

LLOYDS  
BANKING  
GROUP



**LLOYDS BANKING GROUP PLC  
RESPONSE TO CMA CONSULTATION ON  
STREAMLINING ITS APPROACH TO  
ISSUING DIRECTIONS (8/12/22)**

**Submission Date: 23/12/2022**

Dear Remedies Monitoring Team

Thank you very much for the opportunity to respond to your consultation on the proposed change to your published process for issuing directions.

We recognise the value to the CMA in streamlining the process and avoiding duplication, and that there is an opportunity for this to bring efficiencies to all parties.

However, we note that the proposed change to the process, through which firms would typically be given one opportunity to provide representations on both i) the CMA's notification that it is minded to issue directions and ii) a draft set of requirements that would be in the directions, rather than do so via two separate stages, would reduce the total time period for firms to respond to a minimum of 2 weeks.

From our experience, 2 weeks is a very short amount of time to carry out sufficient information gathering and both internal senior level engagement and engagement with the CMA on a matter as important as receiving potential directions.

**Therefore, while we support the CMA's proposal to remove duplication by combining the process into one stage, we would ask that the consultation period, in circumstances where this combined approach is taken, be extended to a minimum of 4 weeks.** In our view, this would give firms an adequate timeframe to engage internally and with the CMA on both the appropriateness of the directions, and the content of the proposed tasks.

Second, the CMA's January 2021 guidance recognises the importance of engagement between the CMA and firms on potential breaches before any enforcement action is taken (ref para 4.2 of the guidance). It also recognises the appropriateness of the CMA considering informal action as an alternative to formal action (ref para 4.5-4.7 of the guidance). Such engagement can sometimes result in firms proposing a programme of voluntary action that the CMA is satisfied will resolve the issues in question without the need for legal directions at all.

**We would therefore welcome the CMA giving consideration to the risk that the proposed changes (in which the CMA would specify the tasks to be directed at the outset) may reduce the opportunity for such constructive engagement between the CMA and the firm involved,** and for firms and the CMA to agree informal enforcement action and commitment to a voluntary action plan to reach the required outcome.

We would propose that before an issue progresses to the stage of the CMA giving notification of its intent to issue directions along with draft directions, the CMA ensures to make firms aware of its concerns and the risk of enforcement action being taken, and that there remains an opportunity for firms to engage and promptly propose and submit a voluntary plan to address the issue. This would enable firms and the CMA to move quickly to resolution in the interests of customers, potentially avoiding the need for the CMA to move towards directions at all or otherwise seek to create draft requirements from scratch.

Third, as a further improvement to the process, **we would find it very helpful if the CMA would consider building in a procedural requirement for clear sunset provisions or exit criteria when draft directions are first issued.** This would ensure firms are made fully aware from the outset of when the CMA would ultimately consider it appropriate to release the Directions, and thus would bring greater clarity and certainty to firms as they establish a programme of action to meet the requirements.