

# Overdraft Pricing and Competition Remedies: Policy Statement

**Policy Statement**

PS19/25

October 2019

## This relates to

Consultation Paper 19/18  
which is available on our website at  
[www.fca.org.uk/publications](http://www.fca.org.uk/publications)

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# 1 Summary

- 1.1** In June 2019, as part of the High-cost Credit Review, we published the Overdraft Pricing Policy Statement (PS19/16). We made rules to change the way banks and building societies charge for overdrafts. Our rules are designed to fundamentally reform the overdraft market and to address the harm we found which was high prices for unarranged overdrafts, complex pricing structures, low consumer awareness and the repeat use of overdrafts.
- 1.2** Our measures will make overdraft pricing simpler, fairer and easier to manage. We expect that the changes will result in a fairer distribution of charges, particularly benefitting vulnerable consumers, who are disproportionately hit by high unarranged overdraft charges.
- 1.3** Firms are implementing these rules now and consumers will soon benefit from the changes in overdraft pricing.
- 1.4** In June 2019, we consulted in [Consultation Paper](#) (CP19/18), on further rules. The new rules require firms to publish a range of overdraft pricing details, and are designed to increase transparency and raise awareness of firms' overdraft charging structures.
- 1.5** We have made these rules with minor changes to reflect some of the feedback we received. This Policy Statement (PS) sets out the feedback we have received and the changes we have made. These rules complement our overdraft pricing measures.
- 1.6** We also consulted on minor changes to our competition rules. [Our competition remedy rules](#), created in December 2018, were made to address low customer awareness and engagement in the overdraft market. The rules include requirements for firms to provide tools, online or within their mobile banking apps, that assess eligibility for overdrafts, as well as provision of online calculators to help customers work out the costs of overdrafts. They also require firms to send consumers text message or push notification alerts to address unexpected overdraft use.
- 1.7** In this PS we are amending the definition of private bank in BCOBS 7 and 8. We are also exempting foreign currency accounts from our competition remedy rules and are making minor changes to our alerts rules. We have made these rules with small changes.

## Who this affects

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- 1.8** Banks and building societies that offer overdrafts and their trade bodies should read this document, and take any action required by the new rules.
- 1.9** Our work will also be of interest to consumers who use overdrafts, or might use them in future, and to consumer groups and digital comparison services.

## The wider context of this policy statement

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### Our consultation

**1.10** This policy statement should be read alongside:

- [CP19/18](#), as well as [PS19/16](#), which made our overdraft pricing rules, and
- [Chapter 7 of CP18/42](#) which contained a PS which made the overdraft competition rules

**1.11** This PS completes our package of remedies designed to reduce harm in the overdraft market and improve competition.

**1.12** The information firms will be required to publish will highlight to consumers and third parties, including price comparison services and the media, the interest rates and the refused payment fees consumers are being charged for a particular overdraft.

### How it links to our objectives

**1.13** Our overall package of overdraft measures is primarily intended to support our **consumer protection** objective of achieving an appropriate degree of protection for consumers, by addressing the harm we have identified in the overdraft market.

**1.14** Our package will also promote effective **competition** for overdrafts. The minor changes we are making now to our competition rules will allow our remedies to be directed to where there is most harm.

**1.15** We are responding to feedback and amending our rules so that they deliver the outcomes set out in [PS19/16](#) and [CP18/42](#).

## What we are changing

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**1.16** Feedback to [CP18/42](#) highlighted that changes might be needed to our proposals to improve the transparency of pricing.

**1.17** To improve transparency and to raise awareness of firms' charging structures, in this PS we are making rules requiring firms to publish a range of overdraft pricing details. This information will highlight to consumers and third parties, including price comparison services and the media, the interest rates and the refused payment fees consumers are being charged on a product. This will help consumers choose a current account that gives them what they value, and will help third parties to compare products across different current account brands. It will also mitigate the risk that the representative Annual Percentage Rate (APR), which firms are required to publish in some advertising, may not reflect the APR individual customers receive.

**1.18** The information will be published in the quarterly information on current account services. The current account services information currently includes details such as: how long it takes each firm to open a current account for new customers, how long it takes them to replace customers' debit cards, and information on major operational and security incidents that have occurred.

- 1.19** To make sure that our overdraft remedies are applied appropriately we are also making rules to amend our competition rules.
- 1.20** In this PS we make rules amending the definition of private bank in BCOBS 7 and 8. We are also exempting foreign currency accounts from our competition remedy rules. So that firms can deliver the best customer experience we are also making a minor change to our rule on alerts auto-enrolment

## Outcome we are seeking

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- 1.21** Our overall package of overdraft measures is primarily intended to support our consumer protection objective and to promote more effective competition for overdrafts.
- 1.22** We expect that prices for unarranged overdrafts will fall from current levels because of our changes set out in PS19/16. This should benefit vulnerable consumers in particular. Our research has shown that vulnerable consumers, living in deprived areas, are more likely to pay unarranged overdraft charges and refused payment fees than others, and they pay around twice as much in fees and charges as those in less deprived areas. Charges for arranged overdrafts will now be directly related to the amounts borrowed and the length of time that consumers borrow for. A single charge, expressed as an annual interest rate, will enable consumers to better understand the cost of different overdraft products. Firms will have to present the representative APR in certain advertising.
- 1.23** The rules set out in this PS require firms to publish overdraft pricing information. This will make pricing more transparent and will aid our objective of increasing competition in the overdraft market. Along with our other measures, the publication of overdraft pricing information will also help consumers to understand the cost of overdrafts relative to other credit products.

