REVIEW OF THE SME BANKING (BEHAVIOURAL) UNDERTAKINGS 2002

Provisional decision

13 August 2025

Competition & Markets Authority

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The Competition and Markets Authority has excluded from this published version of the Provisional Decision information which it considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [✂].

Contents

Summary

1. The Competition and Markets Authority (CMA) is conducting a review of four provisions of the SME Banking (Behavioural) Undertakings 2002, which are also referred to as the Limitation on Bundling Provisions (LOBP).[1] The LOBP prevent the banks that gave the undertakings[2] (the Bound Banks) from requiring, as a condition of granting a business loan or approving the opening of a business deposit account,[3] that a small or medium-sized enterprise (SME)[4] customer should open or maintain a business current account (BCA) with the Bound Bank.

2. In 2014, the CMA reviewed the SME Banking (Behavioural) Undertakings 2002 alongside its market investigation into retail banking. As a result of that review, in 2016, the CMA decided to release all provisions in the SME Banking (Behavioural) Undertakings except the LOBP.

3. The purpose of this review of the LOBP is to consider whether, by reason of any change of circumstances, the LOBP are no longer appropriate and can be released or whether they need to be varied or superseded.

4. The CMA launched this review on 2 April 2025. In its published launch decision document, the CMA outlined possible changes of circumstances in SME banking markets, which included:

   (a) changes to the competitive landscape for SME banking;

   (b) changes in customer behaviour; and

   (c) new regulatory developments.

5. Upon the launch of this review, the CMA consulted on potential changes of circumstances. The consultation period closed on 7 May 2025. We received ten responses from stakeholders representing Bound Banks, non-Bound Banks, financial industry bodies, and SMEs. In addition, we have had engagement with a number of further stakeholders representing non-Bound Banks, financial industry bodies, industry participants, regulators, and SMEs. We have also considered published reports that are relevant to our analysis.

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[1] The CMA appointed a group of panel members to conduct this review.
[2] Undertakings were originally given by AIB Group (UK) plc; Bank of Ireland; Barclays Bank plc (now Barclays plc); Clydesdale Bank plc (now t/a Virgin Money and part of Nationwide Building Society); HBOS plc and Lloyds TSB Bank plc (now Lloyds Bank plc, both now part of Lloyds Banking Group); HSBC Bank plc (now HSBC UK Bank plc); Northern Bank Ltd (t/a Danske Bank and part of Danske Bank Group); and the Royal Bank of Scotland Group plc (now NatWest Group plc). Following the acquisition of HBOS plc by Lloyds Banking Group, the Undertakings apply to eight banks.
[3] Business deposit accounts allow SMEs to hold money on deposit, in exchange for which interest is received. Business deposit accounts are not designed to handle day-to-day operations but serve as a device for storage and savings.
[4] This review defines an SME in the same way as the SME (Behavioural) Undertakings 2002: ‘a business that, in respect of a given financial year applying to it, has annual sales revenues (exclusive of VAT and other turnover-related taxes) of no more than £25 million.’

6. This document sets out provisional findings from the review of the LOBP and provides notice of our Provisional Decision that, by reason of the following changes of circumstances since the Bound Banks gave the LOBP as undertakings in 2002, the LOBP are no longer appropriate and should be released:

(a) changes in the competitive landscape in relevant SME banking markets; and

(b) changes in customer behaviour, including in response to the entry of new providers and as a result of new technologies.

Consultation

7. The CMA is now consulting on this Provisional Decision before it makes its Final Decision. Respondents should provide their views on this Provisional Decision, supported with relevant evidence where possible, in writing to the CMA at:

Email: remedies.reviews@cma.gov.uk (Subject line: SME Banking Undertakings review)

8. Responses should be provided to the CMA by **5pm on Wednesday 3 September.**

1. Introduction and background

Legal framework

1.1 The CMA has a statutory duty[5] to keep under review undertakings and orders made under the Fair Trading Act 1973 (FTA) and the Enterprise Act 2002 (EA02).[6] From time to time, the CMA shall consider whether, by reason of any change of circumstances, undertakings are no longer appropriate and can be released or whether they need to be varied or superseded.[7]

1.2 Remedies: Guidance on the CMA's approach to the variation and termination of merger, monopoly and market undertakings and orders (CMA11) sets out the process that the CMA will typically follow.[8]

The remedy

1.3 The LOBP were given by the Bound Banks[9] as part of a wider set of transitional, behavioural, and switching Undertakings (the SME Banking (Behavioural) Undertakings 2002) under section 88 of the FTA following the Competition Commission (CC)'s 2002 market investigation into the *supply of banking services by clearing banks to small and medium sized enterprises*.[10]

1.4 In its market investigation, the CC concluded that a complex monopoly existed between several clearing banks and that there were a number of practices which operated, or could be expected to operate, against the public interest. The CC found the 'bundling' conduct, now prohibited under the LOBP, to be one of a number of practices that cumulatively adversely affected the level of choice of banking services available to SMEs in England, Wales, Scotland, and Northern Ireland.

1.5 The LOBP are set out in clauses 17 to 20 of the Behavioural Undertakings. Clause 17(1) requires the Bound Banks to:

> 'not directly or indirectly require, agree (other than in respect of integrated products) or threaten to require, as a condition of the

[5] See CMA11, paragraph 2.2.
[6] In the case of the SME Banking Undertakings which were given under section 88 FTA, this duty arises under Schedule 24 EA02, paragraph 16(3). This provides that the duty is exercisable in the same circumstances and on the same terms and conditions as it would have been exercisable under the FTA. The relevant provision of the FTA which explains how the duty was exercisable was section 88(4).
[7] This is the test set out in section 84(4) FTA (see footnote 6 above for the relevance of this provision) and section 162(2) EA02.
[8] See CMA11.
[9] See footnote 2.
[10] Competition Commission (2002) The supply of banking services by clearing banks to small and medium-sized enterprises: A report on the supply of banking services by clearing banks to small and medium-sized enterprises within the UK

granting, maintaining or servicing of any business loan to, or the opening, maintaining or servicing of any business deposit account for, any SME that the SME should open or maintain any business current account with the Bank.'

1.6 This equates to a prohibition on the Bound Banks from requiring an SME customer to open or maintain a BCA as a condition of accessing a business loan or deposit account.[11]

1.7 The Bound Banks are, however, permitted to offer incentives (eg lower charges or interest rates) to SMEs to open a BCA alongside their loan or deposit account, and they can offer integrated products, provided that the integrated products are also offered separately.[12]

2014 Review of the Undertakings

1.8 The CMA reviewed the SME Banking (Behavioural) Undertakings 2002 in 2014 as part of the Retail Banking market investigation, and decided in 2016 to release all of the Undertakings except for the LOBP.[13]

1.9 The CMA's rationale for retaining the LOBP was that there remained 'strong product linkages' between BCAs and SME lending and that, together with the information asymmetries between SMEs' BCA providers and other lending providers, this particularly favoured the longer-established banks. The CMA considered that the LOBP mitigated the adverse effects of these linkages.

Decision to undertake this review

1.10 Having considered the case for doing so in accordance with its published prioritisation principles and having concluded that there was a realistic prospect of finding a change of circumstances, the CMA began this review on 2 April 2025.

