

# Overdraft Pricing Remedies and Competition Remedies

**Consultation Paper**

CP19/18\*\*

June 2019

## How to respond

We are asking for comments on this Consultation Paper (CP) by **7 August 2019**.

You can send them to us using the form on our website at: [www.fca.org.uk/cp19-18-response-form](http://www.fca.org.uk/cp19-18-response-form)

**Or in writing to:**

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# 1 Summary

- 1.1 We have already consulted on changes to the overdraft market to avoid harm to consumers. We used the feedback from our proposals in [CP18/42](#) to make final rules. We explain these in Policy Statement PS19/16 High-Cost Credit Review: Overdraft policy statement.
- 1.2 We are now consulting on new proposals to complement the overdraft pricing rules. We also propose to make minor changes to our competition remedies.
- 1.3 These further proposals in this Consultation Paper (CP) reflect the responses we received to CP18/42 on overdraft pricing and the analysis we have undertaken since then.

## Why we are consulting

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- 1.4 Feedback to CP18/42 highlighted the potential for representative APR details to not fully reflect the range of interest rates offered to all customers. So, we are consulting on proposals to require firms to publish more details of their overdraft charges. We want to improve transparency and raise awareness of firms' charging structures.

## Who this applies to

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- 1.5 This document should be read by current account providers that offer overdrafts and their trade bodies.
- 1.6 Our work will also be of interest to consumers who use overdrafts, or might use them in future, and to consumer groups.

## The wider context of this consultation

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- 1.7 This CP should be read alongside [PS19/16](#) and [CP18/42](#). It is one part of our overall package of remedies designed to reduce the harm arising from overdraft pricing and to improve competition in the overdraft market.

## What we want to change

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- 1.8 To improve transparency and raise awareness on firms' charging structures we propose to require firms to **publish a range of overdraft pricing details along with their quarterly information on current account services**.

- 1.9** To make sure that our remedies are applied appropriately we propose amending the **definition of private bank in BCOBS 7 and 8**. We also propose to **exempt foreign currency accounts from** competition remedy rules. These rules were made in December 2018 and were made to address low customer awareness and engagement in the overdraft market.
- 1.10** So that firms can deliver the best customer experience we also propose **minor changes to our rule on alerts auto enrolment**.

## Outcome we are seeking

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- 1.11** We are responding to feedback and are amending our rules so that they deliver the outcomes set out in PS19/16 and CP18/42.
- 1.12** 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.
- 1.13** Our package will also promote more effective **competition** for overdrafts.

## Equality and diversity considerations

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- 1.14** We do not believe that the proposals in this chapter adversely impact any of the groups with protected characteristics specified in legislation, ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 1.15** We will continue to consider the equality and diversity implications of the proposals during the consultation period, and, if necessary, will revisit them when we publish the final rules.
- 1.16** We welcome any feedback on our equality and diversity assessment.

## Next steps

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- 1.17** The consultation period is 2 months. You can respond to this consultation by 7 August 2019 by answering the questions listed at the end of this chapter using our online response form or by emailing [cp19-18@fca.org.uk](mailto:cp19-18@fca.org.uk).

## What we will do

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- 1.18** We will consider your responses and publish any amendments to rules in September 2019.

## 2 Pricing remedies

### Publication of pricing information

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- 2.1** Feedback to our consultation CP18/42 (see PS19/16) highlighted the potential for details of representative APR used in financial promotions to not fully reflect the range of interest rates offered to all customers.
- 2.2** If firms charge different interest rates to different customers (risk-based pricing), the representative APR is the APR at, or below which, a firm reasonably expects that credit would be provided to at least 51% of those applying for credit as a result of the particular financial promotion.
- 2.3** Several consumer groups were concerned that vulnerable consumers would routinely be offered a significantly higher APR on their overdraft than the representative rate advertised. One individual respondent provided extensive examples of the potential for firms to use representative APRs in advertising that might not be available to a significant number of consumers. Firms also acknowledged the limitations of representative APRs.
- 2.4** So, we are consulting on proposals to require firms to report and publish details of:
- the representative APRs they advertise
  - the level of arranged and unarranged overdraft interest they charge across their live overdraft lending book
  - the level of refused payment fees they charge
- 2.5** To improve transparency and raise awareness on firms' charging structures we are consulting on requiring firms to publish the following information for each product for each firm/brand operated alongside the quarterly information about current account services:
- 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 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 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** Our intention is that this information is published as a table in an additional section of information about current account services as illustrated in the box below. Product 1 is an example of a product where pricing is differentiated, product 2 is an example of a product where pricing is not differentiated.

