

Retail Banking Market Investigation

The Royal Bank of Scotland Group plc Response to Provisional Decision on Remedies

INTRODUCTION

This submission sets out the views of The Royal Bank of Scotland Group plc ("**RBS**") in response to the Provisional Decision on Remedies (the "**PDR**") issued by the Competition and Markets Authority (the "**CMA**") on 17 May 2016, as part of its market investigation into the supply of personal current accounts ("**PCAs**") and of banking services to small and medium-sized enterprises ("**SME banking**") (the "**Market Investigation**" or "**MIR**").¹

This response builds on and should be read in conjunction with RBS's previous submissions to the CMA, particularly RBS's response to the CMA's Notice of Possible Remedies, dated 20 November 2015 ("**NPR**") and RBS's response to the CMA's Supplemental Notice of Possible Remedies, dated 24 March 2016 ("**SNPR**").

Part A below sets out a number of general comments regarding the PDR. **Part B** sets out RBS's specific comments on each of the remedies proposed by the CMA. **Part C** sets out RBS's comments on the CMA's provisional decisions in relation to the 2002 SME Undertakings and the 2008 Northern Ireland PCA Order. **Part D** sets out RBS's comments on the CMA's estimated benefits of the remedies package. For ease of reference, **Schedule 1** sets out a list of the remedies proposed by the CMA in the PDR including the numbering that RBS has adopted to refer to the remedies.

PART A: GENERAL COMMENTS

1 Overall Reaction to the Remedies Package

RBS is broadly supportive of the remedies package as a whole and welcomes the CMA's continued focus on demand-side issues. As the CMA may expect from RBS's previous submissions, RBS agrees that additional reductions in perceived and actual barriers to switching are likely to intensify competition in relation to PCAs and SME banking. Overall, RBS considers that the remedies package will have an important and sustained impact on customers' ability to access information, to assess whether it makes financial sense for them to switch their PCA, business current account ("**BCA**") or SME lending products and to act upon that information where appropriate.

RBS agrees with the CMA that the overall package can be expected to have an immediate impact on the market, but that the full overall effect will only emerge in the mid- to long-term. Accordingly, whilst it is important to monitor the impact of the package, the CMA itself, as well as other regulators involved in implementing the remedies package, will need to be mindful of the need to allow the overall package to bed down properly before considering amending and/or supplementing the final package.

RBS has a number of general comments regarding the PDR, which are set out below. These concern: (i) operational impact and cost; (ii) the basis for remedies relating to overdrafts; and (iii) the CMA's estimated benefits of the remedies package. RBS also sets out briefly some comments on (iv) the application of the package to particular brands and (v) the potential *de minimis* exemption.

¹ RBS notes that the CMA has asked for any final submissions ahead of the Final Report by 22 June 2016. RBS reserves the right to follow up with any additional comments relating to the PDR.

2 Operational Impact and Cost

The proposed implementation timetable for a number of the remedies will be extremely challenging to deliver for reasons including the fact that many remedies involve a period of industry discussion and debate to reach a consensus on exactly what a particular final remedy will require. In such cases this will then be followed by a period where each bank will need to make the operational changes necessary to deliver the remedy.

RBS has particular concerns around the timetable for the following remedies:

- Remedy 1 (APIs);
- Remedies 8-11 (overdrafts, and in particular, **[confidential]**);
- Remedy 13 (loan eligibility calculator); and
- Remedy 15 (standard BCA opening procedures).

RBS appreciates the importance of addressing the identified adverse effect on competition (“AEC”) as quickly as possible. However, it is concerned that the ambitious timelines may lead to sub-optimal results for implementation of significant new tools, standards and procedures for customers, because issues are not fully considered or appropriately tested before a final form is agreed. Further, the timelines may lead to disproportionately increased costs because banks are not given sufficient time to adapt existing systems in the most efficient way.

From RBS’s perspective, and as the CMA will be aware, RBS faces particular challenges in relation to the **[confidential]**².

Noting the fact that there are a number of remedies which overlap with existing initiatives including Midata, OBWG, BBI and Project Bulldog, whilst RBS welcomes the CMA’s acknowledgement that existing initiatives should be built upon in order to feed into the ultimate remedy solution, it should not be assumed that, because certain remedies build upon existing initiatives, it will be easier or quicker to develop a remedy solution. Indeed, including additional stakeholders in existing initiatives may have the effect of increasing operational complexity, time and cost, and this should be reflected in the overall remedy design and timetable.

More specific comments on the timetable for each of the proposed remedies are set out in Part B of our response, but by way of summary, RBS would propose the following:

- In relation to Remedy 1, the CMA could provide for flexibility within the timetable by allowing the Implementation Entity to determine the appropriate timetable or, at least, to vary the timetable set by the CMA if necessary;
- In relation to Remedies 8 – 11, the CMA should allow additional time for banks or brands which do not currently offer overdraft alert services, RBS considers a more appropriate timeframe would be 24 to 36 months;
- In relation to Remedy 13, RBS considers that the timetable should be extended to allow 12 to 24 months for development and implementation of a calculator for the simplest types of SME loans and that longer would be needed if the scope of the tool were extended to cover larger or secured loans;
- In relation to Remedy 15, RBS considers that further engagement is needed with banks and the BBA before any timetable is mandated by the CMA given that the scope of the remedy would benefit from further clarification before any timetable can be meaningfully agreed.

² **[confidential]**

More generally, RBS notes that a very significant number of changes will need to be implemented within six months of the Order (including service quality metrics, transaction history, overdraft alerts, monthly maximum charges, publication of SME lending product prices and standardisation of BCA procedures).³ Logistically, implementing such a significant number of system changes within a six-month period will be extremely challenging, given the finite capacity of skilled resources, systems capabilities and other regulatory changes which are required within the same period (e.g. changes required by the FCA and by changes to the Lending Code). The challenges are increased for remedies where it will not be known at the time of the Order, Undertaking or other implementing measure exactly what the system change will look like. RBS also notes that changes in terms and conditions will require customer notification processes, which typically take at least three to four months. Where these changes remain unknown at the time that the Order, Undertaking or other implementing measure take effect, it will be important to ensure that there is a degree of flexibility built in to ensure that the requirements are reasonable.

In light of the above, RBS has significant concerns about the feasibility of meeting these timelines and would suggest that the CMA consider adopting a more staggered approach, to allow sufficient time for banks to work through the required changes, especially where any element of inter-bank co-ordination is required by the CMA.

Finally, RBS notes that the form of implementation will be important. A number of the remedies are to be achieved through consultation between banks in order to reach an industry view. This will add complexity and time to the process, and in some instances may require that banks appoint a third party (e.g. an external consultant or project manager) to assist, which will add to the cost burden. RBS also notes that where a remedy requires input from a third party, it will be important for transparent procurement processes to be put in place by participants. This can also be expected to add to the length of the implementation timetable.

3 Overdrafts

RBS welcomes the CMA's focus in Remedies 8-11 on not only the measures to mitigate customer exposure to unauthorised overdrafts ("**UOD**"), but also the fact that the PDR seems to have a less UOD-centric focus than the SNPR: as set out in the response to the SNPR, RBS believes there is scope for substantial improvements in customer welfare by addressing customer understanding of *alternatives* such that they switch away from UOD, in addition to mitigation measures to reduce the incidence and impact of charges *within* a UOD user environment.

RBS notes that the CMA's current focus in Remedy 11 appears to be primarily focussed on customers opening new accounts, i.e. new and switching customers. RBS supports this remedy as an important step in increasing customer engagement with overdrafts generally and particularly around the time that a customer opens a new account or considers switching.

However, RBS would also support the CMA if it were to go further to engage not only new and switching customers, but also existing customers, specifically heavy UOD users, to support them in reviewing their existing overdraft usage. These customers may substantially benefit from a review of their overdraft arrangements, and intra-bank alternatives, even if they do not wish to switch PCA.

Accordingly, RBS would welcome the CMA amending its recommendation to the FCA so that it not only focuses on customers at the account opening stage, but also so that it considers how banks' existing customers use overdrafts, in particular those who may be heavy users of UODs, and may benefit from being nudged into considering alternatives to UOD as an important means to address

³ Additional remedies which will be implemented within six months of the relevant undertakings being accepted also include: CASS redirection period, CASS governance, provision of a firm decision to a customer prior to the switching of account provider.

their overdraft usage. Further details on RBS's suggestions are set out in the section dealing with Remedy 11 below and also in RBS's response to the SNPR.

4 CMA's Estimated Benefits

Without wishing to detract from its principled support of the logic of the remedies package, RBS has certain concerns regarding the CMA's estimates of the direct benefits achieved by the remedies package. In the potential gains from switching analysis, the CMA has not taken account of the need to recognise the potential distributional impact: since there is no evidence of excess profitability, gains to customers that switch may well result in a re-pricing of PCAs more generally, leading to higher costs to other types of customer. Furthermore, the CMA's estimates of the value of benefits for the five cheapest products would be likely to change given significant increases in switching, as the value of these benefits will vary across different consumers. RBS therefore suggests that the CMA should be cautious in extrapolating the results of the current static analysis, on the assumption of switching, to the general population.

5 De Minimis Cut-off

RBS agrees with the CMA that it would be appropriate for a *de minimis* exemption to apply, such that the smallest banks would not be subject to the remedies package. RBS considers that any *de minimis* cut-off should apply to each bank brand and/or business (and not to a corporate group). This would be appropriate given the very different service propositions that different brands within the same group may offer, and that the effect of having to implement the remedies package on very small brands would be disproportionate.

RBS considers the *de minimis* cut-offs proposed by the CMA to be broadly acceptable, but considers that further testing should be done as to the most appropriate cut-off point.

6 Confirmation that Remedies do not extend to Private Wealth/Private Banking Businesses

RBS notes that the MIR has focused on mainstream retail and SME banking, and not collected data or conducted analysis of competition for private wealth/private banking customers: **[confidential]**, consistent with the fact that PCAs/BCAs form a small part of a private wealth proposition, which itself is highly differentiated on both the demand side (high net worth customers) and supply-side (personalised service proposition) from mainstream retail and SME banking.

On that basis, it is RBS's understanding that the remedies are not intended to apply to private wealth/private banking. However, a number of the remedies currently proposed by the CMA (e.g. Remedy 8) are drafted as applying to "all PCA and/or BCA providers" (subject to a possible *de minimis* cut-off) which could technically apply to PCAs and BCAs offered by private wealth/private banking businesses such as those of RBS (i.e. Coutts and Adam & Co). In the absence of discussion and an AEC analysis in respect of the private wealth/private banking sector, RBS assumes it to be uncontroversial that it would be inappropriate to extend the remedies package to private wealth/private banking businesses as a matter of principle, quite aside from the potential application of the CMA's proposed *de minimis* thresholds to such businesses when viewed as separate providers. For the avoidance of doubt, however, RBS seeks confirmation from the CMA on this point in the CMA's final report.

PART B: COMMENTS ON REMEDIES

For ease of reference RBS has set out in Schedule 1 to this response a list of the remedies proposed by the CMA in the PDR, including the numbering that RBS has adopted to refer to the remedies.

1 Remedy 1 – Open API Standards

Overall, RBS is supportive of the CMA's proposal to implement open APIs, and agrees that this will improve the ability of customers to compare products and assess whether they should switch, as well as to drive innovation in the sector more generally.