## Measuring success

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- 1.24** We will evaluate the impact of our proposals and we will continue to monitor the market.
- 1.25** We will also request information from firms to help us monitor the success of the remedies.
- 1.26** We will carry out a post-implementation evaluation of our overall package of overdraft remedies. Outcomes will take time to develop, and we would not expect to start the evaluation until at least 12 months after implementing the full package of remedies, which will be from April 2021.
- 1.27** If the ongoing information monitoring, or the post-implementation review, shows that our remedies have not had the impact we believe they will have, we will consider altering our remedies or making additional interventions in the market.

## Summary of feedback and our response

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- 1.28** We received 12 responses to our CP from a range of firms, consumer groups and industry bodies.
- 1.29** Responses to our proposals were almost all positive. Firms did suggest some alterations to our proposed overdraft pricing information remedy and competition rules. We have amended our proposals to reflect these, and our final rules address the feedback received.

## Equality and diversity considerations

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- 1.30** We have considered the equality and diversity issues that may arise from the proposals in this Policy Statement.
- 1.31** Overall, we do not consider that the proposals materially affect any of the groups with protected characteristics under the Equality Act 2010.

## What you need to do next

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- 1.32** Please read the parts of the paper that are relevant to you.

## What we will do next

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- 1.33** Our new rules on the publication of pricing information will come in to force on 6 April 2020, in line with our overdraft pricing rules set out in PS19/16.
- 1.34** The revised definition of private bank in BCOBS 7 comes into force immediately.
- 1.35** The new rules in BCOBS 8 come into force on 18 December 2019. The revised private bank definition, the exclusion of currency accounts and the rules on alerts automatic enrolment will be effective from that date.

## 2 Feedback to CP19/18 questions and our response

**2.1** In this chapter, we summarise the feedback we have received on the questions asked in CP19/18 and provide our response to this feedback.

### Publication of pricing information

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**2.2** In CP18/42 we proposed that firms disclose, in advertising, the representative APR for their arranged overdraft wherever the Consumer Credit sourcebook (CONC) triggers the requirement to include the representative example.

**2.3** This proposal is designed to allow consumers to compare products easily and enable firms to compete on a meaningful headline price. We also proposed that each year firms provide us with details of the representative APR used in financial promotions for each of their Personal Current Accounts (PCAs). If firms advertise different interest rates, for different customers or at different times, we proposed to require them to tell us the highest, lowest and median representative APR they have used in a financial promotion.

**2.4** In feedback to this consultation, consumer groups highlighted a concern that if risk-based pricing became common, vulnerable consumers would routinely be offered a significantly higher APR on their overdraft than the representative rate advertised. Firms too acknowledged the limitations of representative APRs.

**2.5** Recognising these concerns, we consulted on a revised proposal in CP19/18. Rather than requiring firms to provide representative APR details to us, we consulted on proposals requiring firms to publish the following information for each product for each firm/brand alongside the quarterly current account services information:

- the **representative APR** used in all forms of advertising during the preceding 3 months, or the lowest, highest and median rate if there has been more than one
- the **arranged overdraft interest rate** (EAR) on the last working day of the month preceding the publication, or the lowest, highest and median rate if there has been more than one
- the **unarranged overdraft interest rate** (EAR) on the last working day of the month preceding the publication, or the lowest, highest and median rate if there has been more than one
- the **refused payment fee** on the last working day of the month preceding the publication

**2.6** In CP19/18 we asked:

**Q1:** *Do you agree with our proposals for firms to publish pricing information alongside the information about current account services?*

## Feedback received

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- 2.7** Overall our proposal received widespread support with firms and consumer groups which recognised the benefits to consumers of heightening awareness of overdraft pricing and increasing the transparency of charging structures. The majority of firms and consumer groups recognised that publishing charging information would increase transparency, and potentially competition.
- 2.8** However, 5 firms raised concerns about 2 areas: the possible confusion for consumers arising from the remedy, and undue complexity for firms in reporting the pricing of their overdraft books. The concerns centred around:
- the publication of APR figures alongside EAR rates when the two are not always comparable
  - the effect of interest free buffers and packaged account fees on the APR and EAR
  - whether the calculation of median interest rates would be clear and would add value, and how the median would be calculated
  - the impact of concessionary rates provided to customers in financial difficulty
- 2.9** 2 firms felt that providing the information would be a complex exercise with limited benefit. But, other firms felt that the information could be provided quite easily.
- 2.10** 1 firm suggested that the information that we were asking firms to publish could be obtained already via the Application Programming Interfaces (APIs) that the Competition and Markets Authority's (CMA) Retail Banking Market Investigation Order 2017 (the CMA Order) requires.
- 2.11** Firms asked us to clarify:
- which products are to be included in the current account service information
  - the need for in-branch display of overdraft pricing information
  - display of overdraft costs at other points in the customer journey

### Our response

We intend to require firms to publish information on overdraft prices as part of the current account services information. However, we agree that we should make small changes to the rules in response to the feedback received. We believe that these changes will make the information that is published clearer, and more relevant, for both consumers and the consumer groups we expect to use it.