**Information about overdraft pricing in the 3 months between [1 April 2020 and 30 June 2020]**

Product	Advertised APR during the quarter	Arranged overdraft rate on [30 June 2020]	Unarranged overdraft rate on [30 June 2020]	Refused payment fee on [30 June 2020]
Product 1	Lowest xx.x% Highest xx.x% Median xx.x%	Lowest xx.x% Highest xx.x% Median xx.x%	Lowest xx.x% Highest xx.x% Median xx.x%	£x
Product 2	xx.x%	xx.x%	xx.x%	£x

- 2.7** Our new pricing rules in PS19/16 simplify overdraft pricing by reducing complexity and they improve transparency and comparability. The proposal in this CP is designed to further increase the transparency of overdraft pricing and highlight to consumers and third parties including price comparison services and the media, whether consumers on a particular product are charged the advertised APRs. The pricing information should be published alongside the information on current account services. This will help consumers to choose a current account that gives them what they value, and help third parties to compare products from different current account brands.
- 2.8** This pricing information should be published for the first time covering the quarter from 1 April to 30 June 2020. This is the first publication of information about current account services after our pricing rules take effect. If a firm implements the pricing remedies after 1 April 2020 but before our rules requiring this come into force, the publication can cover the period from implementation until 30 June 2020.
- 2.9** We are aware that, particularly for firms with large back books, there can be small groups of customers where bespoke arrangements have been made to reflect a consumer’s individual circumstances and product history. So, we propose that firms must disregard from the information they publish, any rate paid by fewer than 1% of customers on a product.
- 2.10** The firms which are required to publish information about current account services hold most of the overdraft market share. Given these firms’ extensive market share, we do not consider it appropriate to extend this remedy beyond that group of firms to smaller firms or firms offering products with similar features to overdrafts. However, we will monitor overdraft pricing and consider extending the scope of this disclosure remedy if necessary.
- 2.11** We believe that the proposals we are consulting on, with firms publishing a range of representative APR details (and other overdraft costs) on their websites will provide a better solution to the issue of improving comparability than our previous proposal of reporting representative APR details to the FCA. If following consultation, we are persuaded that this revised proposal is not appropriate, we will progress the requirement for APR details to be reported to us annually, as this is important information for our own supervisory activity. We would not consult on this further.

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

## 3 Competition remedies

### Defining private banks

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- 3.1** Chapter 8 of PS19/16 explains that the feedback we received on excluding private banks from our pricing rules highlighted that the definition being used in BCOBS 8 does not achieve the outcome we are seeking ie the exclusion of private banks from our overdraft pricing remedies.
- 3.2** In light of this feedback we have amended the definition of private bank which will apply to the rules in CONC 5C and 5D.
- 3.3** The revised definition does not include the restrictions on defining net worth that our originally proposed definition included. We believe that the revised definition will correctly exempt Private Banking entities and brands from complying with our new rules.
- 3.4** The revised definition we will use 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) details)
- 3.5** Private banks are also excluded in BCOBS 8 from requirements to provide overdrafts alerts and overdraft eligibility tools, and to provide information about current account services in BCOBS 7.
- 3.6** We now propose to update how we define private banks for those rules so that the definition of private banks is consistent throughout BCOBS 7 and 8 and CONC 5C and 5D.
- 3.7** Should feedback to this consultation lead us to decide that further changes are required to the definition, then any changes will be applied to the definition used for CONC 5C and 5D as well as BCOBS 7 and 8.
- 3.8** We do not consider this change will impose any costs on firms beyond costs of familiarisation which will be of minimal significance.