1.1 Implementation Entity

RBS supports the CMA's proposal to establish an Implementation Entity, and welcomes the CMA's intention to appoint an independent chair and for the larger banks to be represented on the Implementation Entity. Please note that RBS may wish to make further submissions to the CMA on an appropriate person for the role of chair in due course. RBS would also support representation of at least some of the challenger banks on the Implementation Entity, to ensure that the Implementation Entity develops a solution that has genuinely industry-wide application, since this will increase the chances that this remedy has a real and lasting impact on the market.

However, to the extent that challengers are represented, it will be important to ensure that they are not disproportionate in their demands given that the obligations under the proposed Order will sit with the "larger" banks. In light of this, RBS recommends that all banks (subject to an appropriate *de minimis* cut-off) be required to make available certain aspects of their data using the API once developed.

As well as challenger banks, it will also be important for third parties that will receive the data to be represented on the Implementation Entity, to ensure that the data is provided in the most useful format. Again, mechanisms will need to be put in place to ensure that those participants who do not fund the ultimate outcome are unable to impose disproportionate cost burdens on those banks required to do so.

1.2 Alignment with Existing Initiatives

As the CMA notes, Midata and the Open Banking Working Group ("OBWG") are both ongoing initiatives that relate to the API remedy. In addition, The Open Data Institute is in the process of establishing the Open Banking Development Group to develop the Open Banking Standard for sharing data via APIs. **[confidential]**.

RBS would strongly prefer a common framework/solution for interoperable APIs, which would deliver the requirements of PSD2 and the Open Banking Standard as well as deliver the CMA's proposed Remedy 1. Such a common design and operating model would reduce duplication and costs and provide a consistent experience for customers, staff and third parties. It would also deliver:

- strong security and authentication for customer-sensitive data based on regulatory technical standards from PSD2;
- a common governance model for handling complaints and disputes; and
- consistency with general data protection regulation.

RBS would urge the CMA to engage with all interested parties to explore how best to progress with this remedy and to minimise duplication of efforts and costs. RBS sees the Implementation Entity as playing a central role in the development of the common framework.

1.3 Design Considerations

In relation to the design considerations, RBS agrees that the CMA has identified the key issues which will need to be considered and addressed by the Implementation Entity in designing and building the API. RBS reserves the right to make further detailed submissions on the design considerations either to the CMA or to the Implementation Entity as appropriate. However, by way of initial comments, RBS would make the following points.

RBS agrees that the security and authentication measures proposed by OBWG and the redress provisions of PSD2 will together be sufficient to ensure customer confidence in services using this technology, and that the CMA should not seek to specify additional measures in relation to these points.

As currently drafted, this remedy will apply to all SME lending products within the CMA's terms of reference which could include, for example, asset and invoice finance. RBS would suggest that, at least initially, the Implementation Entity should focus on developing open API standards for the core lending products (i.e. loans and overdrafts) since these will be most relevant to the majority of customers and can be expected to realise customer benefits most quickly. The Implementation Entity could then consider, in a second stage of the remedy, whether it would be proportionate for the open API standards to cover more complex lending products, such as invoice and asset finance, but RBS doubts whether the customer benefits of open data would be as pronounced given the greater complexity of this type of lending. Therefore, it is possible that additional expenditure necessary to extend the API standards to more complex lending may be considered disproportionate and thus it should be limited in scope.

RBS notes that in its NPR response⁴ it suggested distinguishing between smaller and larger SMEs. RBS would suggest that this point should be considered in further detail by the Implementation Entity.

1.4 Operational Impact, Cost and Timetable

RBS is concerned that the current proposed timetable is very aggressive and does not reflect adequately the technical challenge of all banks being able to provide information in a consistent format that can then be provided to third parties. Considerable industry alignment is needed on a large number of parameters, and a large number of interested parties will need to buy-in to the technical solution to ensure that it works effectively.

RBS considers the CMA's proposed timetable to be particularly ambitious because:

- industry agreement is needed on technical standards and governance;
- the Open Data Development Group is still being formed;
- the European Banking Association is still defining the Regulatory Technical Standards that will need to be in place for customer sensitive data such as Midata.

RBS suggests that a possible solution to timetabling concerns is for the Implementation Entity to be empowered to set its own timetable for approval by the CMA, or at least to be empowered to vary the timetable (subject to CMA approval) if necessary.

In terms of cost, RBS notes that the cost of implementing the requirements of PSD2 remain unclear because the European Banking Authority ("EBA") is still defining the regulatory technical standards. Further, the Open Banking Standard requires more APIs/data to be exposed than PSD2, and again costs for this remain unclear at this stage. Accordingly, RBS finds it difficult, at this stage, to estimate the cost or to comment on the CMA's view that additional costs should not be substantially more onerous than PSD2.

⁴ See Annex 2 of RBS Response to NPR dated 20 November 2015 (the "RBS NPR Response") at p25, section 3.3(g).

As noted above, in order to minimise cost, RBS would suggest that it will be important to align the various different initiatives in the market to avoid duplication and to ensure that a common industry operating framework and common technical standards and governance are agreed within an appropriate timeframe.

2 Remedy 2 – Service Quality Information (“SQI”)

As noted in RBS’s comments on the NPR,⁵ RBS is supportive of this remedy and currently co-funds the BBI, which is working towards a service for SMEs to compare banks on the basis of SQI. RBS reiterates that there are a number of facets to “service quality” and that these will vary according to customer type (PCA, small SMEs, larger SMEs) and include a mixture of functional and emotional drivers. RBS does not support reducing these complex facets to a single score but instead multiple indicators should be available. That said, RBS is alive to the risk of ‘indicator overkill’ i.e. a multitude of published performance/service metrics which could confuse rather than inform the customer, thus having the opposite effect to that intended.

Accordingly, RBS believes that the key to successful implementation of Remedy 2 will be to achieve a balance that provides customers with both simplicity and the ability to drill down to a level of detail as required, i.e. customers should be able to self-select whether they wish to focus on several or primarily on one of the various indicators.

2.1 Design Considerations

(a) Use of “willingness to recommend”

Overall, RBS supports the use and publication of “willingness to recommend” information. Indeed, responses to a similar question (likeliness to recommend) underpin the Net Promotor Score (“NPS”) which RBS uses to monitor performance within the bank. Given the existing NPS standard, RBS would be grateful for guidance from the CMA on the extent to which “willingness to recommend” differs from the existing NPS standard, and notes the importance of ensuring that any new standard is sufficiently robust and reliable.

Overall, RBS would not consider NPS necessarily to be the most appropriate way to publish SQI should the intention be to inform customer choice. This is because NPS imposes a very challenging benchmark that omits information that might be useful to customers deciding where to bank – only customers reporting that they are likely to recommend a provider with a 9 or 10 out of 10 have a positive effect on the provider’s calculated NPS. RBS considers that many customers would benefit from a broader understanding of feedback on a provider when making choices. Moreover, “willingness to recommend” is unlikely to provide more than an imperfect proxy for an “indicator of service quality”, given that it is materially affected by reputational factors unrelated to service levels.

RBS recommends that the CMA and FCA consider carefully how customers would respond to the way in which “willingness to recommend” information was published and ensure that a common, meaningful standard is adopted across the industry. It is important to ensure that SQI compares like with like and is sufficiently robust.

(b) Facets of service quality: Core Service Quality Indicators

RBS agrees with the CMA that the list of Core Service Quality Indicators (“CSQIs”) is appropriate and likely to be effective in capturing the most important aspects of SQI. RBS welcomes the relatively limited number of CSQIs to be introduced initially. It recommends that the CSQIs are kept under review by the FCA to test their efficacy and their impact on the market.

(c) Facets of service quality: Additional Service Quality Indicators

⁵ See the RBS NPR Response at p31, section 3.5.

RBS also supports the recommendation that Additional Service Quality Indicators (“**ASQIs**”) will be subject to further testing by the FCA, but would reiterate the concerns set out above about avoiding customer overload of information, and would recommend that the FCA bear this in mind when considering whether to recommend the publication of ASQIs alongside the CSQIs.

In relation to the facets suggested, RBS has some concerns around 3.156(c)(ii) (length of time to open a BCA or credit facility). As mentioned in RBS’s NPR response,⁶ this can be substantially affected by customers who do not respond to requests for information that are necessary in order to make an application and, therefore, is not an appropriate metric to compare across banks since it is substantially out of their control.

(d) Collation of data

The CMA proposes that customer satisfaction data for the CSQIs will be collected using customer surveys conducted by an independent third party. This is appropriate given the need to compare like with like and to ensure robust sampling and data collection methods. RBS would support building on existing surveys already conducted in the industry e.g. GfK for PCAs and Charterhouse for SME banking.⁷ These surveys could be amended to ensure that the data required by this remedy is captured in a suitable form.

(e) Presentation of data

RBS generally agrees with the CMA’s provisional decision relating to where quality information should be published,⁸ but suggests that this is subject to further FCA testing before a final decision is reached. RBS notes, in relation to branches in particular, that banks need flexibility on the information that must be displayed. There is a finite amount of information that can be displayed in branches and banks already have a number of display requirements under existing regulation (e.g. Financial Services Compensation Scheme, rates and fees etc.) and will also have their own marketing priorities. RBS also questions whether information in branches may be lost as customers are generally focussed on completing their business rather than shopping around, which most now prefer to do online.

RBS also notes that, in relation to the annual statement of fees under PAD, the format will be set by the EBA and that this is still under development. At this stage, it is not clear how prescriptive the format will be, but to the extent that this is heavily prescribed to ensure a standardised format across the EU, it is possible that the addition of SQI (or at least some SQI) may be precluded.

As regards how data is presented, it will be important to strike a balance between providing information which can be easily digested by customers whilst also providing sufficient detail to allow customers to identify the service facets most relevant to them. RBS accepts the need for some measure of standardisation. That said, it will also be important to retain some measure of flexibility so that banks can incorporate the SQI results into their customer communication material in a holistic way.

In principle, RBS is comfortable with ranking providers, although subject to the points below. The colour coding of results is too simplistic an approach and is inappropriate for the presentation of such important data. Ranking needs to take into account statistical differences to avoid giving a false impression to customers. RBS is comfortable with presentation in the format suggested by the CMA in figures 3.5 and 3.6.

In relation to the presentation of data for PCAs, since only some banks have been mandated to provide foundation accounts for a specific segment, RBS considers that these accounts should be

⁶ See the RBS NPR Response at p38, section 3.6(f).

⁷ See the RBS NPR Response at p33, section 3.5(e).

⁸ As detailed in the CMA’s Provisional Decision on Remedies dated 17 May 2016 (the “**PDR**”) at paragraph 3.174.

reported on separately from core current accounts. These are not full service PCAs, they are servicing a very specific financial and social segment and may only be offered through certain channels.

In relation to the presentation of data for SMEs, it is important to recognise the significant variation across SMEs' banking needs. In RBS's view, it would be inappropriate to seek to boil down the SME data set into a single score, given the differences in weight that different SMEs will place on different aspects. RBS suggests that the presentation of data, particularly for SMEs, should be subject to further consultation and discussion prior to the CMA making a final decision, and that different ways to present SQL data (e.g. according to SME turnover, sector and age of SME) could be considered.

(f) Providers required to publish SQL

RBS agrees with the CMA's provisional view that all PCA and BCA providers (subject to an appropriate *de minimis* cut-off) should be required to collect and provide CSQIs and ASQIs. This will ensure that the data is most meaningful and helpful to customers. If a bank does not provide one or more services, then this information should be displayed. RBS agrees that it would be appropriate for there to be an exception for start-ups in the first year of trading, since data in relation to these providers would be unlikely to be statistically significant and customers would be unlikely to have a considered view on the level of service quality.

