

## **Consolidated directions to NatWest Group plc (NatWest) issued under the Small and medium-sized enterprise (SME) banking undertakings 2002**

**The CMA gives these Directions (the Directions) to NatWest Group plc (NatWest) with company number SC045551 and registered address at 36 St Andrew Square, Edinburgh, United Kingdom, EH2 2YB under the Small and medium-sized enterprise (SME) banking undertakings 2002**

### **1. Commencement and Duration**

- 1.1. The Directions come into force on 31 August 2022.
- 1.2. The Directions continue to remain in force until such time as they are varied or revoked by the CMA. 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 Undertakings, 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. '2014 Agreement' – refers to the agreement with the CMA signed by the Royal Bank of Scotland Group plc (which has since been renamed NatWest Group plc) agreeing to, among other things, conduct an annual audit of its compliance with the Undertakings.<sup>1</sup>
  - 2.3.2. 'Action Plan' – for the purpose of these Directions means a plan (including milestones where relevant) approved by the CMA of how NatWest shall deliver the requirements of these Directions and

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<sup>1</sup> [Link](#) to 2014 Agreement.

containing the detail required by these Directions. A non-confidential version has been published alongside these Directions.

2.3.3. 'BCA' – means a business current account as defined in clause 3(1) of the Undertakings.

2.3.4. 'Breach' refers to the breach of the Undertakings first identified by the CMA on 5 February 2021 in its letter to NatWest.

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

2.3.6. 'Competent and Experienced' member of Relevant Staff refers to Relevant Staff that have a detailed understanding of the Undertakings such that they are able to assess the competence of other Relevant Staff.

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

2.3.8. 'Initial Assurance Engagement' means the initial assurance engagement<sup>2</sup> under these Directions of NatWest's compliance with the Undertakings as described in clause 5.

2.3.9. 'NatWest' means NatWest Group plc.

2.3.10. 'Potential breach' for the purposes of these Directions, means any incident identified which is likely to have, or has in the past had, an impact on compliance with the Undertakings.

2.3.11. 'Relevant Staff' – NatWest's staff including but not limited to all staff that interact with SMEs in branch, telephone, email, online, staff responsible for the marketing and sale of business loans and business deposit accounts for SME customers, including account managers, management staff, policy makers, decision makers for relevant processes, all relationship managers for business banking, staff designing processes for guidance or online documentation for SME

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<sup>2</sup> 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/).

products, and any relevant internal auditors, and first, second and third line assurance model staff and external contractors who provide assurance on or work with any products in-scope of the Undertakings.

- 2.3.12. 'Recommended Steps' – the steps included in the Report and approved by the CMA that NatWest should take following an Initial Assurance Engagement or Subsequent Assurance Engagement.
- 2.3.13. 'Recommended Timescale' - the timescale for implementing the Recommended Steps as determined by an Independent Body and approved by the CMA.
- 2.3.14. 'Report' – means the report prepared by the Independent Body following the Initial Assurance Engagement in accordance with clause 6 or following any Subsequent Assurance Engagement.
- 2.3.15. 'Training' – means the training on compliance with the Undertakings as set out in clause 14.
- 2.3.16. 'Subsequent Assurance Engagement' – means any further assurance engagement<sup>3</sup> under these Directions of NatWest's compliance with the Undertakings following the Initial Assurance Engagement as described in clause 8.
- 2.3.17. 'Undertakings' - SME Banking Undertakings (Behavioural) 2002. These Undertakings were given to the Secretary of State for Trade and Industry and the Chancellor of the Exchequer under the monopoly provisions of the Fair Trading Act 1973.

### **3. Directions**

- 3.1. NatWest is directed:
- 3.1.1. To take all steps within NatWest's competence reasonably necessary or desirable to achieve and maintain compliance with Clause 17 of the Undertakings, including (but not limited to) the full implementation of the Action Plan and to confirm such implementation in writing to the CMA (in line with clause 10 of these Directions). The Action Plan includes ensuring that these

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<sup>3</sup> 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/).