Our approach to this review

1.11 The CMA commenced this review on 2 April 2025 when it published its decision to launch a review.[14] This decision document outlined the reasons for the review, including possible changes of circumstances, and sought the views of a range of stakeholders including Bound Banks, non-Bound Banks, SMEs and SME

[11] With limited exceptions set out in Clause 18(1) of the Undertakings.
[12] The LOBP prohibit the tying of a BCA and a loan or deposit account but do not prohibit the provision of integrated products (ie the sale of several products as one combined product).
[13] 2014 review of SME Banking Undertakings 2002: final decision.
[14] See: Decision to Launch a review of SME Banking Undertakings 2002 (2 April 2025).

representatives, and financial industry bodies. The CMA set a response date of 7 May 2025. We received ten submissions in response.[15]

1.12 In addition, we have received further written submissions from, and held meetings with, a number of stakeholders representing the Bound Banks, non-Bound Banks, SMEs, regulators, financial industry bodies, and other industry participants.

1.13 We have also considered several published reports in our analysis. These are referenced in the relevant sections of this document.

Stakeholders' views sought

1.14 The CMA is now seeking views from interested parties on its Provisional Decision.

1.15 Respondents should provide their views, supported with relevant evidence where possible, in writing to the CMA using the email address below.

Email: remedies.reviews@cma.gov.uk (Subject line: SME Banking Undertakings review)

1.16 The CMA intends to publish all submissions received. Please ensure any submission provided to the CMA that contains any confidential material is accompanied by a non-confidential version which the CMA will publish on its website at the time that its Final Decision is published.

1.17 Responses should be submitted to the CMA by **5pm on Wednesday 3 September 2025.**

[15] We have published the responses to our consultation on Review of SME Banking Undertakings 2002.

2. Our assessment

Introduction

2.1 In order to provisionally determine whether, by reason of any change of circumstances, the LOBP are no longer appropriate, we have considered the following potential changes of circumstances:

- Changes in the competitive landscape in relevant SME banking markets;
- Changes in customer behaviour, including in response to the entry of new providers and as a result of new technologies; and
- Developments in the regulatory landscape for financial services that may be relevant to the remedy.

2.2 The LOBP prohibit the Bound Banks from requiring SME customers to open or maintain a BCA as a condition of obtaining a business loan or deposit account. As such, the LOBP prevent the Bound Banks from using this requirement to leverage any market power they may hold in business loans and/or deposit accounts into BCAs by unduly influencing or restricting customers' choice of BCA provider. The LOBP therefore prevent the Bound Banks from adversely affecting competition on the merits in the supply of BCAs (directly) and potentially wider SME banking markets (indirectly)[16] through tying together the two different products. This means that, for harm to competition to occur in the absence of the LOBP, were one or more of the Bound Banks to engage in the conduct in question, the Bound Bank(s) would need to hold sufficient market power in business loans and/or deposit accounts.

2.3 Given this, we have focused our review on potential changes of circumstances that affect the following three product categories supplied to SMEs: business loans, deposit accounts, and BCAs. See Annex 1 for a further explanation of the product categories referred to in this review and how they relate to the product markets and geographic markets as defined in the 2002 and 2016 market investigations.

2.4 In this section, we set out our assessment of these potential changes of circumstances.

[16] We consider that indirect harm could occur if, by virtue of strengthening its position in the supply of BCAs (through implementing a requirement to open or maintain a BCA in order to obtain a loan/deposit account), the bank in question was able to strengthen its position in other SME banking products. This latter step could occur if BCAs functioned as important 'gateway' products giving the bank an advantage over its rivals in the provision of other products to its BCA customer base. We have not assessed this type of 'second-order' harm separately, since it is predicated on the 'first-order' effect having occurred in the supply of BCAs.

Changes in the competitive landscape in relevant SME banking markets

2.5 In this section, we assess potential changes in the competitive landscape in relevant SME banking markets since 2002 with reference to:

(a) shares of supply of the Bound Banks in loans and deposit accounts;

(b) impact of entry and expansion;

(c) barriers to entry and expansion; and

(d) strength of out-of-market constraints.[17]

2.6 We consider these potential changes individually and taken together.

2.7 For each of these potential changes, we set out a brief summary of the CC's key findings in the 2002 market investigation (against which we are comparing the change), followed by a summary of the evidence gathered in this review comprising stakeholder views and our own research and analysis.

Shares of supply in loans and deposit accounts

2.8 The CC's 2002 market investigation found that there was a 'high level of concentration' in the SME general purpose business loans market[18] and in the deposit account market by value of deposits (but not by number of accounts).[19]

2.9 We have estimated UK-wide shares of supply in selected product categories; our analysis draws on data shared by the FCA.[20] While this data has several limitations for our purposes (see Annex 1 for an explanation of these), we nevertheless consider that the shares of supply estimates we have calculated using the FCA's dataset are important for the purposes of assessing the extent to which any of the Bound Banks have sufficient market power to adversely affect competition in relevant SME markets.[21] We have interpreted the shares of supply estimates within the specific context of the related SME banking markets and

[17] 'Out-of-market constraints' refers to the competitive constraints posed by providers whose products fall outside of the defined product markets but which may, at least for some customers, offer a substitute to the loan/deposit account products offered by the Bound Banks.
[18] Based on market shares in each of three geographic markets (England & Wales, Scotland, and Northern Ireland) – see tables 3.42, 3.43 and 3.44, and paragraphs 3.301, 3.303 and 3.305, Competition Commission, 2002, The supply of banking services by clearing banks to small and medium-sized enterprises, Volume 2.
[19] Based on market shares in the UK – see table 3.46 and paragraph 3.311, Competition Commission, 2002, The supply of banking services by clearing banks to small and medium-sized enterprises, Volume 2.
[20] This data was originally collected by the FCA from banks and was shared using the FCA's statutory information-sharing powers.
[21] CC3: Guidelines for market investigations, paragraph 101.

together with the broader evidence available concerning changes in the competitive landscape, as discussed further in the sections below.[22]

2.10 The key findings for 2023[23] are as follows:

(a) In SME business loans, among the six Bound Banks for whom data is available:[24] (i) by value of loans, all six Bound Banks were well below 25%; (ii) by number of loans, two Bound Banks were in the range 30-40%, and four were below 5%. The combined UK share of supply of the largest four Bound Banks in the data sample was [60-70%] by value or [70-80%] by number.[25] These combined shares are around [10-20] (by value) and [10-20] (by number) percentage points lower than the combined shares, respectively, of the largest four Bound Banks (in England and Wales) in 2002.[26, 27]

(b) In SME deposit accounts, among the six Bound Banks for whom data is available,[28] by both value and number of deposit accounts, one Bound Bank was in the range 30-40%, and all others were well below 20%. Given the difference in data coverage (ie our present estimates include instant access savings accounts), we do not present a comparison to the 2002 findings.