The rules are now included in BCOBS 7 not in CONC, as proposed in CP19/18, so that all of the rules on the quarterly information firms must publish, about current account services and overdraft pricing information, are in BCOBS.

Our response to the feedback given along with details of the changes we have made to the rules are given below:



### **Use of APR and EAR**

The aim of our remedy is to increase the transparency of overdraft pricing. This includes pricing applied to all existing customers' overdrafts as well as the pricing of new accounts.

We agree with feedback that consumers might not understand the term EAR. EAR is a shorthand for the equivalent annual interest rate that takes compounding into account. We recognise that customers do not necessarily recognise or understand this acronym.

We have amended our requirement and firms will be required to refer to the annual rate of interest in the display of pricing information and not EAR.

Our consumer research has shown that consumers find representative APR helpful in comparing products. We are therefore retaining the requirement for firms to display both representative APR and annual rates of interest for each product, however we have amended the display of information so that it is more meaningful and any potential for confusion is avoided (see section below on Display of information).

### **Displaying the range of interest rates charged**

We have removed the requirement to publish median rates. We agree that this information does not add value and could confuse consumers.

We believe that our objectives of increasing transparency of costs, and overall awareness of overdraft pricing can be met by requiring firms to publish the range of representative APRs used in advertising and the range of overdraft interest rates they charge.

Firms that apply product-based pricing, and not risk-based pricing, are required to display the annual interest rate for each product - as their highest and lowest rates will be the same. As above, to improve customer understanding, we are requiring firms to use the wording 'we charge an annual interest rate of x%' rather than using the acronym 'EAR'.

Firms should disregard from the information they publish any rate paid by fewer than 1% of customers on any product.

### **Concessionary rates provided to customers in financial difficulty**

We have amended our rules to allow firms to exclude from reporting requirements accounts with a concessionary rate for customers in financial difficulty. Our revised rules also exclude any other accounts where the interest rate is individually negotiated. We do not expect firms to have many customers on these rates and would be concerned if this exclusion was widely used.

### **Display of information**

Firms must publish overdraft rates as a new table in an additional section of the information about current account services as illustrated in the box below. Following feedback on the need to avoid consumer confusion and our revisions to required information, we provide below examples of how we expect the published information to look. The split of

information into 2 separate tables should allow firms to display both the representative APR and annual interest rates in a meaningful way.

In this example, Product 1 is a product where pricing is differentiated and where more than one representative APR has been used in advertising during the period; Product 2 is a product where pricing is not differentiated and where only one representative APR has been used in advertising during the period.

### What is the interest rate being charged on our products?

Product	[Range of] annual interest rates payable for arranged overdrafts on [30 June 2020]	[Range of] annual interest rates payable for unarranged overdrafts on [30 June 2020]	Refused payment fee on [30 June 2020]
Product 1	xx.x%-xx.x%	xx.x%-xx.x%	£x
Product 2	xx.x%	xx.x%	£x

### How do our overdrafts compare?

A good way to compare the cost of our overdraft with other overdrafts or other ways of borrowing is to look at the APR. The APR shows the cost of borrowing over a year.

### Information about overdraft pricing in the period between [6 April 2020 and 30 June 2020]

Product	[Range of] Advertised APR[s] during the period
Product 1	xx.x% - xx.x%
Product 2	xx.x%

Firms may add explanatory notes below the table if they believe that the note will help customers' understanding. An example of this would be where the product offers an interest-free level of borrowing. In this case, an explanatory note detailing the level of interest-free overdraft could be useful for customers. Similarly, explanatory notes may be useful when account fees are payable.

If a product is closed to new business and is not being advertised a firm does not need to publish APR details for that product but it does need to include the annual interest rates paid on its arranged and unarranged overdrafts.

### Products to be included

The published interest rates are intended to provide greater transparency of the pricing across a firm's entire overdraft lending book. A firm should publish the rates it charges to all customers, not just the rates for new accounts.

Firms must review the rates they apply to all agreed overdraft facilities in place each quarter, covering both new and existing accounts. This is not restricted to facilities that are drawn on during the period.

Firms should include in the published information products that are no longer open for new business. If the product does not permit overdraft borrowing, eg Basic Bank Accounts or products designed for those under 18 years of age, the product does not need to be included in the published table.

Firms can exclude from the information they publish, any rate paid by fewer than 1% of customers holding that product.

Our rule requires firms to publish pricing information at a product level in the table. Firms may provide more granular detail if they wish by including additional information after (or linked from) the required table.