(g) Product application

As currently drafted, the recommendation to the FCA will apply to all SME lending products within the CMA's terms of reference. RBS would suggest that the FCA should focus on the core lending products, i.e. loans and overdrafts, since these will be most relevant to the majority of customers and are the key drivers of banks' customer service propositions.

2.2 Operational Impact, Cost and Timetable

If the CMA builds on existing industry surveys, RBS expects the operational impact and cost of this remedy to be manageable. However, there will clearly be certain costs associated with amending existing questionnaires and leaflets and presenting data in branches, and these should be considered by the FCA to ensure that they are not disproportionate to the customer benefits envisaged.

In meeting their obligation to publish the data, banks would be dependent on timely provision of that data by the third party responsible for collecting and collating it (whether GfK, Charterhouse or another organisation). This would need to be reflected in the final remedy design to ensure that banks were given sufficient time to consider how to present the data, to include this in the relevant communications and to distribute it to customers. Timing will be in part dependent on the medium, e.g. hard copy communications will naturally take longer than email communications due to the need to arrange printing.

Certain operational costs are to be expected in relation to further testing and RBS would ask that the FCA be mindful about the burden on banks during this process.

3 Remedy 3 – Customer Prompts

Overall, RBS is supportive of the CMA's Remedy 3 proposal, given its belief that customer prompts can offer a meaningful route by which customer engagement may be enhanced in both PCA and SME banking. As set out in RBS's NPR response, in order to be effective this remedy must be suitably researched and tested with the participating banks in order to ensure that (i) the best set of

triggers for sending prompts is identified and (ii) to avoid over-saturation of customers, leading to “alert fatigue”.⁹

A key question for the FCA will be how to test whether a prompt is effective. The prompt could be said to have been effective if it alone directly results in a change in customer behaviour. RBS sees two challenges in measuring this. First, exact cause and effect will be difficult, if not impossible, to determine, particularly if there is a significant time gap between the prompt and an (observed) change in behaviour. Secondly, a change in behaviour is not simply indicated by actual switching rates (although these may be expected to increase). A customer may respond to the prompt by searching for an alternative product, but ultimately choose not to switch. RBS sees significant practical difficulties in identifying those customers who have searched, but not switched. RBS would welcome the chance to discuss with the FCA how it may be able to overcome these issues and to design a monitoring system that will enable it to draw robust conclusions on the effectiveness of prompts. RBS also welcomes the CMA’s provisional decision to move away from incentivising banks on compliance with the remedies, which it does not support for the reasons set out in its submission of 15 January 2016 in response to additional questions on the prompting remedy.¹⁰

3.1 Design Considerations

(a) Testing

RBS welcomes the CMA’s provisional decision to recommend further research and field testing prior to implementation of a prompting remedy. As noted in RBS’s NPR response, this is an innovation for the industry and will require substantial commitment from the banks. It is, therefore, appropriate that a rigorous testing process is undertaken to ensure that investment in prompts is effective and leads to direct and identifiable customer benefits. RBS also agrees that the FCA is well placed to conduct this testing process and subsequently to implement and monitor compliance with this remedy.

(b) Trigger events

RBS broadly agrees with the CMA’s initial list of prompts identified for testing.

RBS notes that in relation to (c) (the imposition of overdraft charges), it would be important to ensure that the prompt was issued only periodically, as proposed by the CMA in paragraph 3.245 of the PDR, and not each and every time an overdraft charge was incurred, because:

- at the imminent time of prospective overdraft charges, the customer should focus on taking action to avoid the charge (e.g. transferring funds) and prioritise this ahead of (focusing on the benefits of) switching, so either the customer will risk being penalised for considering switching in lieu of potentially avoiding overdraft charges (which is counter-productive) or the customer will likely ignore the switching prompt as a distraction; and
- for some customers the prompt could be too frequent leading to prompt-fatigue.

RBS would suggest that a periodic (i.e. annual) prompt, as proposed by the CMA in paragraph 3.245 of the PDR, would be most appropriate, as this would be likely to have the most impact on customers since they would be able to assess their expenditure on overdrafts over the course of the previous year.

RBS would also request guidance from the CMA and/or FCA on the definition of “material” when referring to material changes in key product features (prompt (a)).

⁹ See the RBS NPR Response at p4, section 3.1.

¹⁰ RBS Response to Additional Questions on Remedy 1, 15 January 2016.

RBS does not support the TSB proposal to prompt as part of a standardised monthly bill, both for the reason identified by the CMA (that it will provide only a snapshot of the costs and benefits of a PCA that may be difficult for customers to understand) and also because of the risk of alert fatigue.¹¹

(c) Content and presentation

RBS reiterates the importance of suitably framing prompts. RBS would favour some level of standardisation to ensure that all banks are delivering the same core content, but with sufficient flexibility to allow banks to incorporate the prompt into their own communication style and tone. Specifically, RBS would support an FCA order which directed providers to include specified items in the prompt but left each provider the flexibility to determine the positioning, delivery and exact wording for achieving this.

Additionally, there may need to be some tailoring depending on the event which has triggered the prompt. As the CMA notes,¹² specific details may need to be included for each triggering event and the tone of the communication may also need to change, for example, a beneficial change in the material terms of a PCA or BCA would be communicated differently from a change that disadvantages customers. Similarly, a branch closure where an alternative branch is located very close to the closing branch, would require a different communication style from the closure of a “last in town” branch.

(d) Source of prompts

RBS agrees that the existing provider should be the source of prompts and that these would be most efficiently delivered if incorporated into existing communications that are issued to customers. RBS notes the importance of framing the message correctly to avoid mixed messages to customers (“we value you as a customer, but have you considered switching?”). For this reason, the flexibility around content and presentation referred to above will be particularly important.

(e) Medium of delivery

As the CMA identifies, channel usage will depend on a customer’s communication preferences. However, it will also depend substantially on message content. For example, text message prompts may be appropriate where the message can be kept very brief with additional details accessed by the customer by clicking a link for additional information, but may not be appropriate if the content of the message is substantial, or where the prompt itself is required to contain numerous details.

RBS’s preference would be to focus on electronic delivery (text, email and push notifications) since these are the most immediate and least costly to implement.¹³

Whatever the medium of delivery, customers would need to be given an option to unsubscribe from prompts to ensure that customers are in control of the ways that their bank can contact them.

3.2 Operational, Cost and Timing Impacts

RBS supports the CMA’s recommendation that the FCA begins preparing for testing immediately following the final report, to maximise the available time for randomised controlled trials (“RCTs”) and refining the ultimate solution. RBS will cooperate with the FCA during this period and considers that, to the extent that only certain banks are asked to assist the FCA in the first phase of testing, it would be appropriate for any banks who are not chosen to engage with the FCA to have at least some opportunity to comment on and engage with the testing process, as well as to see results. Certainly, all banks should have the opportunity to input on the remedy design before prompts are finalised.

¹¹ See the PDR at paragraph 3.261.

¹² See the PDR at paragraph 3.306.

¹³ RBS notes, however, that most banks will not hold mobile numbers and/or email addresses for all customers.

Overall, RBS considers that the timescales envisaged by the CMA are reasonable, but notes the importance of the FCA being able to build time and flexibility into this timetable for any necessary operational changes that banks will be required to make, in particular where changes to statements or to customer terms and conditions may be required.

4 Remedy 4 – CASS Governance

4.1 RBS General Comments

As set out in its NPR response, RBS considers that current governance within the current CASS Managing Committee (“MC”) is reasonable and does not blunt incentives to promote switching between current account providers and, therefore, questions whether reform is necessary.¹⁴ That said, RBS does not oppose the CMA’s proposals for reform of the MC.

RBS also notes that CASS is already overseen by Bacs and considers that no significant concerns with this level of oversight have been identified. However, RBS does not oppose the PSR taking on this role.

4.2 Design Considerations

(a) Composition of the MC and representation of a wider group of stakeholders’ interests

RBS considers that the existing 26 member banking groups within the MC and the current one-member-one-vote system already ensure that CASS is developed in the interests of customers both in the short and the long term. However, if the CMA does decide to progress with its proposed changes to the composition of the MC, RBS believes that it should also consider how the system takes into account the views of banks who fund the majority of CASS, or indeed whether funding arrangements should be reconsidered in light of changes to the MC. As set out in its NPR response, the most recent funding call for CASS was mostly borne by the larger banks, irrespective of whether they voted for the measure or not, and RBS is concerned that further diversifying the membership of the MC could increase the disconnect between those who vote for policies and those who ultimately fund them.

RBS also sees a risk that the introduction of new members to the MC, such as price comparison websites (“PCWs”), could lead to ‘scope-creep’. RBS recommends that this could be addressed by ensuring that the CASS terms of reference are closely defined and that the chair and/or the PSR (if it is given regulatory oversight of CASS) ensure that discussions and initiatives in which CASS engages are squarely within those terms of reference.

RBS agrees that it is appropriate for an independent chair to oversee the MC and may wish to make further submissions on an appropriate person for this role in due course.

(b) Transparency

RBS agrees that there is a need for transparency regarding the MC’s decisions and decision-making processes, as well as CASS performance against KPIs. It welcomes the CMA’s provisional decision to require publication of this information on the CASS website.

(c) Regulatory oversight of CASS

RBS notes that CASS is already overseen by Bacs and is subject to scrutiny by the FCA/HMT and, as set out in the NPR response, RBS considers this arrangement to be satisfactory.¹⁵ However, RBS has no particular concerns about the PSR undertaking this role as long as any regulatory oversight remained light-touch, as suggested by the CMA.

¹⁴ See the RBS NPR Response at p55, section 3.12.

¹⁵ See the RBS NPR Response at p55, section 3.12(d).

4.3 Operational, Cost and Timing Impacts

If the CMA chooses to progress with altering the membership of the MC and the adoption of a new regulator, then RBS has no significant concerns about the proposed timetable. However, RBS would like to highlight that flexibility regarding timing may be necessary to ensure that the correct candidates are selected to join the MC and to take on the position of independent chair, and to make certain that the remit of the PSR is appropriately defined in legislation.

RBS agrees with the estimated costs of £50,000 a year. It believes that efforts should be made to ensure that the appointment of new members and an independent chairman to the MC is achieved within that estimate.

5 Remedy 5 – Extended CASS Redirections

RBS considers that the recently adopted redirection period of three years is a reasonable timeframe and sufficient for the overwhelming majority of switchers. RBS reiterates its stance as set out in the NPR that the CMA should give the existing redirection period more time to bed down before proceeding to extend it.¹⁶

RBS therefore considers that the adoption of perpetual redirection, even subject to the proposed 13 month cut-off is inappropriate. Perpetual redirection will increase the risk that payments will not be processed correctly and could undermine consumer confidence in CASS, and this concern may be exacerbated by the increased number of switchers which may be expected in light of the impact of the CMA's remedies package. Importantly, it could reduce the incentive for payment originators to 'put their house in order' and lead, for example, to a much earlier need to upgrade CASS system capacity at additional cost.

5.1 Design Considerations

(a) Perpetual and extended redirection options

As the CMA is aware, the current three year redirection period has only recently been adopted, and in RBS's view the CMA should give the current policy time to bed down and assess its impact before seeking to implement a further change to the system. RBS believes that three years will be more than adequate to switch account details and a longer period will be found to be unwarranted.