Directions are put in place (or, in the case of items already in place at the date of these Directions, ensuring that they remain in place).

- 3.1.2. To comply, at all levels, either directly or indirectly, internally or publicly, in practice or by means of any internal guideline, manual, procedure, terms and conditions or any other similar information, with Clause 17 of the Undertakings.
- 3.1.3. To ensure that effective governance is in place for testing and monitoring ongoing compliance with Clause 17 of the Undertakings.

#### **4. Appointment of an Independent Body**

- 4.1. NatWest 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 NatWest explaining why its proposed choice of Independent Body is independent of NatWest and set out its competence in the relevant fields.
- 4.3. NatWest is directed to nominate an Independent Body in accordance with the Action Plan no later than within two calendar months of these Directions being issued. Following that, the Independent Body is to be appointed within 10 working days of the CMA confirming in writing that the proposed Independent Body is appropriate.

#### **5. Initial Assurance Engagement of all compliance with the Undertakings**

- 5.1. NatWest is directed to ensure the appointed Independent Body carries out an Initial Assurance Engagement of all matters in NatWest relating both directly and indirectly to the compliance of NatWest with the Undertakings and these Directions. NatWest 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 NatWest and the Independent Body;

- 5.1.2. examine in detail all matters of policy, procedure, staff training, staff assessment and staff knowledge of the Undertakings 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 the Undertakings, or whether 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 relevant case files, notes on NatWest's system for new BCAs, loans and deposit accounts opened by SMEs from the date of these Directions. NatWest is directed to make relevant information sought by the Independent Body available to the Independent Body to allow it to assess compliance with the Undertakings;
- 5.1.4. examine whether the processes, procedures, policies, guidance and expected staff actions for opening BCA and feeder accounts for SMEs taking out loans or deposit accounts are robust in ensuring they will deliver compliance with the undertakings at present and in the future;
- 5.1.5. be in line with appropriate and relevant standards (e.g. ISA, IIA, ISAE).
- 5.2. NatWest 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. NatWest is directed to use its best endeavours to ensure that the Independent Body begins the Initial Assurance Engagement in accordance with the Action Plan and no later than one calendar month of the Independent Body having been appointed by NatWest.

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

- 5.4. NatWest is directed to ensure that the Independent Body's terms of appointment include that it immediately notify 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. NatWest is directed to remunerate and reimburse the Independent Body for all reasonable costs properly incurred in accordance with the terms and conditions of its appointment, and in such a way so as not to 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. NatWest is directed to ensure the Independent Body will prepare a Report to be provided directly to the CMA on the issues referred to under clause 5 above. The Report will need to be prepared in accordance with the timings set out in the Action Plan.
- 6.2. Where processes, procedures and training are not considered sufficient to deliver full compliance with the Undertakings in the future, NatWest is directed to ensure the Independent Body will include in the Report to the CMA, the Recommended Steps for NatWest to implement to improve its compliance processes and procedures.
- 6.3. NatWest is directed to ensure the Independent Body will also include in the Report an appropriate Recommended Timescale for NatWest to implement these improvements, taking into account the benefit to customers and competition from their implementation and what could reasonably be achieved by NatWest using its best endeavours.
- 6.4. NatWest is directed to ensure the Independent Body informs the CMA directly in the event that it uncovers evidence of potential or actual breaches of the Undertakings, both historic and ongoing in nature (unless previously disclosed to the CMA by NatWest).
- 6.5. NatWest 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 NatWest and where content, will provide its approval that the Recommended Steps are to be implemented by NatWest in accordance with the Recommended Timescale. The CMA may amend the Recommended Steps and Recommended Timescale where appropriate and reasonable. NatWest 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. NatWest is directed to take the Recommended Steps within the Recommended Timescale in the Report, as approved or amended by the CMA pursuant to clause 6.5. NatWest shall incorporate the Recommended Steps into its Action Plan in accordance with the Recommended Timescale.
- 7.2. NatWest is directed to give the Independent Body all necessary access in order that the Independent Body can monitor the implementation of the Recommended Steps within the Recommended Timescale.
- 7.3. NatWest is directed to ensure that the Independent Body will report directly to the CMA and NatWest (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 NatWest.