### **Pounds and pence disclosure**

In PS19/16 we explained we wanted consumers to easily understand how much an overdraft could cost them in pounds and pence over different time periods. We have worked with UK Finance and its members who will deliver an industry agreement to show consumers the cost of using an overdraft in pounds and pence in a standardised format. This agreement will be implemented to support our overdraft pricing remedies.

Firms will use a simple table to show the cost of borrowing a standard amount of £500 across the different time periods of 7 days, 30 days and 60 days. The information will be set out clearly and in a very similar way to the overdraft pricing information described in this PS. This continued standardisation of language and display of information will help consumers to better understand the costs of borrowing with an overdraft.

We are grateful to UK Finance and its members and consumer groups who provided feedback and input into this important work.

### **The CMA Order and APIs**

The CMA Order requires 9 firms to make product data available via common open data APIs (via the Open Banking Implementation Entity). This includes making available information about pricing to facilitate comparison between providers.

We do not regard including pricing information in an API on its own will meet our objective of increasing transparency of overdraft pricing. We want our rules to apply to a wider range of firms than those currently required to comply with the CMA Order and to appear clearly on firm websites. Additionally, the specification for the information to be made available via API does not currently include representative APR details.

We will continue to require firms to publish the required information on their websites.

While the rules do not require firms to provide the pricing information required by our new rules in APIs, we encourage firms to do so and we will work with the CMA and the Open Banking Implementation Entity to help deliver this.

Our work on Open Finance is considering extending Open Banking-like data-sharing to a wider range of financial products.

### **In-branch display**

The CMA Order requires the largest firms to display information on core service quality metrics in branch. Our rules do not require this for our current account services information. Nor do our rules require the new overdraft pricing information to be displayed in branch. However, some firms have chosen to display FCA-required current account services information in branch. We would expect that firms choosing to display this information in branch will now also include information on overdraft pricing.

### **Display of cost at other points in the customer journey**

Some respondents suggested that the transparency of prices charged on overdraft products could be improved by displaying relevant pricing details at various points in the customer journey. This is not a rule requirement; however we encourage firms to consider what changes they can make to their own customer communications and their websites to help their customers become more aware of the cost of their overdrafts.

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## **Defining private banks**

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- 2.12** Chapter 8 of PS 19/16 explains that the feedback we received on excluding private banks from our pricing rules highlighted that the definition in BCOBS 7 & 8 does not completely achieve the outcome we are seeking ie the exclusion of private banks from our overdraft pricing remedies.
- 2.13** Considering this feedback we amended the definition of private bank that will apply to the rules in CONC 5C and 5D.
- 2.14** The revised definition does not restrict the assets relevant to net worth in the way our original definition did. We believe that the revised definition will correctly exempt private banking entities and brands from complying with our new rules.
- 2.15** The revised definition describes a private bank as 'a bank or building society or an operationally distinct brand of such a firm over half of whose personal current account customers each had throughout the previous financial year net assets with a total value of not less than £250,000'. (CONC 5C.5.1(5))
- 2.16** Private banks are also excluded in BCOBS 8 from requirements to provide overdraft alerts and overdraft eligibility tools, and information about current account services in BCOBS 7.
- 2.17** The definition of private banks should be consistent throughout BCOBS 7 and 8 and CONC 5C and 5D.

## Feedback received

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**2.18** In CP19/18 we asked:

**Q2:** *Do you agree that we should amend the definition of Private Bank used in BCOBS 7 and 8 to align with that used in CONC 5C and 5D?*

**2.19** Most respondents agreed with our proposals, recognising that it was a practical approach which would assist private banks and their customers.

**2.20** Two firms asked us to consider further amendments to the definition of private bank. They wanted us to widen the criteria used to define a private bank away from the net assets figure at the centre of our current definition, to allow non-monetary factors to determine if a business was a private bank.

**2.21** An industry body also commented on how firms would assess whether their business met our private bank definition.

### Our response

We accept many different private or specialist banking firms exist. Their customer bases will vary as will their PCA offerings and their operational structures.

Our objective is to ensure that consumers benefit appropriately from our overdraft remedies. Exempting additional firms from the need to comply with our new rules may put at risk our achievement of this objective. So, we are retaining the definition of private bank set out in the draft rules to avoid unintended consequences resulting from a definition that is not primarily focussed on the firm's customer base.

In terms of demonstrating that an entity meets the private bank definition, our response is as follows:

#### **Operationally distinct brand**

We note the industry body comments on how different firms assess whether their portfolios amount to 'operationally distinct brands'. In CP19/18 we chose to leave this term undefined, as we consider that whether brands are operationally distinct will depend on the circumstances of how each firm operates its business. We have decided to continue to leave this term undefined.

For our remedies to be successful in addressing consumer harm, it is important that the focus remains on a firms' customer base, rather than on how a particular business is operated. The key determinant of whether a brand meets our private bank criteria must continue to be the financial status of the customers themselves. This is set out in our requirements on net asset minimum value.

### **Number of personal current account customers meeting net asset minimum value**

Firms should assess whether a customer meets the net asset minimum value criteria at an individual customer level.

We would expect firms to take reasonable steps to determine if a minimum of 50% of their customers meet the net asset minimum value criteria. They should reassess their customers at appropriate intervals.