However, if the CMA does choose to progress with this remedy, then RBS agrees with the decision to limit perpetual redirection only to those customers who have had a payment redirected in the previous 13 months. Indefinite redirection could lead to (even greater) implementation difficulties and behavioural concerns.

(b) Customer impact

RBS has not seen evidence to suggest that the adoption of a redirection period longer than 36 months would have a positive impact on customer switching rates. RBS highlights the FCA's report into redirection in 2015, which suggests that an unlimited extension of the redirection service would not be a material improvement on extending the previous 13-month redirection period to the current 36-month period.¹⁷

In RBS's view, other changes would also be more cost effective. Increasing the awareness of CASS (Remedy 7) seems to be the first priority, and much less costly. 43% of PCA customers and only 28% of SMEs have heard of CASS, whilst 15% of PCA customers and 12% of SMEs said that knowing

¹⁶ See the RBS NPR Response at p45, section 3.8(a).

¹⁷ Report commissioned by the FCA. YouGov (March 2015), *Current Account Switch Service – Quantitative research*, as referenced by the CMA in footnote 284 of the PDR.

about CASS would make them more likely to switch.¹⁸ In terms of the changes to CASS consulted on, 21% of PCA customers and 15% of SME customers stated that having access to old statements was most likely to encourage them to change their account (Remedy 6) whilst a lower proportion (14% of PCA customers and 11% of SME customers) reported that a longer redirection period was most likely to encourage them to change.

RBS also has concerns that the adoption of an indefinite redirection period would discourage payment originators from taking proactive measures to redirect payments. A longer redirection period reduces the incentive for payees to amend their payment details and instead simply to pass these costs on to banks. Perpetual redirection creates a perception that CASS is a permanent tool for redirecting payments instead of an intermediate solution for reducing the burden of switching, as was intended.

Additionally, a perpetual redirection period could increase the risk of failure if consumers choose to switch multiple times whilst having payments redirected.

5.2 Operational, Cost and Timing Impacts

RBS is concerned that the adoption of an indefinite redirection period could lead to significant operational difficulties, even with the proposed 13-month limit. The longer the period, the more data is required to be stored and the greater the cost for the banks. It should also be noted that costs remain with the customer's previous banks (i.e. the banks from which the customer has switched) for the duration of the redirection period. It is arguably disproportionate to continue to impose these costs on a bank which has derived no benefit from a customer for more than 36 months.

Having a redirection period that operates in perpetuity, even for a small number of customers, may make it difficult to guarantee given the capacity constraints, technological change and mortality of banks. RBS is concerned that six months may not be an appropriate window in which to adopt this remedy.

RBS also notes that existing marketing literature will need to be changed to reflect any revised redirection period. This process could be more costly than the CMA has anticipated and take longer than six months to roll-out.

6 Remedy 6 – Access to Transaction History

RBS considers that enabling customers and ex-customers to access their transaction history is beneficial to customers and notes that survey evidence indicates that this is likely to have a beneficial impact on switching rates.¹⁹ Whilst it understands the CMA's desire to provide customers with as complete a transaction history as possible, RBS questions whether it is necessary to provide transaction history automatically at account closure, or to provide a full five years worth.²⁰ RBS suggests that it would be more appropriate to provide transaction history on customer request (rather than automatically) and that an appropriate period would be one year, given that this will be sufficient for customers in the vast majority of cases.²¹

6.1 Design Considerations

- (a) Automatic provision of transaction history

¹⁸ See data tabulations prepared by GfK and BDRC reporting the results of the CMA's quantitative research are available at the following link: https://assets.digital.cabinet-office.gov.uk/media/56dd6e3f40f0b60376000014/PCA_survey_-_data_tabulations_prepared_by_GfK.pdf.

¹⁹ See note 18.

²⁰ See the RBS NPR Response at p47, section 3.9.

²¹ See the RBS NPR Response at p47, section 3.9.

RBS considers that the provision of transaction history at the time of account closure should be at customers' request, rather than automatic. RBS does not believe that it would be appropriate to force this expenditure on banks when there is little apparent customer demand for this service to be provided automatically or evidence to suggest that it would be useful (provided that customers have the ability to obtain the information quickly in the event that they request it).

Furthermore, RBS considers that few customers will understand whether they want or need their transaction history at account closure, and may fail to understand that they have the ability to request the data later if they are presented with it at the time of account closure. There is an additional risk that customers could lose or misplace the data, creating potential security risks. These issues indicate that a request-based system would be the best customer solution. RBS suggests that the availability of the service could be highlighted to a customer at the time of account closing.

If the CMA is nevertheless minded to order that banks must provide customer data automatically on account closing, RBS notes that it will be necessary to provide for an opt-out for customers who did not wish to receive this data.

(b) Term of data retention

RBS questions whether it is necessary for the period to be as long as five years and considers that a year would be sufficient. As noted in the NPR, **[confidential]**.²² RBS considers this to be broadly applicable across the industry. Accordingly, a shorter cut-off would be likely to achieve the same outcome of incentivising customers to switch, particularly if customers were reassured that it would not be standard practice for banks to require transaction history beyond this period.

In light of these comments, RBS would not support any extension beyond five years and would ask the CMA to consider whether a shorter period would be more proportionate.

(c) Charging for provision of transaction history

RBS believes that the CMA has taken the correct approach in allowing providers to charge for transaction history information subject to a cap, but suggests that this cap should instead reflect the costs to the banks of providing the information (which is likely to be particularly high for those SMEs with a large volume of transactions). RBS suggests a £10 cap would be appropriate where the data is to be provided electronically, but that where it is requested to be provided in paper format, the CMA remedies should not engage in prescriptive price regulation and banks should be able to pass on to the customer the cost of providing the data. RBS would also encourage the CMA to allow for flexibility to vary the charge over time.

(d) Role of CASS

RBS considers that the CMA has taken the correct approach in provisionally deciding that Bacs/CASS should play no role in the provision of transaction history. Whilst RBS does believe that it would be feasible for Bacs/CASS to adopt such a role (as discussed in the NPR²³), there would be considerable costs to building such a service and it would be inappropriate to introduce this whilst Bacs/CASS is implementing Remedies 4 and 5.

(e) Providers covered by this remedy

RBS considers that every PCA and BCA provider should be subject to this obligation (subject to an appropriate *de minimis* cut-off) to prevent potentially disadvantaging customers of smaller banks.²⁴

²² See the RBS NPR Response at p47, section 3.9(c).

²³ See the RBS NPR Response at p47, section 3.9(e).

²⁴ Subject to the point in Part A about private wealth/private banking brands.

6.2 Operational, Cost and Timing Impacts

RBS considers that, because the remedy does not require banks to retain customers' transaction data for any longer than prescribed by existing industry guidance on the MLR, it should not be unduly complex to implement this remedy, provided that the data can be supplied in a standard statement format. However, time will need to be taken to ensure that appropriate measures are put in place to correctly identify the customer before the information is delivered to them, which is also in line with data protection and privacy obligations.

If the CMA decides that customers should be automatically provided with this information and that it should not be done on an opt-in basis, then RBS has concerns that six months may be too short a timeframe to implement the policy, and would instead propose that 12 months would be more feasible.

7 Remedy 7 – Customer Awareness of and Confidence in CASS

RBS supports CASS and considers that there would be significant value in increasing public awareness of and confidence in the service as evidenced by the relatively limited prevailing awareness of CASS.²⁵ As highlighted in the NPR, RBS has already put in place measures and marketing to increase public awareness of CASS to its customers,²⁶ and CASS is currently advertising in national newspapers.²⁷

7.1 Design Considerations

RBS supports the CMA's view that highlighting the benefits of switching would be most effective if addressed to consumers at points in time when they are most inclined to switch. However, as highlighted in the NPR, RBS believes that the exact message promoting switching should be carefully calibrated. RBS notes that the qualitative research carried out by GfK suggests that many customers were sceptical about the financial incentives of switching and were concerned about some form of catch. As a result, RBS believes that messages should be designed to ensure that they don't reduce customer trust and engagement with financial service providers.²⁸

RBS agrees with the CMA that the dip in awareness and confidence rates for CASS following the initial, one-off, advertising campaign around the launch of the service suggests that an ongoing campaign over a number of years is required. RBS believes that it will be possible to achieve this within the existing CASS budget.

RBS would suggest that the approach to campaigns be tested to establish the most effective approach (particularly given that costs are not apportioned equally between banks). It considers the campaign would probably be most beneficial if it were to be general rather than focusing on particular customer groups, as this could be complex and vary from bank to bank.

7.2 Operational, Cost and Timing Impacts

RBS agrees with the CMA that the costs of this remedy should already be in line with Bacs' current plans and will not require any additional funding from the banks.

²⁵ See Section 5.1(b) above and footnote 16 – Current statistics show that 43% of PCA customers and only 28% of SMEs have heard of CASS.

²⁶ See the RBS NPR Response at p19, section 3.2.

²⁷ See The Guardian, 'Bank account switching service gets new advertising push', <http://www.theguardian.com/money/2015/sep/14/bank-account-switching-service-advertising>.

²⁸ See the RBS NPR Response at p19, section 3.2.

8 Remedy 8 – Overdraft Alerts

RBS welcomes the CMA's provisional decision to implement UOD alerts, which as RBS has previously explained to the CMA, RBS and NatWest already provide in the form of "Act Now" alerts. In particular, RBS understands and welcomes the fact that the CMA's proposed approach will give flexibility to providers, including as to content and timing of alerts, meaning that the impact on those banks already offering this service could be kept to a minimum. RBS would request that the FCA be mindful of providers who have made investments in these services to date, and that any operational impact on existing services be avoided (or at least minimised). RBS would welcome engagement with the FCA to outline its own experience in the investments made in this space to date.

8.1 Design Considerations

(a) Role of the FCA

RBS welcomes the CMA's provisional decision to ensure that this remedy will be trialled by the FCA, as RBS noted was crucial in the SNPR response.²⁹ RBS notes that it will be important to build in time for engagement with banks to ensure the appropriate design of any testing prior to launch.

(b) Auto-enrolment

RBS welcomes auto-enrolment and notes that it has already undertaken an auto-enrolment process of its back-book customers for Act Now alerts.³⁰

RBS considers that there is no need to include a requirement in the CMA's Order that banks obtain customers' mobile numbers during account opening and/or when contact details are updated by an account holder. Banks are already strongly incentivised to collect customer contact information including mobile numbers where possible and, therefore, a further CMA mandate to do so would not add anything.³¹

RBS would welcome confirmation from the CMA that customers who have previously opted out of Act Now alerts would not need to be re-contacted to confirm opt-out pursuant to the CMA's remedy, particularly for those customers who chose not to provide a mobile number to RBS when this was requested.

(c) Content, medium and timing considerations

RBS welcomes the CMA's provisional decision not to take a prescriptive approach in relation to the content of overdraft alerts and the medium for delivery and timing, since this gives banks flexibility in relation to design whilst ensuring certain minimum content. Overall, RBS considers that the Act Now alerts offered by RBS and NatWest are already compliant with the key features envisaged by the CMA. RBS would welcome further clarity that banks such as RBS which offer existing services alerts will not be required to undertake significant revision to existing features (in which the bank has already invested).

The CMA's proposed formulation of the trigger for the unarranged overdraft alert is when a customer "is at significant risk that day of exceeding an arranged overdraft limit."³² RBS notes that for the sake of clarity the CMA should specify that the alert should also be sent when a customer has no arranged overdraft facility but is at significant risk that day of exceeding their balance and going into unarranged overdraft.