2.11 We have also received some evidence from stakeholders (including some more recent market shares estimates)[29] that is broadly consistent with the above analysis:[30]

- One of the Bound Banks submitted that, according to data from the MarketVue Business Banking survey by Savanta (Q3 2024), for SMEs with an annual revenue of less than £6.5 million, the 'four largest banks subject to the Undertakings' have a combined share of less than 65% of business loans;

- Another Bound Bank submitted that it estimates challengers' share of SME lending balances has grown from 17% in 2020 to 25% in 2024;

- A number of stakeholders referred to the British Business Bank (BBB)'s recently published finding that the share of total nominal gross bank lending

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[22] This broader evidence indicates a material increase in the diversity of providers, product offerings available to customers, and level of competition in the supply of SME business loans and deposit accounts.
[23] The estimates for 2021 and 2022 are broadly similar to those for 2023.
[24] The data sample excludes two Bound Banks; however, we provisionally consider that each of these two banks are likely to have relatively small UK shares of supply.
[25] Our estimates are of a similar magnitude to the estimates submitted by two stakeholders (see paragraph 2.11).
[26] Competition Commission, 'The supply of banking services by clearing banks to small and medium-sized enterprises', Volume 2, Table 3.42.
[27] Given major changes to market structure/ownership since 2002 – including the fact that HBOS plc subsequently became part of what is now Lloyds Banking Group; TSB is no longer part of Lloyds; and the Royal Bank of Scotland Group plc merged with NatWest to become the NatWest Group plc – a comparison with the shares of supply calculated in 2002 is not meaningful on an individual bank basis.
[28] See footnote 24.
[29] Which are not from the FCA or based on its data.
[30] No stakeholder submitted evidence relating specifically to shares of supply in deposit accounts.

to SMEs by the five largest banks[31] was 40% in 2024, with challenger and specialist banks' collective share of total gross lending exceeding that of the five largest banks for a fourth consecutive year.[32] We note that this statistic refers to a broader product category than general purpose business loans and likely under-estimates the Bound Banks' share in the latter; and

- An organisation representing SMEs submitted that high-street banks remain the primary lenders in the SME market, although it did not provide a quantitative indication of shares of supply or cite any specific data source for this statement. We note that banks with a large-scale high-street presence include both Bound and some non-Bound Banks.

Impact of entry and expansion

2.12 The evidence we have seen suggests that there has been considerable entry and expansion into SME banking markets since 2002 (and particularly over the past decade or so), leading to a material increase in the diversity of providers and product offerings available to customers and in the level of competition in the SME business loans and deposit account markets.

2.13 In SME business loans:

- Two organisations representing the finance industry referred to the 36 new banking licences that have been issued to SME lenders since 2013.
- One of these organisations also noted that there are now over 150 lenders to SMEs and said that debt finance provision is now more evenly spread across the UK and highly digitalised.
- The FCA's Financial Services Consumer Panel described the lending landscape for small businesses as having 'changed radically since the financial crisis of 2008', noting the BBB's finding that 60% of total SME lending is supplied by challenger banks, non-banks, and others.
- One non-Bound Bank commented that lending is now more competitive, assisted by the growth of brokers.
- One Bound Bank noted that while challengers initially expanded in the unsecured market, they are expanding into more traditional secured lending. It also submitted that the latest Banking Service Quality data (which is published by the CMA as part of the Open Banking measures) shows

[31] This refers to Barclays, HSBC, Lloyds, NatWest and Santander.
[32] BBB (2025) Small Business Finance Markets 2024/2025, page 125 and figure B.92.

Handelsbanken, Metro Bank, and Santander outperforming the Bound Banks.[33]

- Another Bound Bank noted that new entrants do not have to bear the legacy IT and infrastructure costs that impact more 'traditional providers'.[34]

- A third Bound Bank characterised SME lending as being now more commoditised than relationship-led, driven by the rise of online comparison tools and the use of brokers.

2.14 The key changes enabling entry and expansion were identified by stakeholders as:

- Open Banking, which (inter alia) allows designated third party financial services providers to be granted access to customers' transaction and financial data, with the aim of reducing information asymmetries between providers and facilitating greater competition;[35]

- The 'Small and Medium Sized Business (Credit Information) Regulations 2015',[36] which require designated banks to share information on their small and medium-sized business customers with designated credit reference agencies, which must then provide this information to finance providers upon request, with the aim of reducing information asymmetries between providers and facilitating a wider range of finance providers to offer credit to SMEs;

- Regulatory changes enabling the granting of more banking licences;

- Digital solutions that have enhanced the ability of lenders to conduct risk assessments and process loans;

- Technological changes that have enabled SME customers to search for alternative suppliers more easily, as well as the increased availability of brokers, intermediaries, and aggregators/comparison tools; and

[33] For SME overdraft and loan quality, the service quality indicators published in February 2025 show that Handelsbanken, Metro Bank, and Santander were the top three in the rankings, above the Bound Banks. For SME overall service quality, Monzo, Starling Bank, Handelsbanken, Tide, Zempler Bank, and Metro Bank were the top seven in the rankings, above the Bound Banks.

[34] In the evidence we received, stakeholders referred variously to the 'big banks', 'incumbent banks', 'traditional banks' and 'established banks' while describing the competitive landscape. In this Provisional Decision document our approach has been to repeat the precise term used by each stakeholder, but we understood each stakeholder to be referring primarily to the Bound Banks when using these terms.

[35] Open Banking was initiated by the CMA in 2017 following the 2016 Retail Banking Market Investigation. It facilitates new ways for consumers and businesses to access a wide range of financial services, built on secure systems from regulated providers. In 2024, the CMA determined that the Open Banking Roadmap was complete.

[36] See The Small and Medium Sized Business (Credit Information) Regulations 2015. A study by Babina et al (2024) found that these regulations have boosted the probability of SMEs establishing new borrowing relationships by 25%. Bank of England Staff Working Paper No. 1,059.

- The establishment of the BBB (which one financial industry body told us has played a key role in catalysing the development and success of challenger banks).

2.15 Some stakeholders suggested that changes in the competitive landscape for SME loans have been driven, at least partly, by strategic decisions taken by the Bound Banks.

2.16 An organisation representing SMEs noted that the ‘big banks’ are often reluctant to lend out small sums (less than £10k) despite these typically being what small SMEs need. Similarly, one industry participant commented that the ‘big banks’ have retreated from many areas of SME lending – because they prefer larger and less risky clients – with challengers/alternatives coming in to replace them. This would suggest that the Bound Banks’ reduced presence is at least partly a result of their own preferred strategy rather than competitive pressure.

2.17 The same industry participant noted that some of the ‘big banks’ are moving into a ‘wholesale’ role in the SME lending supply chain, providing commercial funding lines to newer providers to distribute at the retail level. Such a market trend, to the extent that it is happening, would imply that the Bound Banks’ shares of supply and competitive position at the retail level might understate their market power in the supply chain as a whole (through their upstream role). However, the extent to which such a trend is happening is not clear, and we did not receive any further evidence on this point.

2.18 In SME deposit accounts:

- A Bound Bank and an industry body submitted that there has been a diversification of providers, with fintech firms and digital banks increasingly offering competitive deposit products.

- Another Bound Bank submitted that savers can find competitive rates across all types of account and pointed to providers such as the Bank of London, Aldermore, Hampshire Trust Bank, and Reliance Bank as posing strong competition.

- A non-Bound Bank stated that there is ‘huge competition’ for customers who are actually searching (but that not that many customers do search because they are time-poor).

- An industry body noted that competition for business deposit accounts is not constrained by access to transactional or credit data, meaning there is less of an issue of information asymmetry between providers in deposit accounts as compared to loans.

2.19 In addition to considering the submissions we received following our launch consultation, we have reviewed several published reports relevant to this review.