Our definition of a private bank requires that 'over half of PCA holders' meet these criteria. Any family members and others to whom the service is extended, but who don't themselves meet the eligibility criteria, are accounted for within the wider population of non-eligible customers which cannot exceed 50% of the total customer numbers. Customers whose asset levels fall below the net asset minimum value over time should also be accounted for within this group of customers.

### **Assets for inclusion in net asset minimum value**

We agree with an industry body observation that any client assets not defined in BCOBS 7.1.1 (2) (d) (i) will be eligible for inclusion within the net asset assessment. This includes assets held for the customer in trust, and the value of shareholdings in private companies.

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## **Personal currency accounts (non-sterling)**

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- 2.22** Following feedback, we exempted personal currency accounts from overdraft pricing rules (see Chapter 8 of PS19/16). We considered that arguments to exempt currency accounts apply similarly to our competition remedy rules. We therefore proposed to exempt these accounts from requirements to comply with overdraft competition remedy rules in BCOBS and CONC.

### **Feedback received**

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- 2.23** In CP19/18 we asked:

**Q3:** *Do you agree that we should exempt foreign currency accounts from competition remedy rules?*

- 2.24** All respondents who commented on this question agreed with our proposal to exempt currency accounts from requirements to comply with overdraft competition rules in BCOBS and CONC.
- 2.25** The rule has been made as consulted on.

## Alerts automatic enrolment

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- 2.26** In the overdraft competition remedies Policy Statement (published in CP18/42) we agreed that a decision to opt-out of the alerts required by the Competition and Markets Authority (CMA) could indicate that the customer does not want to receive any overdraft and refused payment alerts, including arranged overdraft alerts. However, the rules we made then did not provide for this. Some firms were concerned that customers who have expressed that they do not want to receive unarranged or refused payment alerts should not be automatically enrolled into other overdraft alerts.
- 2.27** We proposed amending our rules so that they correspond to the position we set out in CP18/42 allowing firms to opt-out of the new overdraft and refused payment alerts, customers who had previously opted out of the alerts required by the CMA. This does not prevent firms from automatically enrolling customers who have previously opted out of other alerts into arranged overdraft alerts.

## Feedback received

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- 2.28** In CP19/18 we asked:
- Q4:** *Do you agree that we should amend our rules to allow firms not to automatically enrol customers who have previously opted out of unarranged or refused payment alerts into arranged overdraft alerts?*
- 2.29** The majority of firms supported our proposal. One firm did however disagree with our proposal. It highlighted the significant benefits to customers from the auto-enrolment into unarranged and refused payment alerts and felt that there would be significant benefits to all customers being auto-enrolled into the new alerts

### Our response

We agree that significant benefits are to be expected from the new alerts. Our rules will continue to permit firms to auto-enrol all customers into the new alerts if they consider that is the best course of action for their customers. The amendment we have made simply gives the option for a firm to decide not to auto-enrol into the new arranged overdraft alerts customers who have previously opted out of unarranged or refused payment alerts.

We have made the rule with a minor change of wording to clarify the intended scope of the alert opt-out.

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## Cost benefit analysis

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- 2.30** In Annex 2 of CP19/18 we provided our analysis of the costs and benefits of the proposals in the CP and invited comment on the analysis.

## Feedback received

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**2.31** We asked:

**Q5:** *Do you agree with our cost benefit analysis?*

**2.32** Most respondents that commented on this question agreed with our CBA. 2 firms had commented in response to earlier questions that they felt that providing the information would be a complex exercise for limited benefit, whilst other firms felt that the information could be provided quite easily.

### Our response

The 2 firms did not provide evidence of any additional costs in providing the required information. The CBA remains unchanged.

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## Equality and diversity considerations

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**2.33** In CP19/18 we stated that we did not believe that the proposals in the paper adversely affected any of the groups with protected characteristics specified in legislation, i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.

**2.34** We asked:

**Q6:** *Do you have any views on our equality and diversity assessment?*

**2.35** The respondents that provided comment on this question almost all supported our assessment.

**2.36** One respondent did however highlight that our proposals on publishing overdraft pricing information only required firms to publish this information online. This could mean that customers who did not have access to the internet would be disadvantaged.

### Our response

The information that firms will have to publish gives the range of interest rates being charged to products on a product. Individual consumers will not necessarily be able to determine from this what interest rate they are paying or would be eligible for – assuming a firm offers a range of interest rates. Individual customers will still be able to check what interest rate they are paying (or would be eligible to pay) via their usual method of contacting their overdraft provider i.e. in branch, from telephony centres etc.



Although our rules only require publication of overdraft interest rates, and refused payment fee levels online, firms can, and are encouraged to, publish this information in branch too.

Our opinion therefore remains that our proposal will not adversely impact any of the groups with protected characteristics specified in legislation.