²⁹ See the RBS response to the Supplemental Notice of Possible Remedies dated 6 April 2016 (the "RBS SNPR Response") at p 6, section 1.1.

³⁰ See the RBS SNPR Response at p6, section 1.1.

³¹ See the RBS SNPR Response at p8, section 1.2.

³² PDR at Figure 5.1.

(d) Regulatory overlap

RBS agrees with the CMA that overdraft alerts would not overlap with the CCD Article 18 requirement regarding overrunning notices (now contained in the FCA's Consumer Credit Sourcebook) as set out in the PDR at paragraph 5.83. RBS also agrees with the CMA's view set out at paragraph 5.85 of the PDR that the alert would not be a 'payment instrument' as defined in Article 4(23) of PSD.

8.2 Operational, Cost and Timing Impacts

Despite RBS having previously invested in alert technology and providing this service to RBS and NatWest customers, the estimated impact for RBS is still expected to be **[confidential]**.³³

RBS has significant concerns regarding the timelines set out by the CMA for implementation of this remedy **[confidential]**.³⁴

To the extent that RBS and NatWest are required to make any changes to the existing Act Now alerts (which RBS would not expect to be the case) there would be additional concerns as to whether this could be achieved in the relatively short time frame proposed by the CMA. **[confidential]**.

9 Remedy 9 – Grace Periods

RBS is broadly supportive of grace periods for PCA customers to avoid unarranged overdraft charges, as evidenced by the Act Now alerts that RBS already offers, which notify customers of the available grace periods in which customers can take action to avoid "overdraft unpaid" and "over limit" charges.³⁵ The grace periods currently offered by RBS **[confidential]**.³⁶ RBS believes that its current system fits within that envisaged by the CMA, but would welcome confirmation from the CMA that this is the case.

9.1 Design Considerations

RBS supports the CMA's approach, which appears to give flexibility to providers and which does not extend the grace period beyond intra-day which would add significant complexity and cost (and as the CMA notes could lead to increased customer reliance on unarranged overdrafts due to perceptions that they are effectively free short-term loans).³⁷ RBS also welcomes the application of the grace period to transactions not declined by a PCA provider that take the customer into overdraft, and of all charges related to use of an unarranged overdraft, rather than implementing limitations on such applicability.

As regards cut-off times, RBS agrees that it is appropriate to have a customer cut-off time being different from system cut-off time because internal cut-offs are necessarily at a later point than the external grace period communicated to customers to allow for processing. As RBS has previously advised the CMA,³⁸ the target time for RBS alerts currently **[confidential]**, with customers requested to pay in funds by 3.30pm in order to ensure that they avoid excess overdraft fees. However, the latest point at which credits can mitigate an excess position is **[confidential]**.

RBS considers that a centrally mandated cut-off time is acceptable, provided that this is mandated in conjunction with banks already offering this type of service and aligns with payment systems. In RBS's view, a different approach (such as requiring a customer cut-off time of no less than one-hour before the provider's actual cut-off time) would be unnecessary.

³³ See the RBS SNPR Response at p9, section 1.3.

³⁴ **[confidential]**

³⁵ See the RBS SNPR Response at p12, section 3.1.

³⁶ See the RBS SNPR Response at p12, section 3.2.

³⁷ See the PDR at paragraph 5.114.

³⁸ See RBS Response to Follow-Up Questions from CMA Call held on 14 April 2016 at p1-2.

RBS agrees that a *de minimis* threshold should be applied.³⁹

9.2 Operational, Cost and Timing Impacts

For the reasons set out in relation to Remedy 8, RBS has significant concerns regarding the timelines set out by the CMA for [confidential].

As regards [confidential], RBS would not anticipate significant cost or operational impact given that RBS believes that its existing service would be compliant with the CMA's proposed Order. However, RBS would need to undertake a detailed internal review of systems flows to ensure that no risk of breach occurs even in disaster recovery mode.

10 Remedy 10 – Monthly Maximum Charges

RBS stated that it had significant concerns with requiring PCA providers to specify a monthly maximum charge (“MMC”) in its response to the SNPR, because it could lead customers to consider price competition on unarranged overdrafts as a key comparator between banks (particularly in the context of the unarranged-centric remedies package in the SNPR).⁴⁰ As currently envisaged, Remedy 10 appears to focus on clarifying to customers what each bank charges by way of MMCs, without seeking to introduce a degree of competition in relation to these charges. Accordingly, RBS considers that many of its concerns raised in the SNPR have been addressed.

Nevertheless, RBS would still welcome greater focus on arranged overdrafts, to ensure that greater transparency in relation to unarranged overdraft charges does not lead customers to place greater reliance on unarranged overdrafts, rather than considering whether an arranged facility would offer them a better deal (which it is likely to in the vast majority of cases).

10.1 Design Considerations

RBS agrees with the CMA that a regulated upper limit would not drive good outcomes, and welcomes the CMA's intention not to cap MMCs. RBS also supports the CMA's intention to ensure that PCA providers have the flexibility to set different MMCs for different types of PCA, to reflect different customer preferences and risk profiles. Further, RBS supports the inclusion of all charges involved with unarranged overdrafts, including interest charges, to ensure that customers can undertake a like for like comparison of the true cost of being in an unarranged borrowing position.

RBS supports the CMA's proposed approach which appears to allow PCA providers the flexibility to determine the monthly period according to existing statement cycles, to allow use of existing bank systems to notify consumers and to determine the exact content of the MMC communication to customers. This will keep operational impact and cost to a minimum, and ensure that banks are able to communicate with customers in the way they determine to be most effective.

RBS would, however, welcome more guidance regarding the requirement to make MMCs “no less prominent than other overdraft charges”. RBS considers that this should not be interpreted as a requirement to display MMCs in as prominent a form as the main advertised rate, i.e. product AER. Instead, RBS would welcome confirmation that this should be interpreted as no less prominent than the presentation of overdraft rates and fees.

The CMA should ensure that the content and prominence requirements mandated for the MMC do not conflict with any of the CCD advertising requirements.⁴¹

³⁹ See Part A, Section 5 above.

⁴⁰ See the RBS SNPR Response at p13, section 4.1.

⁴¹ See the FCA's Consumer Credit Sourcebook, Chapter 3.

10.2 Operational, Cost and Timing Impacts

RBS believes that the proposal to allow banks to implement MMCs as part of monthly cycles, and to allow the use of existing bank systems to notify consumers, means that operational and cost impacts will be limited particularly for those banks, such as RBS, which already provide customers with an MMC. There will be potential cost impacts if customer facing material has to be amended to comply with the requirement to make the MMC no less prominent than other overdraft charges.

11 Remedy 11 – Measures to encourage PCA customers to engage more with overdraft features

RBS welcomes the CMA's provisional decision to recommend that the FCA consider matters to improve engagement at account opening, including ensuring customer understanding of arranged overdrafts, as opposed to being in an unarranged overdraft position. As set out in the response to the SNPR, RBS believes that there is scope for substantial improvements in customer welfare by addressing such customer understanding.⁴² As set out in further detail below, RBS would encourage the CMA to consider recommending that the FCA also look at ways for PCA providers to engage existing customers, specifically heavy UOD users, to support them in reviewing their existing overdraft usage, and not only customers in the process of opening a PCA.

RBS supports the CMA's provisional decision to seek undertakings from Bacs to work with CASS participants to undertake further research to improve transparency in relation to the opening and closing of accounts. However, RBS would note that customers are already offered an assessment of available overdraft facility (if any) during the account opening process.

11.1 Engagement regarding overdraft features during account opening

(a) Design Considerations

RBS agrees with the CMA that in designing a remedy that is aimed at increasing customer engagement, it is essential to conduct thorough research and testing of the remedy to ensure effectiveness and to avoid unintentional consequences. Accordingly, RBS supports the CMA's provisional decision to ask the FCA to undertake further research on measures that will help customers to engage more with their overdraft options. The CMA will not be surprised that RBS particularly welcomes the CMA's recommendation in Figure 5.4(a) that the FCA consider the availability of arranged and unarranged overdraft facilities and the (important) distinction between these.

RBS would welcome the opportunity to engage further with the FCA on design of this remedy to facilitate customers in making an informed choice as to what overdraft product will work best for them at the account opening stage. However, RBS believes that the work by the FCA could potentially go further.

At present, Figure 5.4 is limited to recommending that the FCA look at ways to improve engagement "*during the PCA opening process*" and RBS understands that this would apply to each of the relevant matters set out by the CMA at points (a)–(f). However, RBS considers that significant gains to consumer welfare could result by focusing not only on switching customers (who are likely to be more alive to the costs and benefits of overdrafts), but also by looking at existing customers who are heavy UOD users, and considering how they may be encouraged and supported to review their existing overdraft usage. Existing customers who are perhaps not engaged enough to look at switching banks are likely to be the customers who would most benefit from a discussion around overdrafts and, in particular, the CMA has found that customers who rely heavily on UOD (and who

⁴² See the RBS SNPR Response at p10, section 2.1.

would, therefore, benefit most from a nudge towards greater engagement) would be the least likely to switch and, therefore, least likely to benefit from this remedy.

If the CMA were minded to proceed as suggested by RBS, then the recommendation to the FCA could simply omit reference to the PCA opening process. Alternatively, the CMA could recommend a two-phase approach, whereby the FCA could first consider engagement during the PCA opening process and subsequently consider whether any of these measures could be rolled out to groups of existing customers who would most benefit from additional support (i.e. heavy UOD users).

(b) Operational, Cost and Timing Impacts

RBS notes that the cost, timing and operational impacts from the CMA's recommendation as part of this remedy are dependent on the findings of the FCA. Further engagement required at account opening regarding overdrafts may require RBS to amend its account opening processes. As set out under Remedy 15 below this can take significant time [confidential].

11.2 Online tools indicating overdraft eligibility

(a) Design Considerations

RBS would support a review by the FCA of whether to require PCA providers to offer online tools to indicate whether a prospective customer may be eligible for an overdraft.⁴³ RBS would welcome the chance to engage with the FCA as it undertakes its assessment but would reiterate that any quotes offered by such a tool would need to be purely indicative, rather than amounting to a binding offer.⁴⁴ Online tools generally consider risk profiles rather than affordability, which is needed to definitively calculate the overdraft limit.⁴⁵ If online indicators based on limited transaction data were binding, riskier customers would likely be included, which may have implications for overdraft pricing. This risk can be mitigated by ensuring that online indicators do not commit a bank to provide a facility at the indicated level if this is not supported by follow-up credit checks.

(b) Operational, Cost and Timing Impacts

RBS welcomes the CMA's proposal that the FCA consider overdraft eligibility indicator tools following the introduction of open APIs, given that a market-driven solution may well arise after the implementation of open APIs that would render the need for further work by the FCA unnecessary.

To the extent that this aspect of Remedy 11 proceeds, RBS notes that the cost, timing and operational impacts are dependent on the findings of the FCA and scope of the proposed indicator tool. RBS will make submissions to the FCA on the time and cost required to develop such a tool, should the FCA be minded to proceed with this aspect of Remedy 11.