2.20 We have already noted above that the BBB found in its ‘Small Business Finance Markets 2024/25’ report that the share of total nominal gross bank lending to SMEs by the five largest banks was 40% in 2024, with challenger and specialist banks’ collective share of total gross lending exceeding that of the five largest banks for a fourth consecutive year. The BBB’s report additionally found that new challenger banks have continued to emerge. It gives the example of Revolut (among others), which was granted a banking license in 2024 and has entered the BCA market (but has not yet confirmed if it plans to offer loans to SMEs).[37]

2.21 The FCA’s 2022 ‘Strategic Review of Retail Business Banking Models’ identified two specific factors that have facilitated the recent expansion of some non-Bound Banks:

- Some challenger banks – notably Starling and Metro – benefitted from the timing of the Government’s Covid-19 loan schemes,[38] and Metro and TSB (to a lesser extent) also grew their SME lending businesses through these schemes.[39]

- Challenger banks have reported making improvements to their lending processes to boost scale, such as automated decision-making and integrating third-party firms to make better lending decisions.[40]

2.22 The FCA’s 2022 Strategic Review also found that for many microbusinesses, reputation and service quality, as well as online banking quality, were factors in switching to a digital bank, and part of the modest but positive rise in the market share of digital banks over the past two years.[41]

2.23 The Federation of Small Businesses (FSB)’s 2022 ‘Credit Where Credit’s Due’ report stated that, ‘it looks likely that the small business financial market will continue to diversify’ as alternative lenders and challenger banks become more commonplace, but noted that trust needs to be gained by these alternative providers.[42]

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[37] BBB (2025) Small Business Finance Markets 2024/25, page 132.
[38] The report states that Starling and Metro had received sizeable grants from the Capability and Innovation Fund in 2019 to invest in SME banking capability. Starling was able to attract a large number of new micro-business customers in 2020 who were seeking to access the Bounce Back Loan Scheme, enabling it to use some of its deposit funding to finance the loans.
[39] FCA (2022) Strategic Review of Retail Banking Business Models: Final Report 2022, paragraph 2.52.
[40] FCA (2022) Strategic Review of Retail Banking Business Models: Final Report 2022, paragraph 2.53.
[41] FCA (2022) Strategic Review of Retail Banking Business Models: Annexes to the Final Report 2022, Annex 5, paragraph 33.
[42] FSB (2022) Policy Report | Credit Where Credit’s Due, page 17. It made this statement on the basis of earlier findings by the BBB that the primary reason for SMEs to choose a finance provider was whether it was a trusted brand (21%), followed by the lender being the most suitable or appropriate for the business’s needs (14%); whereas only 8% chose their lender based on a pre-existing relationship.

Barriers to entry and expansion

2.24 The CC's 2002 market investigation found that there were 'significant barriers to entry and expansion' in the market for general purpose business loans; however, it did 'not see such barriers applying to [the market for] … deposits, as evidenced by the extent of entry and greater number of suppliers in these markets'.[43]

2.25 We consider that the findings presented in the previous section on the extent and impact of actual entry and expansion provide the most direct evidence indicating that barriers to entry and expansion have reduced.

2.26 Consistent with this, some stakeholders pointed to ways in which barriers to entry have reduced:

- One Bound Bank submitted that there are no barriers to new providers, as evidenced by the entry and expansion that has occurred. This bank did note that BCA providers (whether bound or non-bound) do benefit from having an established line of communication with their existing customers and potentially a good understanding of those customers' needs, but submitted that this does not prevent other providers offering them products or customers taking them up.

- The same Bound Bank also described how technological changes have enabled larger scale entry at a much lower cost; for example, by improving access to customers' BCA and credit data for newer providers, and explained that new entrants do not have the legacy and IT infrastructure costs of the 'traditional providers'.

- An industry participant told us that regulatory changes have resulted in more banking licenses being granted in recent years, and that regulatory sandboxes allow newer providers to experiment and prove their concepts.

- A non-Bound Bank submitted that the start-up and micro-SME segment has changed a lot in the past decade, with 'neobanks' (which we understand to mean digital-only banks) having good success in winning market share with these new customers (but less success with the established SME segment). Given the high degree of churn among SMEs (ie the high proportion of start-ups/newer SMEs in the market),[44] we consider that this suggests there is a route by which challengers can continue to expand in this segment of the market.

[43] Competition Commission, 2002, The supply of banking services by clearing banks to small and medium-sized enterprises, Volume 2, paragraph 2.235.
[44] ONS data shows that, in 2023, 11% of all active businesses in the UK (the large majority of which are SMEs) were closed, and a further 11% were started. Business demography, UK - Office for National Statistics

- The same non-Bound Bank also mentioned that brokers are the main source of new lending business for challengers, showing the importance of this channel for enabling challengers to expand their market presence in loans.

2.27 However, other stakeholders said that there were barriers to expansion:

- A non-Bound Bank and an industry participant mentioned that brand awareness continues to be higher for the 'established banks', which typically have far greater marketing resources available, and emphasised that it can be difficult for newer providers to reach the relevant decision-makers within SMEs (who are busy with the day-to-day operations of their business and tend to be risk-averse in trying a provider they have not previously used).

- An industry participant mentioned that regulation around risk ratings has made it more difficult and expensive for challenger banks.

- The same non-Bound Bank as cited above also said that the 'big banks', by virtue of their size and ability to cross-subsidise across products, tend to be able to offer cheaper loans than challengers can.

2.28 In addition to considering the submissions we received following our launch consultation, we have reviewed several published reports relevant to this review (see also relevant findings cited above at paragraphs 2.20 to 2.23).

2.29 The Bank of England's 2020 'Open data for SME finance' report describes how Open Banking allows data to move securely around the financial system in a standardised way through secure application programming interfaces (APIs).[45] This enables SMEs to share the transaction data in their bank accounts, which the report notes should make it easier for non-bank lenders to compete with incumbent banks.

2.30 However, the FCA's 2022 'Strategic Review of Retail Business Banking Models' found several difficulties facing new digital entrants, including that digital challengers do not yet have a fully developed lending business, so are not yet able to earn significant funding benefits from customer deposits (as is the case for the Bound Banks);[46] they need to achieve further economies of scale; and they must maintain service standards and provide adequate consumer protection as they continue to scale up.[47] This report further found that the four largest banks[48] retain advantages, which include a large and stable customer base built up over several

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[45] Bank of England (2020) Open data for SME finance, page 10.
[46] FCA (2022) Strategic Review of Retail Banking Business Models: Final Report 2022, paragraph 2.25.
[47] FCA (2022) Strategic Review of Retail Banking Business Models: Final Report 2022, paragraph 2.28.
[48] Barclays, HSBC, Lloyds, and NatWest

generations, brand familiarity, large branch networks, and certain aspects of the regulatory framework that have tended to act in favour of incumbents.[49]

2.31 Finally – as discussed further below at paragraphs 2.43 to 2.45, and linked to some of the changes considered above (eg technological developments) – we provisionally consider that customers' propensity to consider alternative providers (to the Bound Banks) and to switch providers in loans has increased compared to 2002. This represents one further way in which barriers to entry and expansion have reduced.

Strength of 'out-of-market' constraints

2.32 There is some evidence that suggests that out-of-market constraints in SME financing have also strengthened since 2002.[50]

2.33 Two Bound Banks and an industry participant noted the growth of alternative and non-bank lenders, mentioning entrants such as Funding Circle, ThinCats, and iwoca, and also firms such as SilverRock that provide flow financing to non-bank and specialist lenders and building societies, which in turn provide loans to SMEs.

2.34 The Bank of England's 2020 'Open data for SME finance' report found that 'Alternative lenders, including peer-to-peer models, have grown rapidly since 2012 to service unmet demand'.[51]

2.35 However, an industry participant said that there is insufficient data on alternative providers to get a detailed picture of lending outside of the 'traditional institutions'.