**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?**

### Personal currency accounts (non-sterling)

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- 3.9** Following feedback, we will exempt personal currency accounts from overdraft pricing rules (see Chapter 8 of PS19/16). We consider arguments to exempt currency accounts apply similarly to our competition remedy rules. For consistency, we propose to

exempt currency accounts from requirements to comply with overdraft competition remedy rules in BCOBS and CONC.

- 3.10** We do not consider this change will impose any costs on firms beyond costs of familiarisation which will be of minimal significance.

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

## Alerts automatic enrolment

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- 3.11** In the overdraft competition remedies Policy Statement (published in CP18/42), in response to feedback to [Question 8](#), 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 made 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.

- 3.12** We propose amending our rules so that they correspond to the position we set out in CP18/42. This does not prevent firms from automatically enrolling customers who have previously opted out of other alerts into arranged overdraft alerts.

- 3.13** We do not consider this change will impose any costs on firms beyond costs of familiarisation which will be of minimal significance.

**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?**



## Annex 1

### Questions in this paper

- Q1:** Do you agree with our proposals for firms to publish pricing information alongside the information about current account services?
- 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?
- Q3:** Do you agree that we should exempt foreign currency accounts from competition remedy rules?
- 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?
- Q5:** Do you agree with our cost benefit analysis?
- Q6:** Do you have any views on our equality and diversity assessment?

## Annex 2

# Cost benefit analysis

### Introduction

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1. FSMA, as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made and an estimate of those costs and of those benefits'. Section 138I also provides that if, in our opinion, the costs or benefits cannot reasonably be estimated or it is not reasonably practicable to produce an estimate, the cost benefit analysis need not estimate them; in that case, the CBA must include a statement of our opinion and an explanation of it.
2. This CBA presents our analysis of the impacts of our proposals to require firms to report and publish information on the interest rates they charge on overdrafts. We also provide monetary values for the impacts where we believe we can reasonably estimate them and it is reasonably practicable to do so.
3. The CBA has the following sections:
  - Problem and rationales for intervention
  - Description of the intervention
  - Baseline
  - Costs
  - Benefits
4. The other proposals we are consulting upon in this paper impose costs of minimal significance and therefore we are not required to undertake a cost benefit analysis.

### Problem and rationale for interventions

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#### The harm and the drivers of the harm

5. We set out our analysis of harm and drivers of this harm in the CBA we published in [CP18/42](#). We found evidence of harm showing:
  - prices appear to be high for unarranged overdrafts
  - high incidence of unarranged overdrafts charges and refused payment fees on vulnerable consumers
  - repeat use of arranged overdrafts results in high cumulative charges