11.3 Firm decision on overdraft before accounts switched

RBS supports the CMA's provisional decision to seek undertakings from Bacs to undertake further research to improve transparency in relation to the opening and closing of accounts. Key to this aspect of the remedy will be the exact interpretation of the requirement that PCA providers offer a "firm decision" on the overdraft offered after a customer has completed the PCA provider's application process but before they switch accounts. There are operational challenges around moving from an indication to a final decision on overdrafts and it would be crucial to avoid any delay

⁴³ CMA research shows that 35% of overdraft users would be more likely to switch if they knew whether they would be granted an overdraft: see note 18.

⁴⁴ See the Second RBS response to PCA Overdraft Information Request dated 23 February 2016 (the "**Second RBS PCA Overdraft Information Request**") at p26, question 22 and also the RBS response to PCA Overdrafts Information Request dated 6 April 2016 (the "**RBS Response to PCA Overdraft Information Request**") at p2, question 2(a).

⁴⁵ See the Second RBS Overdraft Information Request at p26, question 22.

in the switching process. As RBS has previously noted,⁴⁶ many providers (including RBS) already provide an assessment of available overdraft facility (if any) during the account opening process.

RBS notes that the cost, timing and operational impacts from the undertakings sought as part of this remedy are dependent on the research findings of Bacs, and that it is difficult without further detail on the scope of any possible Order to estimate the time required to implement systems changes and the associated costs.

12 Remedy 12 – Loan Rate Transparency

RBS agrees that transparency relating to prices for loans and overdrafts for SMEs could be improved in order to allow customers to better compare offers from different providers. RBS therefore supports the CMA's goal of increasing transparency of the cost and eligibility for SME lending, but has some practical concerns around the CMA's provisional decision to require lenders to display rates for SME unsecured loans and overdrafts which are available to 51% of customers. These concerns are exacerbated by the CMA's envisaged timelines.

12.1 Design Considerations

(a) Products on which lenders should publish price information

In relation to the scope of this remedy, RBS supports the CMA's provisional decision to require publication of prices relating to unsecured lending and overdrafts up to £25,000 and thus exclude secured loans, asset finance and invoice finance, as well as unsecured loans and overdrafts above £25,000. RBS considers that, for the sake of clarity, the CMA should specify that trade finance and currency lending are also excluded from the scope of this remedy. The additional complexity around these types of loans would make the publication of a representative rate significantly more complex, whilst there is little evidence that this would benefit customers of these more complex products.

(b) Requirement for rates to be available to 51% of customers

RBS notes the requirement that the rate published for SME loans and overdrafts below £25,000 be available to 51% of applicants could potentially raise issues, particularly should it need to be achieved within the CMA's envisaged timelines (although RBS notes and welcomes the CMA's clarification of 31 May 2016 that this would apply to 51% of loans which banks formally approve and then offer as opposed to 51% of those who make an application).

This is an established practice for personal loans and in principle agrees that this could be introduced in relation to the lower end of SME loans (i.e. those currently envisaged by the CMA). However, ensuring that advertised rates will be available to 51% of customers will likely require **[confidential]**.

The requirement that the published rates be available to 51% of customers may also have unintended consequences. As banks have different appetites against different risk profiles, some banks may approach this requirement by potentially reducing their risk appetite to showcase market leading rates. It will be important to ensure that there is an objective and fair measure across the banks to ensure that all banks are reporting compliance with the 51% target consistently. For example, if the 51% is assessed by value, the result would likely be completely different compared to assessing 51% based on volume. RBS considers that the further development of this compliance measure should be a focus for consultation during the implementation phase of the remedy, including as to whether the CMA or a third party will be involved in ensuring consistency between banks.

(c) Pricing information required to be published

⁴⁶ See for example, the RBS Response to PCA Overdraft Information Request at p5, question 3 and the RBS NPR Response at p41, section 3.7(a).

RBS believes that EAR is appropriate information to publish, though it would need to be specified that, where applicable, part of the EAR is represented by an arrangement fee for transparency. From a customer perspective, representative examples may be preferred as they are more informative (RBS currently has a representative example on its Small Business Loan website).⁴⁷ However, RBS considers that banks have the option of providing this additional data if they consider it helpful for customers and there is no need for the CMA to require such information to be provided.

(d) *De minimis*

As proposed by the CMA, RBS considers that all SME lenders that provide unsecured loans and overdrafts (subject to an appropriate *de minimis* cut-off) should be included in the scope of this remedy so that customers are able to compare like with like and so that smaller challenger banks form part of the visible choice set.

12.2 Operational, Cost and Timing Impacts

As outlined above there are operational challenges in ensuring the rates are available to 51% of customers given that this will involve **[confidential]** and, therefore, the timeframe envisaged by the CMA for implementation of this remedy is very short.

This remedy will require ongoing internal reviews of pricing provided to the customer base to ensure published rates are representative, that the 51% compliance level is being achieved, and ongoing maintenance to the website and publications to keep up to date.

13 Remedy 13 – Loan Eligibility Calculator

RBS has concerns with the formulation of the loan eligibility calculator remedy, particularly the potential inclusion of secured loans and the potential extension to a £50,000 limit. As set out in previous RBS submissions, larger loans and secured loans are typically more bespoke and heavily negotiated and, therefore, less suitable to automated presentation through a loan eligibility calculator, which would not allow any exercise of judgement on the part of the banks.⁴⁸ Further, based on RBS's experience, there would be unlikely to be customer demand for such an automated tool for larger loans or secured loans and, therefore, the remedy may be considered to be disproportionate.

13.1 Design Considerations

(a) Scope of the tool

As RBS noted in its response to the CMA's SME lending questions⁴⁹ a loan eligibility indicator may be appropriate for the smallest/least complex of customers, but not for larger customers with more complex needs, including secured lending.

Existing RBS Products and Initiatives

RBS currently provides indicative rates for its "Small Business Loan" product via an online pricing calculator for borrowers with a turnover up to £2 million, for loans up to £25,000.⁵⁰ This tool is only able to provide indicative rates and is not able to indicate eligibility. **[confidential]**.

Size of loan

⁴⁷ <http://www.business.natwest.com/business/business-lending-at-natwest/small-business-loan.html>.

⁴⁸ See for example the RBS Response to the CMA's SME Lending Questions dated 11 April 2016 (the "RBS SME Lending Questions Response"), at p1.

⁴⁹ See the RBS SME Lending Questions Response at p1-2.

⁵⁰ As set out in, for example, the RBS Response to the CMA's Additional SME Information Request dated 26 February 2016 (the "RBS Response to the Additional SME Information Request"), at p1.

As RBS has previously advised the CMA⁵¹ the pricing methodology for higher value loans i.e. £25,000–50,000 is based on a combination of factors including the amount, term, security offered, risk grading, capital cost, sector appetite, the customer's profile and financial performance. Every customer and situation is different and thus each facility can potentially be priced differently, with much greater scope for negotiation at this level than at the more commoditised end of the market. Therefore, the relevance of an online indicator for such loans is reduced.

RBS would also welcome clarification as to whether the £25,000 threshold applies per facility or total aggregated facilities held by the customer, as this has an impact on the assessment of risk/return. The loan indication tool would only work on the assumption that the customer does not have existing debt that when added to the request for a further loan / overdraft would exceed £25,000. This would need to be a disclaimer for customers using the tool, as other significant customer indebtedness would need to be taken into account on an individual basis when the customer makes an application (rather than through the tool).

Secured/unsecured loans

RBS considers that secured loans require more complex assessments that will go beyond a simple tool and require an element of judgement and tailored assessment by a Relationship Manager which is not well suited to an online eligibility calculator (whilst RBS has previously indicated that this would be possible,⁵² it does not consider it useful). As with remedy 12, RBS also considers that for the sake of clarity the CMA should specify that invoice finance, asset finance, trade finance and currency lending are excluded from the scope of this remedy.

Eligibility

The complexity of building additional capabilities into an online indicator tool is arguably disproportionate relative to the more limited demand for this service anticipated from larger SMEs or those with more complex lending needs. Much depends on what is required as part of the 'eligibility' assessment. For smaller SMEs a soft call could be made to the credit reference bureau to determine the absence of anything which would immediately prevent lending (subject to further checks of affordability with the SME when the SME applies for the loan). However, automating an eligibility assessment would be extremely difficult operationally for larger SMEs and limited companies, especially when there are more than four directors as credit bureau information is not allowed to be used, and due diligence is potentially required on the individual directors, as well as the SME. Significant levels of information are likely to be required for more complex loans (involving potentially multiple parties, various legal entities and possibly a variety of security arrangements requiring further information) which would require complex functionality and may be off-putting for customers.

Impact of wider scope

In order to satisfy this remedy, RBS would need to implement a standardised offering for these loans and overdrafts and this would in turn mean **[confidential]**.⁵³ Indeed the risk with including more complex loans within an online eligibility indicator is that banks have to factor in potentially higher risk levels when providing an indication to SMEs of their loan eligibility. This may mean that larger SMEs who seek to rely on the indicator may be deterred from seeking credit because the initial indication is too high. This could be the case even where particular SMEs may be able to benefit from considerably lower rates once all of the relevant factors are taken into account.

⁵¹ See the RBS Response to the Additional SME Information Request at p1.

⁵² See the RBS SME Lending Questions Response at p1-2.

⁵³ See the RBS Response to the Additional SME Information Request at p4, question 4.

In light of these concerns, RBS would ask the CMA to reconsider its provisional decision and instead align this remedy with Remedy 11, such that it would apply only to unsecured loans and overdrafts up to a value of £25,000.

(b) Access to information and provision of results to SMEs

RBS supports the CMA's intention to allow banks to determine the information requirements for the loan price and eligibility tools, working with PCWs to develop certain minimum standards. RBS would not be opposed to the use of a third party to coordinate the development of the tool and outputs, and considers that the third party may play a role in ensuring that, outside varying banks' risk appetite, the tools perform similarly to ensure that SMEs are receiving directly comparable quotes.

RBS considers the provision of information to SMEs regarding the proportion of customers using the tool who received an end quote that was the same or within 10% of the indicative quote to be more appropriate than alternatives suggested by the CMA. RBS reserves the right to make further submissions on how compliance is monitored in the implementation process.

RBS would welcome further clarity regarding the 'eligibility' assessment required as part of the tool. As noted above, this assessment could involve a reference to the credit reference bureau to determine that nothing immediately arises that would prevent lending. However, this would need to remain subject to further checks of affordability with the SME when the SME applies for the loan, particularly in order to comply with regulations to prevent irresponsible lending. As well as additional checks regarding affordability, further checks regarding AML or anti-fraud checks will need to occur before account opening. RBS therefore considers it to be important that it is emphasised to the SME that any quote provided by an online tool is indicative only and not binding on the bank, including to ensure that the bank is not obliged to set aside regulatory capital (with obvious cost implications), particularly at a stage where the customer may simply be shopping around.⁵⁴

At the time the results are provided, SMEs should be advised for how long the indicative terms are valid and the date at which the indicative terms 'expire', as well as a list of conditions which would need to be satisfied in order for a firm lending decision to be made.⁵⁵

(c) Disclosure to third parties

Implementing the disclosure of algorithms to PCWs and finance platforms, or to intermediaries to allow them to run calculations, would cause some operational challenges for banks which would need to be worked through. **[confidential]**⁵⁶.

This information will also need to be regularly updated, and it must be ensured that intermediary processes in implementing such changes do not delay banks from implementing service changes. Measures would need to be in place to ensure that PCWs updated their systems within a reasonable period of time to reflect current bank pricing and other policies. Finally, if the provision of indicative quotes on PCWs and finance platforms renders them credit intermediaries, these providers would need to be included in RBS's terms and conditions. These difficulties will add to the complexity of the delivery of the remedy and are likely to impact on the feasibility of meeting the challenging timing for roll out currently envisaged by the CMA.