Provisional conclusion on changes to the competitive landscape in relevant SME banking markets

2.36 We have provisionally found that there have been changes to the competitive landscape in relevant SME banking markets since the Bound Banks gave the LOBP as undertakings in 2002 and since the CMA reviewed the LOBP in 2016, specifically changes with respect to the Bound Banks' market power in the SME business loans and deposit account markets.

2.37 We provisionally consider that, on balance, the evidence assessed in the preceding sections indicates a material reduction in market concentration and a material increase in the diversity of providers, product offerings available to customers, and level of competition in the supply of SME business loans and

[49] FCA (2022) Strategic Review of Retail Banking Business Models: Final Report 2022, paragraph 2.4.
[50] For deposit accounts, we did not receive any specific stakeholder evidence or find any published reports on out-of-market constraints.
[51] Bank of England (2020) Open data for SME finance, page 5.

deposit accounts, compared to the situation that prevailed when the remedy was put in place in 2002.

2.38 While some incumbency advantages do continue to exist – in particular, the Bound Banks benefit from their pre-existing large customer base, stronger brand awareness, branch networks, and certain aspects of the regulatory framework – barriers to entry and expansion have reduced when compared to 2002. This is evidenced most directly by the substantial amount of actual entry that has taken place over this time, particularly since the CMA last reviewed the LOBP in 2016, resulting in a stronger competitive constraint on the Bound Banks.

2.39 In addition, we provisionally consider that there is some evidence that out-of-market constraints are now stronger than in 2002.

Changes in customer behaviour, including in response to the entry of new providers and as a result of new technologies

2.40 In this section, we consider potential changes to customer behaviour in relevant SME banking markets, and explain how they have been factored into our assessment.

(a) First, we consider customer behaviour in the SME business loans and deposit accounts markets; specifically, customers' propensity (ie their willingness and ability) to consider alternative providers (to the Bound Banks) and to switch providers.

(b) Second, we consider customer behaviour in the BCAs market; specifically: (i) customers' propensity to consider alternative providers (to the Bound Banks) and to switch providers; and (ii) customers' propensity to multi-bank BCAs (ie to maintain two or more BCAs with different providers at the same time).

Customer behaviour in the SME business loans and deposit accounts markets

2.41 In general, weak consumer responsiveness (eg low levels of shopping around and/or switching) can be a reason for weak competition in a market.[52] If SME banking customers have a weak propensity to consider alternative providers (to the Bound Banks) and to switch providers in loans and deposit accounts, this would imply that the Bound Banks hold greater market power over those

[52] As set out in CC3: Guidelines for market investigations (paragraph 296), to drive effective competition, customers need to be both willing and able to access information about the various offers available in the market; assess these offers to identify the good or service that provides the best value for them; and act on this assessment by switching to purchasing the good or service from their preferred supplier.

customers in those markets (all else equal), which potentially could be leveraged into the supply of BCAs via the conduct currently prohibited by the LOBP.[53]

2.42 The CC's 2002 market investigation found that 'limited switching is an inherent characteristic of SME banking services' and it specified that this finding pertained also to the market for general purpose business loans'.[54,55] The CMA's 2016 Retail Banking market investigation similarly found 'low levels of searching amongst SMEs looking for lending' resulting from the relationship SMEs have with their main bank (in particular the information asymmetry between the SME's main bank and other providers), and the time and effort involved in applying and awaiting responses from other providers.[56] Neither the 2002 nor the 2016 market investigations examined shopping around or switching in SME deposit accounts specifically.

2.43 On balance, the available evidence suggests that there has been an increase in customers' propensity (ie their willingness and ability) to consider alternative providers to the Bound Banks and to switch providers in loans, compared to 2002:

- An industry body, an industry participant, and a Bound Bank referred to new technologies,[57] such as online eligibility tools and loan application apps, having made it significantly easier and quicker for SMEs to shop around and find alternative providers.
- The same industry participant noted that younger SMEs, in particular, are used to the idea of shopping for products online and more comfortable with switching, and that the proportion of SMEs who feel attached to a main bank continues to shrink over time.
- Another Bound Bank submitted that [✂].
- The FSB Northern Ireland said many of its members (SMEs in Northern Ireland) are happy to research and shop around among different providers to secure the best value for the products and services they need, pointing to its recent finding that 44% of SMEs in Northern Ireland use multiple banking providers.

[53] As set out in CC3: Guidelines for market investigations (paragraph 299), firms can enjoy some market power if customers cannot easily or effectively compare their products with others on offer, because of the difficulty or cost (including the opportunity cost of customers' time) of finding better deals.
[54] Competition Commission, 2002, The supply of banking services by clearing banks to small and medium-sized enterprises, Volume 2, paragraph 2.84.
[55] This is closely linked to the fact that the 2002 investigation also found that the large majority of SME customers taking out a loan did so with their existing BCA provider (paragraph 2.97) and, as noted in the next section, there was also low switching of BCA providers.
[56] CMA, 2016, Retail banking market investigation: Final report, paragraph 8.182.
[57] The Bound Bank described that such technologies have been facilitated by the introduction of The Small and Medium Sized Business (Credit Information) Regulation 2015 (CCDS), which has enabled non-BCA lenders to access business current account and credit data held by banks.

2.44 However, a non-Bound Bank told us that SME owners often seek finance far too late or when they are 'desperate', so they tend to take the easiest and quickest route, eg going to their existing main bank (or resorting to taking out a personal loan).

2.45 We reviewed a number of published research reports exploring SMEs' attitudes to and experiences of seeking finance:

- The SME Finance Monitor 2024 found that 25% of SMEs with a funding need looked online, including 15% that looked for possible providers, and that 71% of all SMEs agreed or strongly agreed with the statement 'I am confident I know where to get information about different types of finance and providers'.[58,59] It also found that awareness of wider forms of funding such as venture capital (56%), crowd funding (53%) and peer-to-peer lending (44%) has increased over time.[60] However, it also found that among SMEs who had a funding need and took initial steps to address that need, 34% applied to their 'main bank' and 10% applied to another funding provider they were currently using, while only 13% applied to a funding provider they were not currently using, only 7% used an online funding platform, and only 7% used a broker.[61]

- The BBB's 'Business Finance Survey 2025' found that 38% of SMEs considered more than one provider, up slightly from 35% in 2016.[62] We note that this statistic is informative as to the Bound Banks' market power in loans only insofar as the single provider being considered is more likely than not to be one of the Bound Banks. Given we have found that the Bound Banks collectively comprise the majority of the supply of BCAs to SMEs, we consider this to be a reasonable inference.