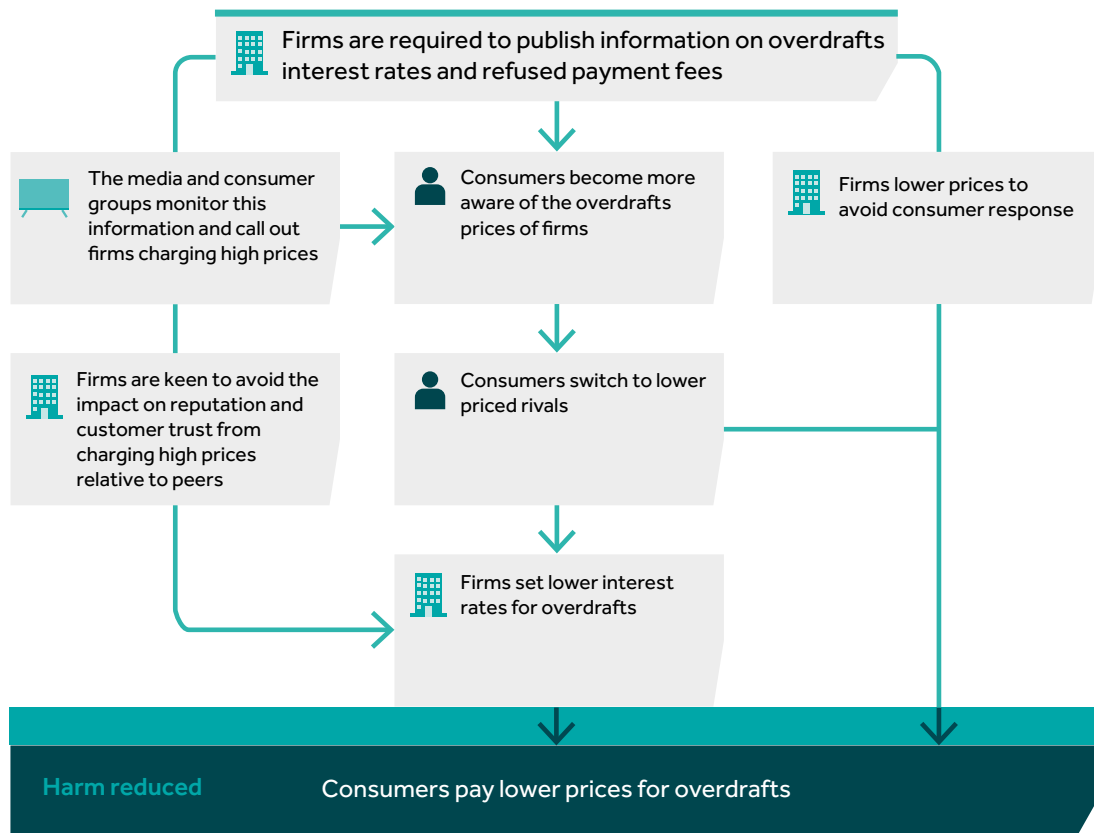
6. Within that CBA, we also assessed the drivers of harm. We consider there are a number of market failures present within overdrafts. These are:
- complexity of information for consumers
  - behavioural distortions which affect how consumers make decisions
  - lack of competition in the retail banking sector
7. Please refer to the CBA within CP 18/42 for a full description of the harm and drivers of harm our proposals here are seeking to address.

## Description of the intervention

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8. We are consulting on proposals to require firms to report and publish a broader range of details of the representative APRs they advertise and of the arranged and unarranged overdraft interest rates they charge. We propose for each product for each firm/brand, firms are required to publish the following as part of the quarterly current account service metrics:
- 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 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 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.

**Figure 1: Causal chain**



## Baseline

9. The requirements proposed here for the reporting and publication are in addition to the rules we finalise in the PS published alongside this CP and previously finalised in CP18/42. These changes will significantly alter the structure of overdrafts and the way consumers pay for and choose overdrafts. We assume the effects of those changes, as set out in CP18/42, are our baseline here.

## Costs

### Compliance costs

10. Compliance costs comprise (i) familiarisation and gap analysis costs and (ii) costs of collating, reporting and publishing information.

### Familiarisation and gap analysis costs

11. Using the same information on banks currently providing current accounts from CP18/42, there are 32 banks who need to undertake familiarisation and gap analysis.
12. We expect firms affected by our intervention will read relevant changes put forward as part of the proposals in this consultation paper and will familiarise themselves with these changes.

13. We have estimated the costs to firms using assumptions on the time taken to read Chapters 1 and 2 on our proposals in this CP, which are 6 pages long.<sup>1</sup> We assume that there are 300 words per page and reading speed is 100 words per minute. This means that the document would take 18 minutes to read. We convert this into a monetary value by applying an estimate of the cost of time to firms. Hourly staff salary costs are £57 at large PCA providers, £57 at smaller retail banks and building societies and £58 at challenger PCA providers. We expect that in large PCA providers 20 staff read the document, 9 in smaller retail banks, 13 in smaller building societies and 3 in challenger PCA providers.
14. Using these assumptions, we expect total one-off industry-wide costs of £5,000.
15. We also expect banks will undertake a legal review of the new requirements against current practices. We, again, use standard assumptions to estimate these costs.<sup>2</sup>
16. Using these assumptions, we estimate that the total one-off legal review costs would be £21,000.
17. In total, we estimate one-off familiarisation and gap analysis costs of £26,000.