RBS considers that it would be simpler to allow intermediaries access to banks' pricing models/tools through the use of an API. This would avoid **[confidential]**.

⁵⁴ See the RBS NPR Response at p59, section 3.15(a).

⁵⁵ See the RBS NPR Response at p59-61.

⁵⁶ See the RBS NPR Response at p30, section 3.4(i).

13.2 Operational, Cost and Timing Impacts

RBS considers that the timeframes set out by the CMA for the development of the tool (within six months of the proposed Order) are very short and would be difficult to achieve. As RBS previously noted in its response to the NPR,⁵⁷ [confidential]. As noted previously, [confidential],⁵⁸ and the time and cost involved in building such a tool could be extended significantly depending on the definition of 'eligibility'. As set out in its response to the CMA's SME lending questions,⁵⁹ [confidential].

[confidential]

14 Remedy 14 – SME Comparison Tool

As demonstrated by its ongoing support of, and funding for, the Nesta initiative, RBS agrees with the CMA's provisional decision to support the Nesta challenge prize as a way of creating one or more commercially sustainable SME comparison tools. RBS favours a market-driven solution, which it considers likely to provide an effective and innovative PCW for SMEs.

14.1 Design Considerations

RBS agrees with the CMA that the safeguards envisaged by the CMA, of a CMA representative on the Nesta Prize Committee will be sufficient, with no need for CMA involvement in the Nesta judging panel or a monitoring trustee to oversee the Nesta process and report to the CMA. (RBS sees a representative on the Prize Committee as largely fulfilling the same role as a monitoring trustee).

14.2 Operational, Cost and Timing Impacts

RBS has no significant comments on the CMA's proposed timetable at present, but will work with Nesta to keep the CMA apprised of Nesta's progress and, in the light of this, the feasibility of the proposed timetable. RBS notes that the timing for the display of hyperlinks to the finance platforms on which SME products are listed will be dependent on the finance platforms designated under the SBEE being in a position to provide such links.

In terms of cost, RBS notes that it will be required to continue to fund the BBI (as one of four funders) during the period for development of the Nesta product. BBI is currently funded on a voluntary basis by RBS, HSBC, Lloyds and Barclays. RBS suggests that other banks identified by the CMA in the PDR as part of the group of 'larger banks' who do not currently fund the BBI should also be required to provide support to the BBI in this period.

Whilst RBS agrees with the CMA about the need to put in place a fallback option should the Nesta competition fail to provide a suitable outcome, RBS has concerns about the open-ended nature of the funding commitment implicit in this (particularly combined with the obligation to fund the Nesta competition itself and continue funding of BBI).

The CMA has noted that each bank will be able to negotiate platform commission rates with each PCW. This, of course, is on the assumption that there will be multiple PCWs, or the banks will be required to pay whatever rate is set by the PCW (in order to comply with the CMA's remedy).

Finally, RBS notes that operational impact will occur as a result of this remedy in setting up the capability to place the data into PCWs and finance platforms and to receive inbound leads from PCWs and finance platforms for switchers, for example. It is too early for RBS to quantify the exact scope of this impact.

⁵⁷ See the RBS NPR Response at p60, section 3.15(a).

⁵⁸ See the RBS SME Lending Questions Response at p1.

⁵⁹ See the RBS SME Lending Questions Response at p4, section 7.

15 Remedy 15 – Standard BCA Opening Procedures

RBS is, in principle, strongly supportive of harmonisation of BCA opening requirements. It considers that this will ensure that a customer's first and formative experience with a BCA provider is as straightforward as possible, and that account opening data can be substantially 'recycled', which can be expected to improve customer perceptions about the ease of BCA switching.

RBS's conceptual support for this remedy is evidenced by its original leadership in this part of the undertakings in lieu of reference proposal at Phase I of this investigation, and more recently its involvement in Project Bulldog (an industry initiative exploring possible convergence of BCA application requirements).

However, RBS's Project Bulldog experience: (i) suggests that aspects of the CMA's current proposal are somewhat unclear to market participants; and (ii) gives rise to substantial concerns regarding the CMA's proposed timeframes. To the extent that the CMA is expecting a wholesale revision of account opening standards, RBS notes that this exercise will be hugely complex and will involve very substantial operational changes [confidential].

RBS would welcome further engagement with the CMA and the BBA to further consider the scope of this remedy and, in light of the agreed scope, what timetable would be feasible.

15.1 Remedy Scope

(a) Common form vs. common requirements

RBS considers that the CMA's current proposal is open to a number of different interpretations and would welcome clarity on the exact scope of application envisaged by the CMA.

Based on its Project Bulldog experience, RBS believes that the terminology used by the CMA in Figure 6.4 may leave room for different interpretations, in particular, of what is meant by a "standard form". RBS would welcome clarification on whether the CMA envisages a single core set of questions for all banks, or whether the intention is that banks determine their own questions provided that the data required from customers was broadly similar across banks (i.e. a common answer set).

Further, the Project Bulldog experience also indicates need for greater clarity on the extent to which banks will be able to supplement the core set of questions with additional questions to reflect, for example, the differing risk appetite across banks, acknowledging that the CMA does appear to envisage that this may be permitted to a certain extent given its comments at paragraph 6.265 of the PDR.

For its part, RBS considers that greater benefits to customers would be likely to be realised the more harmonised the account opening requirements can be made across the banks. This will give greater comfort to customers that there is genuine harmonisation across the banks and that additional information requests will not impede the account opening and/or switching process. However, this has a significant effect on the operational impact, cost and timing of the remedy as detailed below.

Further, RBS would welcome further clarity from the CMA as to how the remedy is intended to apply given the increasingly dynamic nature of the account opening process, in particular, relating to BCAs. Specifically, RBS notes that there is no single "standard form" for applying for a BCA. Smaller customers who approach RBS intending to open a new BCA are typically directed to online and telephone-based application processes.

(b) Scope of application to types of SME customer

RBS believes that the focus of this remedy – and certainly to the extent that a common form with the exact same set of core questions is envisaged – should be on the micro business space i.e. sole

traders, simple partnerships, non-complex limited companies as currently considered by Project Bulldog. However, the precise scope is an area which the BBA should consider further.

Larger limited companies may have more complex beneficial ownership structures, AML and other regulatory requirements. Convergence on question sets for these entities is therefore substantially more difficult. Further, features such as overseas ownership and trusts can require a more manual process which requires a greater level of documentation, as set out in RBS's response to the NPR.⁶⁰

If the CMA were minded to extend the scope of this remedy to include SMEs beyond micro-businesses, RBS would recommend adopting a principles-based approach where banks would agree key elements that would need to be established before these more complex SMEs were able to open a BCA, but that did not seek the same level of harmonisation as could be achieved in relation to smaller and less complex SMEs. RBS would suggest that this should take place in a second phase of the remedy after consideration by the CMA and/or the BBA as to whether this would result in tangible benefits to customers.

(c) Effect of the changing regulatory landscape

RBS notes that thought will need to be given as to how the harmonised processes may be affected by changes to applicable regulation or other law enforcement action and that a mechanism will need to be built in to ensure that banks can make required changes whilst still remaining compliant with the remedy.

15.2 Operational, Cost and Timing Impacts

The need to reach consensus on complex issues of scope and timing, as well as the substantive issues, including a core question/answer set, is likely to prove extremely challenging. Indeed, while Project Bulldog has made good progress in exploring where banks might be able to converge, this has only taken place between five banks (RBS, Lloyds, HSBC, Barclays and Santander) and has so far only developed a *de minimis* question set covering micro-SMEs. Reaching a wider industry consensus that necessitates the new involvement of a much wider group of stakeholders on the standard set of core questions to a level acceptable to the CMA can be expected to be complex and time consuming.

Further, even once an agreed position has been reached, implementing the outcome will have a **[confidential]**.

[confidential], RBS is, as outlined above, supportive of the remedy as a whole. However, the successful roll-out of this remedy will depend on the ability of all banks to agree on and then implement harmonised account opening requirements, and this will require that time is built into the process to allow proper discussion of the issues followed by a period for implementation. RBS, therefore, has significant concerns about the CMA's proposal that banks will provide an initial proposal to cover the detailed terms of reference of the industry group only one month after the final report.⁶¹

RBS would strongly advocate for further engagement with the banks and the BBA before any timetable is mandated by the CMA.

15.3 Other design considerations

(a) Application to small BCA providers

⁶⁰ See the RBS NPR Response at p39, section 3.6(f).

⁶¹ See the PDR at Figure 6.4.

RBS agrees that small BCA providers should not be excluded from the scope of the scheme (subject to an appropriate *de minimis* cut-off). If the purpose of this remedy is to encourage switching by making the account opening process easier by the convergence of banks' requirements, SMEs switching will only reap such benefits if they switch to another larger bank, therefore diminishing the likelihood of switching to a smaller bank, especially if it is made clear to customers in due course (as it should be) as to the scope of harmonisation of account opening.

- (b) The desirability of having an outcome measure on the length of the BCA opening process

RBS welcomes the CMA's provisional decision not to mandate an outcome measure or a target for the average time it takes a bank to open a BCA, given that significant time is often spent, in RBS's experience, by banks waiting for customers to gather further information, which is out of the bank's control. As discussed in section 2.1(c) above, this is especially the case with larger customers as the person interacting with the bank does not always have the necessary information at hand.⁶²

- (c) Fall-back position

While RBS supports the CMA developing convergence of account opening requirements on consultation with relevant stakeholders, should the initiative be unable to produce a proposal that is acceptable, RBS believes that further time needs to be given for the industry-led initiative to work.

15.4 Implementation

RBS agrees with the CMA that the BBA is best placed to progress this remedy. In particular, whilst it is appropriate to build on the work undertaken by Project Bulldog to date, RBS notes that this involves only five banks and that a wider industry consensus will be required in order to progress this remedy.

RBS would encourage early engagement between the BBA, the CMA and the banks to establish the exact scope of the remedy that will form part of the final Order. Given the potentially significant difficulties and impacts on timing noted above, early engagement between the CMA and BBA in relation to this remedy as soon as possible would be very helpful. This is especially important before any timetable is mandated by the CMA.

16 Remedy 16 – Sharing SME information

RBS supports the CMA's provisional decision to recommend that HMT review the efficacy of ongoing commercial, technological and regulatory developments aimed at facilitating the greater sharing of SME data in two years following publication of the CMA's final report.

16.1 Design Considerations

RBS considers that any working group established to progress this remedy should incorporate industry representation, to ensure that any solution is practical and can be implemented.

RBS welcomes the CMA's decision not to recommend to HMT that it uses the powers it has under the SBEE Act to require banks to pass to CRAs additional SME information such as transaction data to enable CRAs to provide reliable credit assessment information in respect of loan applications.

16.2 Operational, Cost and Timing Impacts

The costs, operational and timing impacts involved with this remedy are largely dependent on the findings of the HMT review and working group (if required). RBS would expect to have the opportunity to submit on costs and other impacts to HMT if the working group occurs.

⁶² See the RBS NPR Response at p38, section 3.6(f).

17 Remedy 17 – Soft Searches

RBS is broadly supportive of this measure, but notes that similar technology is already being used in eligibility tools, and therefore questions whether this remedy is necessary. For existing customers this could be done via use of CRA-batch data, and for new customers via a quotation search. For example, [confidential].