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## Annex 1

# List of non-confidential respondents

Chartered Institute of Credit Management

Financial Services Consumer Panel

Money and Pensions Service

UK CreditUnions Ltd

## Annex 2

### Abbreviations used in this paper

<b>API</b>	application programme interface
<b>APR</b>	annual percentage rate
<b>BCOBS</b>	the Banking: Conduct of Business sourcebook (FCA Handbook)
<b>CBA</b>	cost benefit analysis
<b>CMA</b>	Competition and Market Authority
<b>CMA Order</b>	the CMA's Retail Banking Market Investigation Order 2017
<b>CONC</b>	The Consumer Credit sourcebook (FCA Handbook)
<b>CP</b>	Consultation Paper
<b>CP18/42</b>	our December 2018 Consultation Paper on overdraft pricing
<b>CP19/18</b>	our June 2019 Consultation Paper on overdraft pricing remedies and competition remedies
<b>EAR</b>	effective annual rate of interest
<b>FCA</b>	Financial Conduct Authority
<b>FSMA</b>	Financial Services and Markets Act 2000
<b>PCA</b>	Personal current account
<b>PS</b>	Policy Statement
<b>PS 19/16</b>	our June 2019 Policy Statement on overdraft pricing

We have developed the policy in this Policy Statement in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

All our publications are available to download from [www.fca.org.uk](http://www.fca.org.uk). If you would like to receive this paper in an alternative format, please call 020 7066 7948 or email: [publications\\_graphics@fca.org.uk](mailto:publications_graphics@fca.org.uk) or write to: Editorial and Digital team, Financial Conduct Authority, 12 Endeavour Square, London E20 1JN

# Appendix 1

## Made rules (legal instrument)

## OVERDRAFTS (INFORMATION AND TOOLS) INSTRUMENT 2019

### Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 137A (General rule-making power);
  - (2) section 137T (General supplementary powers); and
  - (3) section 139A (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

### Commencement

- C. This instrument comes into force on:
- (1) 2 October 2019 for Part 1 of the Annex;
  - (2) 18 December 2019 for Part 2 of the Annex; and
  - (3) 6 April 2020 for Part 3 of the Annex.

### Amendments to the Handbook

- D. The Banking: Conduct of Business sourcebook (BCOBS) is amended in accordance with the Annex to this instrument.

### Citation

- E. This instrument may be cited as the Overdrafts (Information and Tools) Instrument 2019.

By order of the Board  
26 September 2019

## Annex

## Amendments to the Banking: Conduct of Business sourcebook (BCOBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

## Part 1: Comes into force on 2 October 2019

## 7 Information about current account services

## 7.1 Application

What?

## 7.1.1 R ...

(2) In this chapter:

...

(d) a “private bank” is a ~~deposit-taking firm~~ bank or building society, or an operationally distinct brand of such a firm, over half of whose ~~banking customers~~ personal current account customers each had throughout the previous financial year net assets with a total value of not less than £250,000, ~~are eligible individuals within the meaning of article 9 of the Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) Order 2014 (SI 2014/1960) or meet the condition in paragraph (3) of that article (see BCOBS 7.1.5G (2))~~. For this purpose:

(i) net assets do not include:

(A) the value of the banking customer’s primary residence or any loan secured on that residence;

(B) any rights of the banking customer under a qualifying contract of insurance within the meaning of the Regulated Activities Order; and

(C) any benefits (in the form of pensions or otherwise) which are payable on the termination of the service of the banking customer or on their retirement and to which the banking customer (or the banking customer’s dependents are), or may be, entitled.

(ii) “previous financial year” means the most recent period

of one year ending on 31 March.

Who?

...

7.1.5 G ...

- (2) The same applies to a *credit union* or private bank that publishes any regulated information. ~~For the purposes of this chapter, a private bank is a *deposit-taking firm* over half of whose banking customers are “eligible individuals”, such that their deposits are not treated as *core deposits* for *ring fencing* purposes, or they meet the condition that would enable them to sign a declaration of eligibility for that purpose. The condition is that they held assets to the value of not less than £250,000 over a period of twelve months ending on a day which falls not more than three months before the date of the declaration of eligibility.~~

## Part 2: Comes into force on 18 December 2019

### 8 Tools for personal current account customers

#### 8.1 General and application

Special terms used in this chapter

8.1.1 R ...

- (2) A “private bank” is a *bank* or *building society*, or an operationally distinct brand of such a *firm*, over half of whose personal current account customers each had throughout the previous financial year net assets with a total value of not less than £250,000, are eligible individuals within the meaning of article 9 of the Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) Order 2014 (SI 2014/1960) or meet the condition in paragraph (3) of that article (see *BCOBS 7.1.5G (2)*). For this purpose:

- (a) net assets do not include:
- (i) the value of the personal current account customer’s primary residence or any loan secured on that residence;
  - (ii) any rights of the personal current account customer under a qualifying contract of insurance within the meaning of the *Regulated Activities Order*; and

(iii) any benefits (in the form of pensions or otherwise) which are payable on the termination of the service of the personal current account customer or on their retirement and to which the personal current account customer (or the personal current account customer's dependents are), or may be, entitled; and

(b) “previous financial year” means the most recent period of one year ending on 31 March.

...

...

Who and what?

8.1.4 R ...

(4) This chapter does not apply in relation to an account which may be used for a currency other than a currency of the *United Kingdom*.