#### ***Costs of collating, reporting and publishing information***

18. Firms will incur costs from undertaking analysis of their data to collect the information required for publishing or reporting. We would expect that most banks would have this information readily available but there may be some analysis and systems costs changes necessary to collate the information and publish it.
19. To estimate these costs, we use standard assumptions. This is because we would expect the costs to firms of collating, reporting and publishing information that firms will already collect will be fairly limited. Requiring costs information from firms would therefore not be proportionate.
20. We also note that firms will be currently implementing significant systems changes to enable our changes to the pricing of overdrafts (as in CP18/12). Consequentially, these proposals may not lead to any new costs for firms as any changes required for these proposals may be included in the projects to deliver the pricing reforms without any material further increase in costs.
21. We expect firms to incur one-off costs in changing their systems to allow for the publication and reporting of the required information to be done with minimal ongoing costs. We would expect that firms that have ongoing costs would have lower initial costs and that these approaches would balance out as firms choose the lowest cost option to comply with these requirements.
22. We assume that firms initiate a small IT project to build systems that can extract the relevant data. We assume that it takes 46 person days for each large firm (given their more complex IT systems) and 8 days for each medium and small firm to enable

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1 This chapter also included some refinements to our package of changes to overdrafts. These changes do not materially affect the impact of our wider set of proposals but firms may incur some small additional costs from understanding these changes. We account for these costs here.

2 There are around 9 pages of legal instrument to review. It is assumed that 4 legal staff at the largest firms, 2 legal staff at medium firms and 1 member of legal staff at small firms will review the legal instrument. It is further assumed that each legal staff member can review 50 pages of legal text per day. Finally, using data on salaries from the Willis Towers Watson UK Financial Services survey the hourly legal staff salary is assumed to be £67 at large firms, £67 at medium firms and £53 at small firms, including 30% overheads.

this requirement. We assume that a mixture of staff implement these changes at a weighted hourly salary including overheads of £53 at large firms and £51 at small firms.<sup>3</sup>

23. We therefore estimate the one-off costs to be £18,000 per large firm and £3,000 per small firm. Overall, we estimate one-off costs of around £300,000.
24. We would expect that there will be some small ongoing costs for firms but we think they will be minimal costs to upload data to websites and provide this data to us. Firms will be required to update this information once a quarter. To illustrate the small nature of these costs, if it takes two hours per firm per quarter to update and report this information then this will mean 8 hours per year per firm. Applying the same per hour costs as for the one-off costs would result in costs of around £420 per firm per year. In total, this would imply ongoing costs of £13,000 per year.

## Benefits

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25. The proposed requirements for firms to report and publish overdraft interest rates help to bring about the benefits that arise from greater competition in overdrafts.
26. The information provided by firms helps consumers become more aware of interest rates charged by different providers. The media and consumer groups may also prompt consumers to become more engaged or more informed.
27. Both may lead consumers to identify good value overdrafts/consider their choice of overdraft provider. They may also prompt consumers to actively consider their overdraft use. More effective product choices or reduced overdraft usage (either by reducing consumption or switching to other, cheaper sources of funding) would lead to lower overdraft charges and hence direct savings to consumers, but it is not reasonably practicable to estimate these.
28. In addition, more informed and active consumers should lead to greater competitive pressure between providers of overdrafts and lead to the associated benefits of competition (lower prices and product quality).
29. We also note that benefits may arise from firms changing their overdrafts pricing to avoid the reputational damage, and any associated loss of business, from charging relatively high overdraft interest rates, and so more effectively competing with other firms. We note that we do have evidence from both value measures and cash savings to indicate that media outlets do tend to pick up this kind of remedy.
30. It is not reasonably practicable to estimate these benefits due to the dynamic nature and long-term impacts of competition.

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3 Again, we use data on salaries from the Willis Towers Watson UK Financial Services survey.