If such a remedy proceeds, RBS supports the CMA's recommendation that HMT should work with CRAs and SME lenders to design a service.

RBS notes that the success of these searches will depend upon whether the customer (in particular a new customer) provides accurate details allowing for correct identification. For existing bank customers, other means are available to support correct identification of the customer beyond details which they have themselves entered into an online eligibility calculator tool.

18 Remedy 18 – Roles of Professional Advisers

RBS is supportive of this measure and agrees that it is important that SMEs consult with financial advisers when acquiring banking services.

Advice, particularly from accountants, can have a significant influence on SMEs when considering various banking options. It is important both that SMEs are able to rely on accountants to add value, and that such advice is provided in a robust and accountable manner. RBS broadly agrees with the timetable put forward by the CMA.

PART C: COMMENTS on the 2002 SME Undertakings and 2008 NI PCA Order

1 2002 SME Undertakings

RBS is supportive of the CMA's provisional decision to release the majority of the 2002 SME Undertakings, but is concerned by the CMA's provisional decision to retain the bundling undertakings.

1.1 Retention of the principles in the bundling undertaking

RBS considers that it remains a sound principle that SME providers should not force BCAs upon SME loan/deposit customers by imposing conditionality. This is particularly the case in circumstances where customer inertia has been high, and customers have historically tended to source loans from their BCA provider.

However, RBS questions whether a specific anti-bundling provision is necessary in the context of the remedies package as a whole. RBS notes that it will be clear from a number of the new remedies (for example the foundational measures (Remedies 1-3), Remedy 13 (loan eligibility tool), Remedy 14 (SME PCW) and Remedy 15 (standardised BCA opening)) that SME customers will be able to obtain a loan from a provider other than their BCA provider. These remedies are expected to increase SMEs' ability and incentives to shop around for alternative sources of finance and to erode the current correlation between source of loan and BCA provider (as per the CMA's paragraph 6.12 in the provisional decision). Accordingly, the risk of bundling should reduce in the post-MIR remedial environment.

1.2 Concerns around retaining the 2002 bundling undertakings

However, even if the CMA considers that specific elements of the remedies package should address the risk of bundling, RBS has significant concerns around the CMA's provisional decision to retain the 2002 bundling undertaking.

The 2002 SME Undertakings are an incomplete and obsolete means to give effect to this principle. In RBS's view, it makes no sense to retain a lone and imperfectly-formulated legacy provision of the otherwise redundant 2002 SME Undertakings, applying to only a subset of banks dating back to 2002.

The original nine banks on which the undertakings were imposed now form part of a much wider competitive landscape including a number of notable competitors who are not subject to the undertakings (notably Santander, Handelsbanken and MetroBank, as well as other challengers). The entry and expansion of these competitors, together with the imposition of the CMA's extensive and holistic range of pro-comparison and pro-switching SME remedies (and foundational remedies), are both material changes of circumstance that render the bundling undertakings obsolete in their current form.

In light of these changed circumstances, should the CMA wish to retain the principle that banks should not be permitted to force customers to open/maintain a BCA when seeking a loan or deposit account – with which RBS would be sympathetic – this principle should be given effect through incorporation and modernisation elsewhere in the CMA's remedies package. In particular:

- RBS strongly considers that it would be irrational for the CMA to be content, in principle, to allow a number of banks (i.e. the group not caught by the 2002 Undertakings) to engage in tying practices (tying a loan/deposit to a BCA product) in a market where the CMA has identified high levels of customer inertia across the market, as part of the core AEC. This would appear to be an inconsistent approach given the application of the customer-centric

remedies package to most banks (subject to *de minimis* criteria) or at least to a consistently-defined set of larger banks.

- The issue that bundling (in the sense of tying or imposing conditionality) seeks to address is exploitation of customer inertia which drives strong linkages between BCAs and SME lending. Given the market-wide demand-side AEC problems extensively documented by the CMA, it is clear that this is not limited to the customers of the largest banks, and is one of the reasons the CMA correctly identified that structural remedies to break up larger banks into smaller ones would not in and of itself solve the inertia problems, precisely because small banks can have inert customers too.
- As such, it does not follow that that larger banks “would be better placed to compel a customer to open or maintain a BCA” on account of their collective market share; it might only follow if, for some reason, customers of the larger banks were more inert than those of say, Santander, for which the CMA advances no evidence.
- Nor can RBS discern any plausible reason by which customers of Santander or other banks not in the current scope would be better off if their incumbent bank were allowed to tie the granting of a loan or opening of a deposit account to a BCA.
- Finally, the cost for those banks currently out of scope in educating staff to avoid tying loan/deposit SME customers on a compulsory basis to BCAs should be relatively modest, and in any event not cognisable as a reason to restrict SME customer welfare in an anti-switching manner, at odds with the thrust of the overall remedies package.

Accordingly, the scope of the remedial principle should be extended to include at least those larger banks as now identified in the PDR. It is inconsistent to allow for the bundling undertakings to apply to a sub-set of these banks and disadvantage customers from among the millions outside the largest banks. In practical terms, it follows that at least Santander should be subject to this remedial principle (even if, contrary to RBS’s submissions, the principle were retained in the form of the legacy provision, rather than modernised and updated as part of the CMA’s holistic package).

1.3 Practical concerns around the 2002 bundling undertaking

The imprecise language and structure of the undertaking continues to give rise to complex questions regarding interpretation. In contrast, these issues would be addressed in the event that the undertakings were amended and updated, with appropriate consultation, and imported into the final remedies package.⁶³

Specifically, the simplistic use of the terms “current accounts” and “feeder accounts” no longer reflect the more complex and nuanced range of products available to SMEs. [confidential],⁶⁴ and considers that (should the outdated legacy structure be maintained) further clarity and guidance on a number of aspects of the bundling undertaking would be needed, including integrated products, incentives and the “maintenance” of an account (rather than the opening of an account).

2 2008 Northern Ireland PCA Order

RBS is supportive of the CMA’s provisional decision to revoke the NI PCA Order in its entirety, as the Order is now unnecessary. RBS welcomes the CMA’s recognition of the need for a single regulatory regime across the UK.

⁶³ RBS also notes that the bundling undertakings are interlinked with other parts of the 2002 SME Undertakings which are to be released, for example, the Schedule regarding money transmission services aids the interpretation of a BCA in the bundling undertakings.

⁶⁴ See RBS’s response to the OFT’s request ‘Compliance with behavioural undertakings given in relation to the supply of banking services to small and medium-sized enterprises’ dated 20 December 2013.

Part D: Estimates of benefits

Without prejudice to its support of the CMA remedies package, RBS questions the CMA's estimates of the direct benefits from the remedy package. The static gains from switching analysis that underpins the CMA's estimates of direct benefits does not factor in likely changes to prices or the value of benefits and behaviour that would be likely to occur if increased switching were to occur, as explained further below.⁶⁵ These changes would be likely to reduce the potential gains to customers from switching from their day one starting point.

Firstly, gains to customers that switch are likely to result in a re-pricing of lower profitability PCAs such as non-adult PCAs,⁶⁶ for example, due to a lower expected return on investment in longer term customers. Furthermore, since there is no evidence of excess profitability, the changes in switching may result in a re-pricing of PCAs more generally to cover costs. PCA providers will need to restore normal profitability in the medium term, and any gains are likely to be short-lived.

The CMA's estimates of the value of benefits to the current customer base would be likely to change given increased switching. For example, two of the five accounts identified to be the cheapest for both non-overdraft and overdraft users are provided by M&S Bank and offer M&S vouchers to switchers.⁶⁷ The current customer base can be expected to be more inclined to spend M&S vouchers than the general population, which means that the value of these benefits to the current customer base will be higher than to the general population. This suggests that the CMA methodology overstates the value of switching to the five products identified to be the cheapest, by applying the value of benefits to the current customer base.

Customer behaviour can also be expected to change. Consumers typically react to lower prices by increasing consumption, and in terms of access to credit there can be a relationship between what consumers pay and the availability of credit. Taking account of such behaviour is likely to lead to a reduction in the estimated benefits of switching.

RBS therefore suggests that the CMA should be cautious in extrapolating the results of this static analysis to the general population on the assumption of switching. While static calculations that maximise the stated gains may have a short-term benefit in terms of widespread recognition of the value proposition of the remedies package, this is not a case in which the remedies package is being substantially contested by those bearing the implementation cost, such as RBS, as being inappropriate or disproportionate. In the longer-term, it would be suboptimal if an ex-post review of the remedies package found that (even if perfectly effective) it did not live up to expectations based on overstated consumer gains (particularly when focused exclusively on price, as the analysis does). Rather, RBS believes that the CMA should temper the price-based claims as suggested above, and note that increased competition should also deliver non-price benefits in terms of service levels and innovation, even if these are harder to quantify at this stage.

⁶⁵ As noted by the CMA in the working paper "Update on Personal Current Account Pricing" dated 24 May 2016 ("**Update on Personal Current Account Pricing Working Paper**") at paragraph 76.

⁶⁶ See the CMA's Provisional Findings at appendix 5.3, paragraph 8.

⁶⁷ See the Update on Personal Current Account Pricing Working Paper at Table 1.

Schedule 1 – List of Remedies

Remedy Number	Remedy Name	Description of Remedy in the PDR	PDR Reference (Figure)
1.	Open API Standards	Measures to develop and require the adoption of open API standards and data sharing	3.1
2.	Service Quality Information	Measures to enable PCA customers and SMEs to make comparisons between providers on the basis of their service quality	3.4
3.	Customer Prompts	Measures to increase customer awareness of the potential benefits of switching and prompt customers to consider their banking arrangements	3.7
4.	CASS Governance	Reforms to CASS governance and regulatory oversight	4.2
5.	Extended CASS Redirections	Extending the length of the CASS redirection period	4.4
6.	Access to transaction history	Provision of transaction history to PCA and BCA customers	4.5
7.	Customer awareness of and confidence in CASS	Measures to increase awareness of and confidence in CASS	4.6
8.	Overdraft Alerts	Measures to increase customer awareness of and engagement with their overdraft usage and charges	5.1
9.	Grace Periods	Supplemental measures to help customers engage with and manage their overdraft usage	5.2
10.	Monthly Maximum Charges	Measures to limit the cumulative effect of unarranged overdraft charges	5.3
11.	Measures to encourage PCA customers to engage more with overdraft features	Measures to encourage PCA customers to engage more with overdraft features	5.4 and 5.5
12.	Loan Rate Transparency	Measures to increase transparency of the cost of and eligibility for SME lending – Published rates for SME lending products	6.1
13.	Loan Eligibility Calculator	Measures to increase transparency of the cost of and eligibility for SME lending – Loan price and eligibility indicator	6.1
14.	SME Comparison Tool	Measures to facilitate comparisons of SME banking products – SME Comparison Websites	6.2
15.	Standard BCA Opening Procedures	Measures to make account opening easier and improve the switching process	6.4
16.	Sharing SME	Measures to reduce incumbency advantages by	6.3

Remedy Number	Remedy Name	Description of Remedy in the PDR	PDR Reference (Figure)
	information	increasing the sharing of SME data	
17.	Soft Searches	Additional measures to facilitate comparisons of SME banking products – Availability of 'soft' searches	6.2
18.	Roles of Professional Advisers	Additional measures to facilitate comparisons of SME banking products – Providing SMEs with expert financial advice	6.2