## **8. Subsequent Assurance Engagement by an Independent Body**

- 8.1. Following the Initial Assurance Engagement and if recommended by the initial Independent Body, NatWest is directed to appoint an Independent Body to carry out a further Subsequent Assurance Engagement of its compliance with the Undertakings 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. If approved by the CMA, NatWest is required to incorporate the Subsequent Assurance Engagement into the Action Plan.

- 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 NatWest 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 NatWest, and may cover processes, policies, procedures, staff training and assessment of staff knowledge of the Undertakings as appropriate;
  - 8.3.3. it must cover any new products or services that have been made available to SMEs since the Initial Assurance Engagement was completed; and
  - 8.3.4. may cover the adequacy of all new processes and procedures introduced in response to these Directions and following previous Assurance Engagements.
- 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 or any Subsequent Assurance Engagement (as applicable) have been implemented in the Recommended Timescale. If such implementation has taken place, the requirements of clause 16 of these Directions shall apply.

- 8.6. 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 8.2 to 8.6, unless NatWest is instructed otherwise by the CMA.
- 8.7. NatWest shall not be required to conduct a compliance review under clause 16 of these Directions (or an audit under the 2014 Agreement) in any year where it has appointed an Independent Body to conduct the Initial Assurance Engagement or any Subsequent Assurance Engagement, and where such an Initial Assurance Engagement or Subsequent Assurance Engagement is carried out and reported on fully within that year.

## **9. Communication to SMEs**

- 9.1. Within 12 months of the Directions coming into effect, NatWest is directed to communicate to all its current SME customers that hold a BCA to inform them of the existence of the full range of obligations in the Undertakings and highlighting the CMA's key messaging<sup>4</sup>.
- 9.2. NatWest is directed to ensure that the proposed wording of the communications to SMEs in clause 9.1 including NatWest's proposed method of communication to be used will be submitted in advance by NatWest to the CMA for approval prior to NatWest contacting SME customers.
- 9.3. NatWest is further directed to contact any SME customer that has been newly identified (through the Initial Assurance Engagement, Subsequent Assurance Engagement or any Annual Review under clause 1 of the 2014 Agreement) as affected by a failure to comply with Clause 17 of the Undertakings, either at present or at any point in the past, in order to communicate to them that the SME customer is under no requirement to maintain its BCA with NatWest in order to retain a loan or business deposit account that fall within the scope of the Undertakings, save where exemptions apply.

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<sup>4</sup> The CMA set out some key messages that the eight banks should use when communicating with SMEs on complying with the Undertakings. The key messages are set out in paragraph 3.10 of the [SME banking 2002 behavioural undertakings: reports on compliance](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214441/SME_banking_2002_behavioural_undertakings_reports_on_compliance.pdf) - GOV.UK ([www.gov.uk](https://www.gov.uk))