## Annex 3

# Compatibility statement

1. Section 1B of FSMA requires us, so far as is reasonably possible, to act in a way that is compatible with our strategic objective and advances one or more of our operational objectives. We also need to carry out our general functions in a way that promotes effective competition in the interests of consumers.
2. The change in Chapter 2 will support our consumer protection objective by increasing the transparency of overdraft prices. The publication by firms of overdraft prices should also lead to improvements in competition in the overdraft market, supporting our competition objective.
3. The minor changes in Chapter 3 will support our competition objectives by allowing firms to focus implementation of competition remedies on the most appropriate categories of consumers.

### Impact on mutual societies

4. Section 138K(2) of FSMA requires us to provide an opinion on whether the impact of proposed rules on mutual societies is significantly different to the impact on other authorised persons. We are satisfied that the proposed changes in this chapter do not impact mutual societies any differently to any other authorised persons.

### Equality and diversity

5. We do not believe that the proposals in this CP adversely impact any of the groups with protected characteristics specified in legislation, ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
6. We will continue to consider the equality and diversity implications of the proposals during the consultation period, and, if necessary, will revisit them when we publish the final rules.
7. We welcome any feedback on our equality and diversity assessment.

## Annex 4

### Abbreviations in this document

<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>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>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

We have developed the policy in this Consultation Paper 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.

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

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# Appendix 1

## Draft Handbook text

## 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) [date] 2019 for Part 1 of Annex A;
  - (2) 18 December 2019 for Part 2 of Annex A; and
  - (3) 6 April 2020 for Annex B.

### Amendments to the Handbook

- D. The Banking: Conduct of Business sourcebook (BCOBS) is amended in accordance with Annex A to this instrument.
- E. The Consumer Credit sourcebook (CONC) is amended in accordance with Annex B to this instrument.

### Citation

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

By order of the Board  
[date] 2019

## Annex A

## 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 [date] 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 *banking customer’s* primary residence or any loan secured on that residence;
- (ii) any rights of the *banking 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 banking customer or on their retirement and to which the banking customer (or the banking 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 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.

...

## Annex B

### Amendments to the Consumer Credit sourcebook (CONC)

**This Annex comes into force on 6 April 2020**

In this Annex, underlining indicates new text and striking through indicates deleted text, except where otherwise indicated.

#### **5C Overdraft pricing**

##### **5C.1 Application and purpose**

Purpose

5C.1.1 G The purpose of this chapter is to:

- (1) require *firms* to implement and maintain overdraft charging structures that are simple, transparent and capable of easy comparison; ~~and~~
- (2) forbid *firms* from obliging a *customer* to pay a rate of interest for an unarranged overdraft which exceeds the rate of interest for an arranged overdraft that is relevant to that *customer*; and
- (3) require *firms* to publish summary information about their overdraft prices.

Who and what?

...

5C.1.2A R CONC 5C.4A does not apply to a *firm* in respect of personal current accounts held with the *firm* under a trading name of the *firm*, unless the *firm* is required to publish personal current account service information in respect of that trading name in accordance with BCOBS 7.1.2R(1)(a).

...

Insert the following new text after CONC 5C.4 (Impact of changes to charging structures). The text is not underlined.

#### **5C.4A Publication of information about personal current account overdrafts**

What information must be published

5C.4A.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 *customers* on the last day of the current account measurement period under that

trading name, publish information about:

- (1) the lowest, highest and median *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;
- (2) the lowest, highest and median interest rates payable by *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;
- (3) the lowest, highest and median unarranged overdraft interest rates payable by *customers* holding that personal current account product on the last working day of the personal current account measurement period; and
- (4) the refused payment fee payable by *customers* holding that personal current account product on the last working day of the personal current account measurement period.

- 5C.4A.2 R (1) A *firm* must, when publishing the information required to be published under *CONC 5C.4A.1R(2)* and (3):
- (a) disregard an interest rate for the purpose of identifying the highest interest rate payable by *customers* if fewer than 1% of *customers* holding that personal current account product pay that rate of interest or a higher rate; and
  - (b) disregard an interest rate for the purpose of identifying the lowest interest rate payable by *customers* if fewer than 1% of *customers* holding that personal current account product pay that rate of interest or a lower rate.
- (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 *CONC 5C.4A.1R(2)* and (3).
  - (3) The rate of interest to be published under *CONC 5C.4A.1R(2)* and (3):
    - (a) must 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) must be the effective annual interest rate. The *firm* must use the same assumptions to calculate this interest rate as they do for the *APR*; the assumptions are set out in *CONC App 1.2*.
  - (4) Where the lowest, highest and median figures required to be published under *CONC 5C.4A.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.