...

## 8.4 Alerts

...

Exemptions to automatic enrolment

8.4.5 R ...

(4) A *firm* is not required ~~may elect not~~ to enrol a *banking customer* to receive a ~~particular alert~~ alerts in respect of a personal current account if that *banking customer* has ~~previously~~ requested not to receive an alert or alerts ~~that perform at least an equivalent function~~ relating to that *banking customer's* overdraft usage.

...

### Part 3: Comes into force on 6 April 2020

## 7 Information about current account services

### 7.1 Application

What?

7.1.1 R (1) This chapter requires a *firm* to publish information about its



provision of personal current accounts and business current accounts.

(2) In this chapter:

(a) (except in *BCOBS 7.6A*) a “personal current account” means an account, other than a current account mortgage or a premium service account, which is a payment account within the meaning of the *Payment Accounts Regulations* (see *BCOBS 7.1.3G(2)*);

(aa) (in *BCOBS 7.6A*) a “personal current account” means an account, other than a current account mortgage which is a payment account within the meaning of the *Payment Accounts Regulations* (see *BCOBS 7.1.3G(2)*);

...

(e) “refused payment fee” means any fee payable by a *payment service user* where a *payment service provider* refuses to execute a payment order or to initiate a payment transaction, where such a fee is permitted in accordance with regulation 82(3) of the *Payment Services Regulations*.

...

Who?

...

7.1.3 G ...

(7) Premium service accounts are excluded from *BCOBS 7.3* to *7.6* but not from *BCOBS 7.6A*. Premium service accounts are those personal current accounts which have eligibility criteria relating to minimum balances or minimum monthly deposits (or both), and whose holders receive better service than non-premium service accounts, based on any of the information or data which this chapter requires a *firm* to publish. For example, an account which has staff available to respond to relevant queries through telephone banking for more hours of the day than other accounts, or whose account holders can replace a lost debit card more quickly than other accounts, would be a premium service account. An account may be premium on the basis either that it is of a type only made available to eligible *banking customers*, or because the *banking customer* is treated as premium compared to other holders of accounts of that type. But an account is not a premium service account for this purpose if accounts of that type of account are held by 20% or more of the *firm’s* personal current account *banking customers*, or, where the type of account is held by both premium and non-premium *banking customers*, the premium *banking customers* constitute 20% or more

of the holders of that type of account. All accounts are treated as non-premium for the purposes of the 20% calculation.

...

- 7.1.5 G (1) If a *firm* does not have 70,000 personal current accounts, or 15,000 business current accounts, under a particular brand (i.e. trading name), this chapter does not require the *firm* to publish information about its personal current account service or its business current account service (as relevant) for that brand. However, if a *firm* chooses to publish information about that brand which is within the scope of ~~any~~ of the *rules* in ~~his~~ this chapter, relating to speed of service, operational and security resilience or complaints ('regulated information'), the *firm* must comply with the relevant rule in full as if this chapter did apply to that brand. This means that the *firm* must measure and calculate the information to be published, and publish it, as required by this chapter.

...

## 7.2 What information is to be published and how is it to be measured?

Publication of information about personal current accounts and business current accounts

- 7.2.1 R (1) ...
- (1A) A *firm* to which this chapter applies must publish the information and statements specified in BCOBS 7.6A separately, in relation to each trading name in respect of which the *firm* has 70,000 or more personal current accounts.

...

Insert the following new section, BCOBS 7.6A, after BCOBS 7.6 (Publication of information about major operational or security incidents, and complaints information). The text is not underlined.

### 7.6A Publication of pricing information about personal current account overdrafts

- 7.6A.1 R A *firm* must, for a trading name of the *firm* that this section applies to, and for each personal current account product held by at least 5000 *banking customers* on the last day of the current account measurement period under that trading name, publish information about:
- (1) the lowest and highest interest rates payable by *banking customers* under *authorised non-business overdraft agreements* associated with

that personal current account product on the last working day of the personal current account measurement period;

- (2) the lowest and highest unarranged overdraft interest rates payable by *banking customers* holding that personal current account product on the last working day of the personal current account measurement period;
- (3) the refused payment fee payable by *banking customers* holding that personal current account product on the last working day of the personal current account measurement period; and
- (4) the lowest and highest *representative APR* for an *authorised non-business overdraft agreement* included in a *financial promotion* communicated by or on behalf of the *firm* during the current account measurement period.