## **10. Action Plan**

- 10.1. The Action Plan is to contain timings for when the requirements in clauses 4, 5, 6, 7, 9, 11, 12, 13 14 and 15 are to be completed.
- 10.2. NatWest is directed to complete the actions as set out in its Action Plan as agreed with the CMA.
- 10.3. NatWest is directed to amend its Action Plan to take account of the Recommended Steps and Recommended Timescale arising from the Independent Body's Initial Assurance Engagement and any Subsequent Assurance Engagements. Any such proposed amendments will be submitted to the CMA for approval in advance of changes taking place within NatWest.
- 10.4. Should NatWest seek amendments to the Action Plan, it may write to the CMA, setting out its reasoning and all appropriate evidence to substantiate its views, and the CMA will determine whether it is appropriate to vary either the Action Plan or these Directions, taking into account the impact on customers, competition in the market and the impact on NatWest among other relevant factors.
- 10.5. NatWest is directed to confirm to the CMA in writing when it has completed each action in the Action Plan and provide a quarterly written update for the CMA on its actions in relation to these Directions until all actions required in these Directions and Action Plan have been fully implemented and completed.
- 10.6. A non-confidential summary of how these actions are to be completed, with timescales for completion, is contained in the Action Plan, at Annex A.

## **11. Reporting obligations on NatWest and its staff**

- 11.1. NatWest is directed to:
  - 11.1.1. inform all Relevant Staff to report all instances of breaches and Potential breaches of the Undertakings within NatWest immediately on identification;

- 11.1.2. ensure that its processes and procedures facilitate such reporting and that they do not prevent or limit the ability of staff to report such breaches or Potential breaches;
  - 11.1.3. to the extent not already in place, put in place a comprehensive process for escalating reports of breaches and Potential breaches of the Undertakings swiftly and without any delay within NatWest; and
  - 11.1.4. report all breaches of the Undertakings to the CMA within 14 calendar days of the breach being identified.
- 11.2. The requirements in clauses 11.1.1 to 11.1.4 are to be implemented within the timeframe set out in the Action Plan.

## **12. Ensuring systems support future compliance**

- 12.1. NatWest is directed to develop a checklist which is to be used each time a change to its systems, processes and procedures related to opening or maintaining BCAs, small business loans and deposit accounts for small businesses is proposed. This checklist must include, at a minimum, sign-off by a legal adviser, a representative of the business and one other individual, the identity of whom would be recommended by the Independent Body. All individuals signing off the checklist are to have been trained in awareness and understanding of the undertakings in accordance with clause 14) along with any further safeguards recommended by the Independent Body.

## **13. Annual Reminders and statement of policy to Staff**

- 13.1. NatWest is directed to provide annually to each of its Relevant Staff, a specific and direct written reminder (which covers no issues other than the subject matter of the Undertakings):
- 13.1.1. of all NatWest's substantive obligations under the Undertakings,
  - 13.1.2. that NatWest considers that any breach of the Undertakings or the Directions to be a serious matter, and that appropriate action will be taken in the event that a member of Relevant Staff fails to comply with the Undertakings; and

- 13.1.3. that all Relevant Staff must complete the Training on an annual basis.
- 13.2. NatWest is directed to provide the text of this written reminder to the CMA within ten working days of its provision to all of its Relevant Staff.
- 13.3. The first such reminder will be provided by NatWest to all Relevant Staff in accordance with the Action Plan and no later than 12 months after the most recent written reminder issued by NatWest to Relevant Staff under clause 2 of the 2014 Agreement.
- 13.4. NatWest is directed to ensure that all internal manuals, guidance, product/loan documentation and associated training materials for communication to all staff:
  - 13.4.1. explain and/or ensure consistency with NatWest's obligation not to require a customer to open or maintain a business current account with specified business loans and/or business deposit account pursuant to the Undertakings (including exceptions to those requirements);
  - 13.4.2. set out the applicable procedures that staff are to follow when dealing with new-to-bank SME customers seeking a loan or business deposit account.

#### **14. Staff training on the Undertakings**

- 14.1. NatWest is directed to prepare suitable Training on compliance with the Undertakings. NatWest must give all Relevant Staff a detailed description of the nature of the restrictions in the Undertakings and explain in full what these mean for the way BCA and business loan and deposit account products are offered to SMEs, and the reasons for the Undertakings being in place (the promotion of competition).
- 14.2. NatWest is directed to ensure it includes in its Training materials a hyperlink to the Undertakings.
- 14.3. NatWest is directed to ensure that the Competent and Experienced Relevant Staff are involved in overseeing the design and implementation of the Training.