How the information must be published

- 5C.4A.3 R (1) The *firm* must publish the information:
- (a) in the format specified in *CONC 5C Annex 1R*; and
  - (b) on the same webpage as, and immediately below, the information published under *BCOBS 7.6.3R*.
- (2) The information specified in *CONC 5C.4A.1R* must be published separately in relation to each trading name in respect of which the *firm* publishes personal current account service information.
- 5C.4A.4 G (1) Where a *firm* is subject to this section in respect of more than one trading name, *CONC 5C.4A.1R* requires the *firm* to publish separate information for each of its trading names.
- (2) Although the information is required to be published alongside the information published under *BCOBS 7* on a *firm's* website, the information is not required to also be made available through an application programming interface, regardless of whether the *firm* is required to make information published under *BCOBS 7* available in this way.
- 5C.4A.5 R (1) The information required to be published under *CONC 5C.4A.1R* 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.

Current account measurement period	Publication date
the period beginning on 1 January and ending on 31 March	15 May
the period beginning on 1 April and ending on 30 June	15 August
the period beginning on 1 July and ending on 30 September	15 November
the period beginning on 1 October and ending on 31 December	15 February



- (2) The information required under *CONC 5C.4A.1R(2)* to (4) must be published as it stood at 5:00 pm on the last working day of the current account measurement period as set out in the table in *CONC 5C.4A.5R(1)*.
- (3) The information required to be published under *CONC 5C.4A.R* must be easily accessible by a *banking customer* or a potential *banking customer*.

Amend the following as shown.

## 5C.5 Interpretation

5C.5.1 R In this chapter:

...

(4A) “personal current account service information” means information required to be published under *BCOBS 7* in respect of personal current accounts.

...

(5A) “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*.

Insert the following new Annex, *CONC 5C Annex 1R*, after *CONC 5C.5 (Interpretation)*. The text is not underlined.

### 5C Annex 1R Specified format for publication of information about personal current account overdrafts

Information about overdraft pricing in the 3 months between [e.g. 1 July 2020 and 30 September 2020]				
Product	Advertised APR during the quarter	Arranged overdraft interest rate on [e.g. 30 September	Unarranged overdraft interest rate on [e.g. September	Refused payment fee on [e.g. 30 September

		2020]	2020]	2020]
[name of product]	Lowest xx.x% Highest xx.x% Median xx.x%	Lowest xx.x% Highest xx.x% Median xx.x%	Lowest xx.x% Highest xx.x% Median xx.x%	£x
[name of product]	xx.x%	xx.x%	xx.x%	£x

Amend the following as shown.

### TP 8 Other transitional provisions

(1)	(2)	(3)	(4)	(5)	(6)
	<b>Material to which the transitional provision applies</b>		<b>Transitional provision</b>	<b>Transitional provision: dates in force</b>	<b>Handbook provision coming into force</b>
...					
<u>6</u>	<u>CONC 5C.4A.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>7</u>	<u>CONC 5C.4A.5</u>	<u>R</u>	<u>The current account measurement period ending on 30 June 2020 is to be treated as having begun on [6 April 2020].</u>	<u>6 April 2020 to 16 November 2020</u>	<u>6 April 2020</u>
<u>8</u>	<u>CONC 5C Annex 1</u>	<u>R</u>	<u>When publishing information about the current account measurement period ending on 30 June 2020: (1) the heading to the table must read “Information about overdraft pricing in the</u>	<u>6 April 2020 to 16 November 2020</u>	<u>6 April 2020</u>

			<p><u>period between 6 April 2020 and 30 June 2020</u>”; <u>and</u></p> <p><u>(2) the heading to the second column must read “Advertised APR during this period”.</u></p>		
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