsequent Assurance Engagement appointed in line with appropriate and relevant standards (e.g. ISA, IIA, ISAE etc) and that is not part of the Bank's group/company and is without conflicts of interest.

- 2.3.5. 'Initial Assurance Engagement' – means the assurance engagement² under these Directions described in clauses 5 to 7.
- 2.3.6. 'the Order' – means the Retail Banking Market Investigation Order 2017.
- 2.3.7. 'Potential Breach' – for the purposes of these Directions, means any incident identified which is likely to have, or has in the past likely had, an impact on compliance with Part 5 of the Order.
- 2.3.8. 'PTH' – means Payment Transaction History, as defined under Article 9.1 of the Order.
- 2.3.9. 'Recommended Steps' – means the steps included in the Report and approved by the CMA that the Bank should take following the Initial Assurance Engagement and any Subsequent Assurance Engagement.
- 2.3.10. 'Recommended Timescales' – means the timescale for implementing the Recommended Steps as determined by the Independent Body and approved by the CMA.
- 2.3.11. 'Report' – means the report prepared by the Independent Body following the Initial Assurance Engagement and any Subsequent Assurance Engagement.
- 2.3.12. 'Subsequent Assurance Engagement' – means any further assurance engagement³ under these Directions following the Initial Assurance Engagement described in clause 8.

3. Directions

3.1. The CMA gives the following Directions to the Bank.

3.2. The Bank is directed:

- 3.2.1. To take all steps within the Bank's competence reasonably necessary or desirable to achieve and maintain compliance with Part 5 of the Order.
- 3.2.2. To comply, at all levels, either directly or indirectly, internally or publicly, in practice or by means of any internal guidance, manual, procedure, terms and conditions or any other similar information, with Part 5 of the Order.

² See the IAASB: [International Standard on Assurance Engagements \(ISAE\) 3000 Revised, Assurance Engagements Other than Audits or Reviews of Historical Financial Information | IFAC \(iaasb.org\)](https://www.iaasb.org).

³ See the IAASB: [International Standard on Assurance Engagements \(ISAE\) 3000 Revised, Assurance Engagements Other than Audits or Reviews of Historical Financial Information | IFAC \(iaasb.org\)](https://www.iaasb.org).

3.2.3. To ensure that effective governance is in place for testing and monitoring ongoing compliance with Part 5 of the Order.

4. Appointment of an Independent Body

4.1. The Bank is directed to appoint an Independent Body to carry out an Initial Assurance Engagement and to monitor the implementation of any Recommended Steps that arise from this Initial Assurance Engagement.

4.2. The appointment of an Independent Body will be subject to the approval of the CMA, which will be sought in writing by the Bank explaining why its proposed choice of Independent Body is independent of the Bank and set out its competence in the relevant fields.

4.3. The Bank is directed to ensure a recommendation of an Independent Body has been made no later than two calendar months of these Directions being issued. The Independent Body is to be appointed within 10 Working Days of the CMA confirming in writing that a proposed Independent Body is appropriate.

5. Initial Assurance Engagement of compliance with Part 5 of the Order

5.1. The Bank is directed to ensure the appointed Independent Body carries out an Initial Assurance Engagement of all matters relating both directly and indirectly to the compliance of the Bank with Part 5 of the Order and these Directions. The Bank is directed to ensure the Independent Body's Initial Assurance Engagement will:

5.1.1. have its scope agreed in advance between the Independent Body and the CMA, following consultation between the Bank and the Independent Body;

5.1.2. examine in detail all matters of policy, procedure, staff training, staff assessment and staff knowledge of Part 5 of the Order and all other areas (including IT and computer systems) and actions both directly and indirectly relevant to determine whether these policies, procedures, training and staff actions are sufficient to prevent the risk of future breaches of Part 5 of the Order or whether any additional steps need to be taken to reasonably prevent future breaches;

5.1.3. carry out, on the basis of appropriate audit standards, compliance checking of the Bank's past administration of PTHs in accordance with Part 5 of the Order from the date the Bank came in scope of Part 5 of the Order, up to the date in which these Directions came into force.

5.2. The Bank is directed to provide all necessary access to its staff, internal processes, procedures, documentation, computer systems, including providing information and assistance in all relevant matters to allow the Independent Body to determine the necessary scope of its activities, and to carry out all work it deems appropriate to fulfil the Initial Assurance Engagement.

5.3. The Bank is directed to use its best endeavours to ensure that the Independent Body begins the Initial Assurance Engagement in accordance with the Directions and no later than one calendar month of the Independent Body having been appointed by the Bank.

The Independent Body's capacity to carry out its specified functions

5.4. The Bank is directed to ensure that the Independent Body's terms of appointment include that it immediately notifies the CMA in writing if it considers that it is no longer in a position to effectively carry out the specified functions.

5.5. The Independent Body should give its reasons for its opinion, including any supporting evidence available.

Independent Body's remuneration

5.6. The Bank is directed to remunerate and reimburse the Independent Body for all reasonable costs properly incurred and in accordance with the terms and conditions of its appointment, and in such a way as to not impede the Independent Body's independence or ability to effectively and properly carry out its functions.

6. Outcomes of the Initial Assurance Engagement

6.1. The Bank is directed to ensure the Independent Body will prepare a Report to be provided directly to the CMA on the adequacy of the Bank's procedures, processes and training and all other relevant matters to deliver compliance with Part 5 of the Order.

6.2. Where processes, procedures and training are not considered sufficient to deliver full compliance with Part 5 of the Order in the future, the Bank is directed to ensure the Independent Body will include in the Report to the CMA the Recommended Steps for the Bank to implement to improve its compliance processes and procedures.