14.4. Relevant Staff are to receive Training and conduct the assessment referred to at clause 15.2 in the following circumstances:

- 14.4.1. On joining NatWest and becoming Relevant Staff.
- 14.4.2. On transferring within NatWest and becoming Relevant Staff.
- 14.4.3. For existing Relevant Staff, on failing the pre-assessment referred to at Clause 15.1.

14.5. NatWest is directed to maintain all final versions of materials developed for staff Training, internal staff policy guidance, product loan documentation and relevant manuals on an on-going basis and ensure these are relevant and up to date and fully compliant and are consistent with NatWest's obligations under the Undertakings.

## **15. Assessment of staff knowledge of the Undertakings**

15.1. NatWest is directed to ensure that:

15.1.1. a formal pre-assessment for Relevant Staff is prepared in conjunction with the Training and must be conducted on an annual basis by all Relevant Staff who have previously completed the Training and passed the assessment referred to in Clause 15.2. Relevant Staff who pass the pre-assessment are not required to repeat the Training. Relevant Staff who fail the pre-assessment are required to complete the Training and carry out the assessment set out in Clause 15.2;

15.1.2. The pre-assessment will involve Relevant Staff (who have previously passed the assessment) being:

15.1.2.1. provided with a one-slide reminder on the Undertakings, including the core anti-bundling rule, what this means for the way BCA and business loan and deposit account products are offered to SMEs and the reasons for the Undertakings being in place (the promotion of competition).

15.1.2.2. set 8 scenario-based assessment questions.

15.1.2.3. Relevant Staff who answer at least 7 of these questions correctly can complete/pass the module at that point. Staff

who fail would receive the Training and the assessment as set out in Clauses 14 and 15.2.

15.1.3. Competent and Experienced members of Relevant Staff will be involved in overseeing the marking of the pre-assessment.

15.2. NatWest is directed to ensure that:

15.2.1. the assessment is to be carried out within 5 working days of completing the Training under clause 14 above. Should any Relevant Staff fail the assessment after two attempts, NatWest is directed to ensure re-training is provided to the staff member;

15.2.2. the assessment will involve a minimum of 15 questions, where at least 5 questions representing one third of the scores are allocated for demonstrating a full understanding of the provisions of the Undertakings in abstract. In addition, at least 10 questions representing two thirds of the scores are allocated to demonstrating a full understanding of matters relating to the Undertakings in applied situations relevant to NatWest. These applied scenarios will include a range of breaches uncovered and highlighted by the CMA in its previous annual reports and compliance and enforcement work;

15.2.3. Competent and Experienced members of Relevant Staff will be involved in overseeing the marking of the assessment;

15.2.4. the pass mark for the assessment will be set no lower than 90% for all Relevant Staff.

## **16. Monitoring and Compliance and provision of information**

16.1. NatWest is required to conduct annually a compliance review of its compliance with Clause 17 of the Undertakings, specifically including the following elements:

16.1.1. the policies, practices and procedures (including those related to training) which NatWest has in place to secure compliance with Clause 17 of the Undertakings;

16.1.2. the awareness of Relevant Staff with the obligations created by Clause 17 of the Undertakings; and

- 16.1.3. other evidence suggesting the presence or absence of actual or suspected non-compliance with Clause 17 of the Undertakings (including a file review of new-to-bank SME loans and business deposit accounts, a review of customer complaint data or data available from internal escalation processes for internal concerns).
- 16.2. Such a compliance review must be conducted, outside the area of NatWest which is directly responsible for the provision of banking services to SMEs, by the internal audit function of NatWest, in accordance with the Code of Professional Conduct of the Chartered Institute of Internal Auditors.
- 16.3. NatWest is directed to provide all information required by these Directions when requested in writing by the CMA within reasonable timescales that will be set out by the CMA.