- The National Association of Commercial Finance Brokers (NACFB)'s 2024 survey found that brokers play an important role in diversifying SMEs' access to funding. It found that, on average, commercial lenders rely on brokers for 67% of SME finance transactions, and that 33% of lending deals intermediated by NACFB's members were facilitated by specialist lenders and 28% by challenger banks.[63]

- The BBB's 'Northern Ireland SME Access to Finance 2025' report found that entrepreneurs struggle to balance growing a business with time to raise

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[58] The SME Finance Monitor is a survey, established in 2011, that regularly tracks SMEs' attitudes towards, need for, and experience of finance in the UK. The survey is run by an independent market research firm (BVA BDRC), and members of the survey's Steering Group include HMT, the Department for Business and Trade, business representative bodies, financial services representative bodies, and banks. SME Finance Monitor - BVA BDRC
[59] BVA BDRC (2025) SME-FM-FULL-REPORT.pdf, pages 217 and 186.
[60] BVA BDRC (2025) SME-FM-FULL-REPORT.pdf, page 376.
[61] BVA BDRC (2025) SME-FM-FULL-REPORT.pdf, page 219.
[62] BBB (2025) ipsos-business-finance-survey-2024.pdf, page 17.
[63] NACFB (2025) NACFB Members fuel 70% of UK's £38bn broker-led SME lending - NACFB

finance, and that external financing options for sole traders can be limited due to eligibility issues.[64]

2.46 As regards customers' propensity to consider alternatives and switch providers in deposit accounts, the only evidence we have received is the view of one non-Bound Bank, which stated that, while there is 'huge competition' for customers, not many customers are searching (for alternative providers) because they are time-poor. However, we have not we have not received other evidence indicating specific barriers to switching in deposit accounts.

Customer behaviour in the BCAs market

2.47 We considered evidence on customer behaviour in the BCAs market and have summarised this evidence below, relating to:

(a) customers' propensity to consider alternative providers (to the Bound Banks) and to switch providers in BCAs; and

(b) customers' propensity to multi-bank BCAs.

Customers' propensity to consider alternative providers (to the Bound Banks) and to switch providers in BCAs

2.48 As noted above at paragraph 2.2, the LOBP prohibit the Bound Banks from requiring that customers open/maintain a BCA as a condition of accessing a loan or deposit account. As such, the LOBP prevent the Bound Banks from leveraging any market power they may hold in business loans and/or deposit accounts into BCAs by unduly influencing or restricting SME customers' choice of BCA provider.[65]

2.49 Given this specific mechanism of harm, a low propensity to shop around and switch BCA providers would *not* increase the Bound Banks' ability to adversely affect competition by requiring customers to open/maintain a BCA as a condition of accessing a loan or deposit account.[66] This is because, for a Bound Bank to be able to adversely affect competition through such a requirement, that SME customer would need to be either:

(a) Induced to switch their BCA to that Bound Bank from a competitor – in which case, a lower underlying propensity to switch (due to real or perceived

[64] BBB (2025) Northern Ireland SME Access to Finance Report, page 22.
[65] As such, the LOBP prevent the Bound Banks from adversely affecting competition on the merits in the supply of BCAs (directly) and potentially wider SME banking markets (indirectly) through tying together the two different products.
[66] However, we consider that a low propensity to switch BCA providers could add to the bank's *incentive* to implement the currently prohibited conduct. This is because the gained/retained BCA customer would be 'stickier', thus the expected profit over time associated with that customer would be greater than had the customer been more likely to switch away (or switch away more quickly) once the term of the loan/deposit account ends.

switching costs)[67] would, all else equal, reduce the likelihood that the customer would indeed switch to the Bound Bank. In this scenario, the low propensity to switch would put the Bound Bank at greater risk of losing the customer's prospective loan (and BCA) business; or

(b) Prevented from switching their BCA from that Bound Bank to a competitor during the lifetime of the loan/deposit account – in which case, a lower underlying propensity to switch (due to real or perceived switching costs) would, all else equal, reduce the likelihood that the customer would have switched away from the Bound Bank, absent the requirement to open/maintain a BCA as a condition of accessing a business loan or deposit account. If, absent this requirement, the SME customer would not have switched their BCA away from the Bound Bank in any event, then such a requirement would not have an anti-competitive effect because it would make no difference to the SME customer's behaviour.

2.50 The CC's 2002 market investigation found that there was 'only a very limited degree of switching of main [business current] accounts by SMEs', with estimates of switching rates at that time at around 4% to 6% of customers a year.[68] The CMA's 2016 Retail Banking market investigation similarly found that rates of BCA switching were low (around 4% per year in 2014).[69]

2.51 The available evidence indicates that the process of BCA switching is now significantly quicker, easier, and lower risk than in 2002, due to the establishment of the Current Account Switching Service (CASS), technological developments, and Open Banking.[70] However, stakeholder views and evidence from published reports indicate that actual BCA switching rates have nevertheless remained low (at around 3% annually, they appear not to have materially changed since 2002).[71]

2.52 However, while observed switching rates can be helpful in understanding customers' underlying propensity to switch, they do not measure it directly, since it is possible that low switching rates could indicate that customers are content with their existing provider (but would readily switch if they had good reason to).

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[67] Such as time, hassle, and risk of business disruption.
[68] Competition Commission, 2002, The supply of banking services by clearing banks to small and medium-sized enterprises, Volume 2, paragraph 2.75.
[69] CMA, 2016, Retail banking market investigation: Final report, paragraphs 8.35 to 8.45.
[70] The Current Account Switching Service (CASS), administered by Pay.UK, was launched in 2013 and currently includes over 50 banks and building societies. It is designed to facilitate free and easy switching of current accounts between providers, and is backed by a switch guarantee, ensuring that all payments associated with an end user's old account will be switched to the new account and ready for use, with effect from a pre-agreed switch date, while the old account is closed on completion of the switch. Current Account Switch Service - Pay.UK.
[71] FCA (2022) Strategic Review of Retail Banking Business Models: Annexes to the Final Report 2022, Annex 5, paragraph 22. BVA BDRC (2025) SME-FM-FULL-REPORT.pdf, page 51.

Furthermore, current switching rates – with the LOBP in place – do not necessarily indicate how customers might behave were the LOBP to be released.[72]

Customers' propensity to multi-bank BCAs

2.53 We have considered SME customers' propensity to multi-bank BCAs because, if we were to find that such customers had a *high* propensity to multi-bank BCAs, this would imply (all else equal) a low ability of the Bound Banks to adversely affect competition if they were to engage in the conduct currently prohibited under the LOBP, namely requiring an SME customer to open/maintain a BCA as a condition of accessing a business loan or deposit account. This is because such SME customers would simply open a second (nominal) BCA in order to satisfy the requirement.[73] However, finding a *low* propensity to multi-bank BCAs would not, in itself, imply the reverse, ie that the Bound Banks could adversely affect competition absent the LOBP. This is because the Bound Banks face other constraints on their ability to do so (ie lack of harm does not depend on SME customers multi-banking BCAs) – see paragraphs 2.36 to 2.39 above where we concluded that there have been changes with respect to the Bound Banks' market power in SME business loans and deposit accounts arising from changes to the competitive landscape.

2.54 The CC's 2002 market investigation did not examine rates of multi-banking BCAs. The CMA's 2016 Retail Banking market investigation found that only around 4% of SMEs held more than one BCA.[74]

2.55 The evidence available from stakeholders and published reports suggests that customers' propensity to multi-bank BCAs may have increased somewhat, albeit from a low base, although the evidence is mixed.[75]

2.56 In terms of context, we note that the fact that many banks charge fees for BCAs (commonly after the conclusion of an initial free banking period)[76] likely reduces customers' incentive to maintain multiple BCAs, unless they have good reason to. At the same time, certain market developments may have made multi-banking easier.[77]

[72] In other words, if Bound Banks did engage in the conduct currently prohibited by the LOBP, some customers might be induced to switch precisely because of the requirement to open a BCA in order to access a loan/deposit account.
[73] However, this reasoning holds only provided that the bank in question could not impose a requirement (eg under contractual terms) that the BCA be the only or main BCA held by that customer. If the bank were able to impose such a requirement, there could still be adverse effects on competition, since such a requirement would either prevent multi-banking in practice (in the case of exclusivity), or render it less beneficial from the point of view of the consumer and rival BCA provider (in the case of the BCA being the main/primary one).
[74] CMA, 2016, Retail banking market investigation: Final report, paragraph 8.36.
[75] FCA (2022) Strategic Review of Retail Banking Business Models: Annexes to the Final Report 2022, Annex 5, paragraph 46.
[76] Price comparison websites show that many banks (though not all) charge around £5 per month for a BCA; see for example: Best business bank accounts UK compared | Money Saving Expert
[77] For example, one non-Bound Bank told us that CASS permits 'partial switching' whereby a customer does not need to close their existing BCA to open one at another provider, allowing them to trial the new provider as a secondary account.