6.3. The Bank is directed to ensure the Independent Body will also include in the Report an appropriate Recommended Timescale for the Bank to deliver these

Recommended Steps, taking into account the benefit to customers and competition from their implementation, and what could reasonably be achieved by the Bank using its best endeavours.

6.4. The Bank is directed to ensure the Independent Body informs the CMA directly in the event that it uncovers evidence of Potential Breaches or actual breaches of Part 5 of the Order, both historic and ongoing in nature (unless previously disclosed to the CMA by the Bank).

6.5. The Bank shall be provided with a reasonable opportunity to review the Report and produce a written response to the Report to be provided by the Independent Body to the CMA alongside the Report. The CMA will review the Report and any response produced by the Bank and where content, will provide its approval that the Recommended Steps are to be implemented by the Bank in accordance with the Recommended Timescale. The CMA may amend the Recommended Steps and Recommended Timescale where appropriate and reasonable. The Bank will be provided with a reasonable opportunity (at least two weeks) to comment on any amended Recommended Steps and Recommended Timescales before they are finalised.

7. Implementation of improvements, oversight and correction by the Independent Body

7.1. The Bank is directed to implement the Recommended Steps within the Recommended Timescale in the Report, as approved or amended by the CMA pursuant to clause 6.5.

7.2. The Bank is directed to give the Independent Body all necessary access to enable the Independent Body to monitor the implementation of the Recommended Steps within the Recommended Timescales.

7.3. The Independent Body will report directly to the CMA and the Bank simultaneously on its oversight on the progress in relation to the implementation of any improvements set out in its Report on a monthly basis. In this report, it will raise any concerns regarding the implementation and timescales with both the CMA and the Bank.

8. Subsequent Assurance Engagement by an Independent Body

8.1. Following the Initial Assurance Engagement, and if recommended by the initial Independent Body and approved by the CMA, the Bank is directed to appoint an Independent Body to carry out a Subsequent Assurance Engagement of its compliance with Part 5 of the Order and these Directions and to monitor the implementation of any Recommended Steps that may emerge from this Subsequent Assurance Engagement.

- 8.2. The timing of the Subsequent Assurance Engagement is to be determined by the Independent Body in the Report produced for the Initial Assurance Engagement and is to be approved by the CMA.
- 8.3. A Subsequent Assurance Engagement is subject to the following requirements:
 - 8.3.1. it is to be carried out by an Independent Body, but not necessarily the same Independent Body that carried out the Initial Assurance Engagement, and the Bank may propose a different Independent Body for CMA approval;
 - 8.3.2. the scope is to be agreed by the Independent Body appointed for a Subsequent Assurance Engagement and the CMA following consultation with the Bank, and may cover as a minimum, processes, policies, procedures, staff training and assessment of staff knowledge of Part 5 of the Order;
 - 8.3.3. it must cover the adequacy of all new processes and procedures introduced in response to these Directions following the Initial Assurance Engagement.
- 8.4. The provisions in clauses 5.1 to 5.6 and 6.1 to 6.5 inclusive apply to any Subsequent Assurance Engagement as they do to the Initial Assurance Engagement.
- 8.5. The reporting requirements and the requirement to implement the Recommended Steps in clauses 7.1 to 7.3 inclusive apply to any Subsequent Assurance Engagement as they do to the Initial Assurance Engagement, save that the Independent Body may not include a further Subsequent Assurance Engagement as a Recommended Step in any further Subsequent Assurance Engagement Report if the Independent Body and the CMA conclude that the Recommended Steps included in the Initial Assurance Engagement and any Subsequent Assurance Engagement (as applicable) have been implemented in the Recommended Timescale. Should the Recommended Steps of a Subsequent Assurance Engagement include a further Subsequent Assurance Engagement, an Independent Body should be appointed to carry out such a further Subsequent Assurance Engagement in accordance with clauses 8.1 to 8.4 inclusive, unless the Bank is instructed otherwise by the CMA.

9. Monitoring and Compliance provision of information

- 9.1. The Bank is required to report to the CMA on a monthly basis regarding:

- 9.1.1. The number of customers who have closed their PCA and/or BCA with the Bank and fall within the scope of Part 5 of the Order.
- 9.1.2. The number of PTHs the Bank has sent to the customers referred to in clause 9.1.1.
- 9.1.3. Whether the PTHs sent by the Bank to its customers referred to in clause 9.1.1. meet the required timeframes in Article 20.6 of the Order.
- 9.1.4. The reasons why the Bank has not provided a PTH to any of the customers referred to in clause 9.1.1.
- 9.2. The first report referred to in clause 9.1. will be due one calendar month after these Directions come into force.
- 9.3. The Bank's Chief Operating Officer must attest the first report due under clause 9.1 and thereafter each report falling six months after the last report attested under this clause 9.3.
- 9.4. The reporting requirements in clause 9.1 apply up until the Recommended Steps proposed by the Independent Body have been implemented to the satisfaction of the Independent Body and approved by the CMA, unless the CMA gives approval for the Bank to stop sooner.
- 9.5. For the avoidance of doubt, the reporting requirements in clause 9.1. are in addition to the Bank's obligation to submit a Compliance Statement on compliance with Part 5 of the Order, in accordance with Article 49 of the Order.
- 9.6. All future annual compliance reporting under Articles 45 - 56 of the Order should report on compliance with these Directions.

Adam Land
Senior Director
Signed by authority of the CMA Board
26 July 2022