- 7.6A.2 R (1) When publishing the information required under *BCOBS* 7.6A.1R(1) and (2) a *firm* must:
- (a) disregard an interest rate for the purpose of identifying the highest interest rate payable by *banking customers* if that rate of interest or a higher rate is payable by fewer than 1% of *banking customers* holding that personal current account product ;
  - (b) disregard an interest rate for the purpose of identifying the lowest interest rate payable by *banking customers* if that rate of interest or a higher rate is payable by fewer than 1% of *banking customers* holding that personal current account product;
  - (c) disregard any interest rate that has been reduced as a result of forbearance or other arrangements entered into with a *banking customer* who is in, or at risk of, financial difficulty; and
  - (d) disregard any interest rate that has been individually negotiated with a *banking customer*.
- (2) Where the agreement provides that a tranche of borrowing attracts no interest, that provision must be disregarded when calculating the rate of interest to be published under *BCOBS* 7.6A.1R(1) and (2).
- (3) The rate of interest to be published under *BCOBS* 7.6A.1R(1) and (2) must:
- (a) be expressed as a percentage applied on an annual basis to the amount of *credit* drawn down; and
  - (b) (where the agreement provides for compounding) be the effective annual interest rate. The *firm* must use the same

assumptions to calculate this interest rate as they do for the *APR*. These assumptions are set out in *CONC* App 1.2 (Total charge for credit rules for other agreements).

- (4) Where the lowest and highest figures required to be published under *BCOBS* 7.6A.1R are the same, the *firm* must publish these as a single figure.
- (5) Where no refused payment fee is payable for a personal current account product the *firm* should state this as a fee of £0.

7.6A.3 R The *firm* must publish the information:

- (1) in the format specified in Table 9 of *BCOBS* 7 Annex 1R; and
- (2) on the same webpage as, and immediately below, the information published under *BCOBS* 7.6.3R.

...

Amend the following as shown.

## 7.7 Publication of information about current accounts

How frequently must information be published?

7.7.1 R (1) The information published under the *rules* specified in (2) must be published in respect of each current account measurement period on or before the publication date immediately following the end of that current account measurement period as set out in the table below.

...

(2) The *rules* are:

...

(c) *BCOBS* 7.6.1R (information about operational and security resilience); ~~and~~

(d) *BCOBS* 7.6.3R (complaints); and

(e) *BCOBS* 7.6A.1R (overdraft pricing information).

(2A) The information required under *BCOBS* 7.6A.1R(1) to (3) must be published as it stood at 5:00 pm on the last working day of the current account measurement period.

...

How must information be published?

7.7.2 R ...

- (3) A *firm* must make the information and statements published in accordance with this chapter, with the exception of information published under BCOBS 7.6A (overdraft pricing information), publicly available free of charge by means of an application programming interface, if it is a *firm*:

...

7.7.3 G ...

- (6) Where a *firm* uses an API for the purposes of article 13 of that Order or, if article 13 of that Order does not apply to it, for the purposes of regulations 69 and 70 of the *Payment Services Regulations*, BCOBS 7.7.2R requires the *firm* to make information and statements published under this chapter, other than personal current account overdraft pricing information, also available through an API; both the API and the information and statements made available through it should be publicly available and free of charge. *Firms* that are not subject to the Order or to those provisions of the *Payment Services Regulations* are, however, free to choose to make the information or statements published under this chapter available by API.

In BCOBS 7 Annex 1, insert the following new table after Table 8. The text is not underlined.

## 7 Annex Publication of information in a specified format

### 1

Table 9: pricing information about personal current account overdrafts

**What is the interest rate being charged on our products?**

Product	[Range of] annual interest rate[s] payable for arranged overdrafts on [30 September 2020]	[Range of] annual interest rate[s] payable for unarranged overdrafts on [30 September 2020]	Refused payment fee on [30 September 2020]

[name of product]	xx.x%-xx.x%	xx.x%-xx.x%	£x
[name of product]	xx.x%	xx.x%	£x

### How do our overdrafts compare?

A good way to compare the cost of our overdraft with other overdrafts or other ways of borrowing is to look at the APR. The APR shows the cost of borrowing over a year.

### Information about overdraft pricing in the 3 months between [eg 1 July 2020 and 30 September 2020]

Product	[Range of] Advertised APR[s] during the quarter
[name of product]	x%
[name of product]	xx.x% - xx.x%

Amend the following as shown.

### TP 1 Transitional Provisions

(1)	(2)	(3)	(4)	(5)	(6)
	<b>Material to which the transitional provision applies</b>		<b>Transitional provision</b>	<b>Transitional provisions: dates in force</b>	<b>Handbook provisions coming into force</b>
...					
<u>18</u>	<u>BCOBS 7.6A.1</u>	<u>R</u>	<u>A firm need not publish any information in respect of a current account measurement period ending before 30 June 2020.</u>	<u>6 April 2020 to 16 August 2020</u>	<u>6 April 2020</u>
<u>19</u>	<u>BCOBS 7.6A.1</u>	<u>R</u>	<u>The current account measurement period ending on 30 June 2020 is to be treated as having begun on 6</u>	<u>6 April 2020 to 16 November 2020</u>	<u>6 April 2020</u>

			<u>April 2020.</u>		
<u>20</u>	<u>BCOBS 7 Annex 1 Table 9</u>	<u>R</u>	<p><u>When publishing information about the current account measurement period ending on 30 June 2020:</u></p> <p><u>(1) the heading to the second table must read “Information about overdraft pricing in the period between 6 April 2020 and 30 June 2020”; and</u></p> <p><u>(2) the heading to the second column of the second table must read “[Range of] advertised APR[s] during this period”.</u></p>	<u>6 April 2020 to 16 November 2020</u>	<u>6 April 2020</u>