Provisional conclusion on changes in customer behaviour

2.57 We have provisionally found that customers' propensity to consider alternative providers (to the Bound Banks) and to switch providers in business loans has increased, compared to the situation that prevailed when the remedy was put in place in 2002.

2.58 We did not find clear evidence of changes to customer behaviour in the BCAs market (whether shopping around and switching BCA providers, or multi-banking between BCA providers). However, for the reasons set out above (at paragraphs 2.48, 2.49 and 2.52), we provisionally consider that a low underlying propensity to switch BCAs would not increase the Bound Banks' ability to adversely affect competition absent the LOBP; but also that this does not necessarily indicate how customers might behave were the LOBP to be released (and therefore has not been relied upon for our assessment).

2.59 With respect to multi-banking BCAs, for the reasons set out above (at paragraph 2.53), we provisionally consider that a low propensity to multi-bank BCAs would not, in itself, imply that the Bound Banks could adversely affect competition absent the LOBP (in the presence of other constraints on their ability to do so).

Developments in the regulatory landscape for financial services

2.60 The FCA is the sectoral regulator for financial services firms in the UK. It also has concurrent competition law powers together with the CMA. Since the LOBP were put in place, a number of new regulatory requirements have been introduced, including those which the FCA monitors and enforces against. We have considered whether these new regulatory requirements address the same concerns as the LOBP such that the LOBP are no longer necessary.

2.61 Developments in the regulatory landscape could impact our assessment in two ways:

(a) In response to our consultation, some stakeholders submitted that the FCA's Consumer Duty, which came into force on 31 July 2023, represents a regulatory development that means that the LOBP are no longer necessary. We discuss this further below.

(b) Regulatory developments may have affected the competitive landscape and/or customer behaviour. Of particular relevance are regulatory changes enabling the granting of more banking licences, the introduction of Open Banking, and the introduction of the Small and Medium Sized Business (Credit Information) Regulations 2015. We have addressed the impact of such developments in the changes in competitive landscape and customer behaviour sections above and do not repeat that evidence here.

The FCA's Consumer Duty

2.62 The FCA's Consumer Duty is an example of outcomes-based regulation. It creates a high-level requirement that 'a firm must act to deliver good outcomes for retail customers'[78] where the outcomes relate to (and require that):

(a) products and services are designed to meet the needs, characteristics and objectives of consumers in a specified target market;

(b) price and value: products and services provide fair value with a reasonable relationship between the price consumers pay and the benefit they receive;

(c) consumer understanding: firms communicate in a way that supports consumer understanding, equipping them to make effective, timely and properly informed decisions; and

(d) consumer support: firms provide support that meets consumers' needs throughout the product / service life.

2.63 In addition, the Consumer Duty requires that firms:

(a) act in good faith towards retail customers;

(b) avoid causing foreseeable harm to retail customers; and

(c) enable and support retail customers to pursue their financial objectives.

2.64 The FCA describes the overall effect of the Consumer Duty as requiring firms to consider the needs, characteristics and objectives of their customers – including those with characteristics of vulnerability – and how they behave, at every stage of the customer journey.[79] As well as acting to deliver good customer outcomes, the FCA further describes that firms will need to monitor and regularly review whether those outcomes are being met and take action where they are not.[80]

Bound Banks

2.65 The four Bound Banks which responded to our consultation submitted that the FCA's Consumer Duty provides a high standard of consumer protection for SMEs, which renders the LOBP unnecessary:

(a) One Bound Bank noted that the Consumer Duty stipulates that firms must ensure that options available are presented to consumers in a clear and fair way, and that their choice architecture is not designed to influence

[78] Principle 12. For more information about the Consumer Duty, see PS22/9: A new Consumer Duty | FCA.
[79] Paragraph 1.9 of the FG22/5: Final non-Handbook Guidance for firms on the Consumer Duty, dated July 2022
[80] See footnote 79.

consumers to select a particular option that benefits the firm but may not deliver a good outcome for the consumer.

(b) Another Bound Bank referred to scenarios in which the ‘bundling’ of products would be incompatible with the Consumer Duty, such as when customers are left in the position of paying for products or services (ie one of the ‘bundled’ products) that they do not want or need, which would contravene the banks’ obligations to conduct price and fair value assessments.

(c) A third Bound Bank submitted that the Consumer Duty applies to smaller SMEs, which are those that have the greatest need for protection.

(d) A fourth Bound Bank submitted that, were a bank to design a lending or deposit product that forces a customer to also open a BCA (in the absence of a strong business or customer rationale, which would include those scenarios which are current exceptions from the requirements of the LOBP), this would be likely to cause ‘foreseeable harm’ and be in breach of the Consumer Duty.[81]

Third parties

2.66 The FCA told us about the scope and application of the Consumer Duty. It told us that the Duty applies to firms conducting business with retail customers. For banking (ie BCAs and deposit taking), micro-enterprises – businesses employing fewer than 10 persons with turnover/annual balance sheet up to £2 million – are the only SMEs considered to be retail customers, and therefore in scope of the Consumer Duty. For consumer credit (ie loans), sole traders and partnerships borrowing up to £25,000 are the only SMEs considered to be retail customers. SMEs that are limited companies are not included.

2.67 Two other third parties commented on the Consumer Duty. UK Finance submitted that the Consumer Duty requires firms to act in good faith, avoid causing foreseeable harm, and support customers in making informed decisions. In its view, the Consumer Duty had strengthened protections for SMEs and led to a ‘regulatory overlap’ with the LOBP.

2.68 The FCA’s Financial Services Consumer Panel highlighted the fact that business lending is generally only a regulated activity where both the loan is up to £25,000, and the borrower is either a sole trader or a ‘relevant recipient of credit’, and that consumer credit regulation does not currently apply to lending to limited

[81] The Bound Bank also submitted that, in addition to the Consumer Duty, regulated firms are subject to FCA conduct requirements under the FCA’s ‘Principles for Business’ to treat customers fairly. These specifically require banks to act with integrity and clearly communicate with SMEs paying due regard to their information and business needs. The Bound Bank further submitted that it has internally defined a ‘Purpose-Led Conduct Approach’ to achieve good customer outcomes.

companies, limited liability partnerships, and partnerships consisting of more than three persons. Furthermore, the Financial Services Consumer Panel told us that it believes:

> '[G]iven the recency of this change and until there is evidence of its effectiveness post implementation, the Panel believes it is too early to rely on the Duty effectively dealing with the same underlying problems that the Limitation on Bundling Provisions were designed to address.'

Provisional conclusion on developments in the regulatory landscape

2.69 We have provisionally found that the Consumer Duty, which the FCA introduced in July 2023, does not provide an equivalent level of protection as the LOBP. This is for two reasons:

(a) The Consumer Duty applies only to a significantly narrower subset of SMEs. By contrast, the LOBP applies to all SMEs with annual sales revenue (excluding VAT and other turnover-related taxes) of up to £25 million.[82]

(b) The Consumer Duty is focused on outcomes, and does not prescribe specific actions firms must take to meet these outcomes. Therefore, firms are not required to take the same action as is required under the LOBP in order to meet the Consumer Duty's outcomes.

2.70 We have also provisionally found that regulatory changes in the 23 years since the Bound Banks gave the LOBP as undertakings in 2002 – changes which have enabled the granting of more banking licences, the introduction of Open Banking, and the introduction of the Small and Medium Sized Business (Credit Information) Regulations 2015 – have had positive effects on the competitive landscape and customer behaviour in relevant SME banking markets. As noted, these are considered as part of our assessment of changes to the competitive landscape and customer behaviour.

[82] Clause 3(1) of the SME Banking (Behavioural) Undertakings 2002.

3. Provisional decision and notice of intention to release the LOBP

3.1 We have provisionally found that, by reason of changes of circumstances, the LOBP are no longer appropriate and can be released.

3.2 Our provisional view on the changes of circumstances supporting our Provisional Decision is summarised below:

(a) There have been changes to the competitive landscape in relevant SME banking markets in the 23 years since the Bound Banks gave the LOBP as undertakings in 2002, specifically changes with respect to the Bound Banks' market power in SME business loans and deposit accounts.

(i) The available evidence indicates a material reduction in market concentration and a material increase in the diversity of providers, product offerings available to customers, and level of competition in the supply of SME business loans and deposit accounts.

(ii) While some incumbency advantages do continue to exist, barriers to entry and expansion have reduced since 2002. This is evidenced most directly by the substantial amount of successful entry that has taken place over this time, particularly in the years since the CMA last reviewed the LOBP in 2016.

(iii) Out-of-market constraints on the Bound Banks in SME financing have also strengthened.

(b) There have been changes to customer behaviour in relevant SME banking markets. Specifically, customers' propensity to consider alternative providers (to the Bound Banks) and to switch providers in loans has increased, as compared to 2002.

(c) There have been regulatory changes that have enabled the granting of more banking licences, the introduction of Open Banking, and the introduction of the Small and Medium Sized Business (Credit Information) Regulations 2015, which have had positive effects on the competitive landscape and customer behaviour in relevant SME banking markets.

3.3 We provisionally consider that, taken together, these changes to the competitive landscape and customer behaviour indicate a greater degree of competition and availability of choice for consumers in relevant SME banking markets than in 2002, and that this would prevent any of the Bound Banks from materially adversely affecting competition in relevant SME banking markets were the LOBP to be released and any of the Bound Banks to engage in the conduct currently prohibited by it.

3.4 For these reasons, the CMA's Provisional Decision is to release the LOBP. As envisaged in paragraph 3.29 of guidance document CMA11, the CMA hereby gives notice of its intention to release these undertakings.

Annex 1: Technical appendix

Relevant product categories and geographic markets

1. As noted at paragraph 2.3, we have focused on potential changes of circumstances that affect the following three product categories supplied to SMEs: (i) business loans; (ii) deposit accounts; and (iii) BCAs. These categories correspond, respectively, to the following product markets as defined in the 2002 market investigation: (i) general purpose business loans; (ii) 'long-term' deposit accounts (those with a 30 day+ term/notice period); and (iii) liquidity management services, which encompasses BCAs, overdrafts (that are integrated into current accounts) and short-term (<30 day) deposit accounts. While the evidence that we have been able to gather in the course of this review does not precisely correspond to the 2002 product market definitions, we do not consider this to be a significant limitation of our analysis or one that would affect our Provisional Decision. We have also not received any stakeholder submissions suggesting otherwise.

2. In its 2002 market investigation, the CC distinguished between the individual geographic markets of England & Wales, Scotland, and Northern Ireland for each of general purpose business loans and liquidity management services, whereas long-term deposit accounts was found to be a UK-wide market.[83] In the 2016 Retail Banking market investigation, the CMA considered that Great Britain and Northern Ireland were separate geographic markets for SME banking products (BCAs, business loans, and business deposit accounts) for the purposes of that analysis.[84] Sufficiently comprehensive evidence specific to each of these geographic markets has not been available to us in the context of this remedy review; for example, sufficiently comprehensive and comparable data relating to shares of supply are on a UK-wide basis, and almost all submissions by stakeholders were of a general nature (ie they did not relate to a specific geography within the UK). However, we do not consider this to be a material limitation of our analysis or one that would affect our Provisional Decision, for the following reasons:

   - The increased digitalisation of the banking sector means there is now less importance attached to firms' physical location within the UK.
   - An industry participant and an industry body told us that bank lending is now relatively evenly spread across the UK.

[83] Competition Commission, 2002, The supply of banking services by clearing banks to small and medium-sized enterprises, Chapter 2, paragraph 2.57.
[84] CMA (2016) Retail banking market investigation final report, paragraphs 4.98 to 4.106.

- The FSB Northern Ireland told us that it believes the factors influencing changes in the market in Northern Ireland, such as around Personal Guarantees and incumbent providers versus online challengers, would be similar to those affecting the rest of the UK.

- The CMA's 2016 Retail Banking market investigation considered that 'some aspects of the two geographical markets [Great Britain and Northern Ireland] are similar and we do not consider that the distinction between [them] … affects most of our competitive analysis.'[85]

3. We have not received any submissions that would lead us to think our Provisional Decision is any less appropriate for particular geographic areas within the UK.

Limitations of the data used by the CMA to estimate shares of supply

4. We have estimated UK-wide shares of supply in selected product categories; our analysis draws on data shared by the FCA.[86]

5. For our purposes, there are several limitations of the FCA's dataset, principally:

(a) The product categories available in the FCA's dataset do not precisely correspond to the product markets as defined in 2002. For deposit accounts, no data is available pertaining only to accounts with a 30 day+ term/notice period. Instead, as the closest available proxy, we have used a broader category of 'small business savings' (which includes instant access accounts). We consider that this likely over-estimates the share of at least some of the Bound Banks, insofar as they are more likely than non-Bound Banks to supply a greater amount of instant access savings accounts. For loans, no data are available specifically for general-purpose business loans. Instead, we have used the sum of secured plus unsecured term loans, and excluded the categories of asset finance, credit cards, invoice finance, overdrafts, and property (including commercial mortgages).

(b) The FCA's dataset excludes two Bound Banks (each of which we provisionally consider are likely to have a relatively small UK share of supply) and many non-Bound Banks of varying sizes. This may mean that the Bound Banks' shares of supply are over-estimated.

(c) It does not cover the whole SME customer base but only 'small business banking' customers, which are defined by the FCA as businesses with annual turnover of below £2 million. To the extent that Bound Banks may have a higher share of supply with larger SMEs (those that fall above the FCA's

[85] CMA (2016) Retail banking market investigation final report, paragraphs 4.98 to 4.106.
[86] This data was originally collected by the FCA from banks and was shared using the FCA's statutory information-sharing powers. The data relates to firms' financial years, so the time periods covered may differ slightly by firm.

threshold) than with smaller SMEs, this would have the effect of under-estimating the Bound Banks’ share of supply.

6. Notwithstanding the above limitations, we consider that the shares of supply estimates we have calculated using the FCA’s dataset provide useful data for the assessment of Bound Banks’ market power.