Chapter 8

Tools for personal current account customers

8.4   Alerts

Application

8.4.1 `R` (1) Subject to ■ BCOBS 8.4.2R this section applies to a *firm* in relation to personal current accounts held with the *firm* under a trading name if 70,000 or more personal current accounts are held with the *firm* under that trading name.

(2) This section does not apply to excluded personal current accounts.

8.4.2 `R` Where a *firm* has notified a *banking customer* in accordance with ■ BCOBS 8.4.6R that they will receive alerts under this section in respect of a personal current account, this section continues to apply to the *firm* in respect of that personal current account, even if it would not apply to the *firm* under ■ BCOBS 8.4.1R, until:

(1) the *firm* has notified the *banking customer* in writing that they will no longer receive the alerts they were previously notified of; and

(2) 28 *days* have elapsed since the *firm* sent the notification.

Automatic enrolment

8.4.3 `R` (1) Except as otherwise provided for in ■ BCOBS 8.4.5R, a *firm* must ensure that in relation to each personal current account held by a *banking customer*, the *banking customer* is, by the date specified in (2), enrolled to receive:

(a) arranged overdraft alerts in accordance with ■ BCOBS 8.4.12R;

(b) unarranged overdraft alerts in accordance with ■ BCOBS 8.4.13R; and

(c) attempt to overdraw without prior arrangement alerts in accordance with ■ BCOBS 8.4.15R.

(d) [deleted]

(2) A *banking customer* is enrolled to receive alerts in relation to a personal current account when:

(a) the *firm* has put in place arrangements that enable it to comply with this section; and

(b) those arrangements are operational in respect of that personal current account.

(3) Where a personal current account is held by two or more *banking customers* jointly, a *firm* must enrol each *banking customer* in the alerts required under this section.

(4) A *firm* must comply with (1) not later than whichever is the latest of:

  (a) the day one year after the first time that 70,000 or more personal current accounts are held with the *firm* under that trading name;

  (b) three working days after the agreement for the personal current account is concluded;

  (c) where ■ BCOBS 8.4.4R(1) applies, ten working days after:

    (i) the *firm* obtains a mobile telephone number from the *banking customer*; or

    (ii) if the *firm* provides alerts by push notification from a mobile banking application, the *banking customer* is able to receive alerts in this way; and

  (d) where a personal current account had no arranged overdraft at the time it was opened (and ■ BCOBS 8.4.5R(2) therefore applied at that time) and an arranged overdraft was subsequently agreed in relation to that personal current account, three working days after the agreement for the arranged overdraft is concluded.

8.4.4 R

(1) Where a *firm* is required to enrol a *banking customer* in alerts under this section but the *firm*:

  (a) does not hold a mobile telephone number for the *banking customer*; or

  (b) has reasonable grounds to believe that the mobile telephone number held in respect of the *banking customer* is no longer used by the *banking customer*;

  the *firm* must take reasonable steps to obtain a mobile telephone number to which alerts may be sent to that *banking customer* within a reasonable time.

(2) Before opening a new personal current account, a *firm* must:

  (a) take reasonable steps to obtain the *banking customer's* mobile telephone number for the purposes of enrolling them in alerts relating to that personal current account; or

  (b) where the *firm* already holds a mobile telephone number for the *banking customer*, seek the *banking customer's* confirmation that the mobile telephone number held by the *firm* is the *banking customer's* preferred mobile telephone number for the purposes of receiving alerts relating to that personal current account.

(3) Where a *banking customer* declines to provide or confirm a mobile telephone number when requested to do so under (1) or (2) the *firm* must warn the *banking customer* that they will not be able to receive alerts about their overdraft use and as a result may incur avoidable charges.

(4) This *rule* does not apply if:

(a) the *firm* provides alerts by push notification from a mobile banking application and the *banking customer* is able to receive alerts in this way; or

(b) the *banking customer* has elected to receive alerts in respect of that personal current account by an alternative means in accordance with ■ BCOBS 8.4.8R(3).

Exceptions to automatic enrolment

8.4.5 **R**

(1) A *firm* is not required to enrol a *banking customer* to receive alerts under ■ BCOBS 8.4.3R in the circumstances set out in (2) to (4).

(2) A *firm* is not required to enrol a *banking customer* to receive arranged overdraft alerts in accordance with ■ BCOBS 8.4.12R in respect of a personal current account that has no arranged overdraft.

(3) A *firm* is not required to enrol a *banking customer* to receive a particular type of alert in respect of a personal current account if that *banking customer* already receives an alert or alerts that perform at least an equivalent function.

(4) A *firm* may elect not to enrol a *banking customer* to receive alerts in respect of a personal current account if that *banking customer* has requested not to receive an alert or alerts relating to that *banking customer's* overdraft usage.

(5) For the purposes of (4), a *banking customer* is not to be treated as having requested not to receive an alert merely because it has been previously offered to them.

Notification of enrolment

8.4.6 **R**

(1) A *firm* must notify a *banking customer* who has been (or will be) enrolled to receive alerts that they have been (or will be) so enrolled.

(2) When giving such notification the *firm* must also inform the *banking customer* of any options available to customise the alerts the *banking customer* receives to suit the *banking customer's* needs and the method or methods available for doing so.

8.4.7 **G**

A *firm* that has complied with ■ BCOBS 4.4.4R when opening the personal current account will have complied with ■ BCOBS 8.4.6R and need not provide a further notification to the *banking customer.*

Method for delivering alerts

8.4.8 **R**

A reference in this section to an alert being sent in respect of a personal current account is to the *firm* completing all steps necessary to initiate the sending of an alert:

(1) by SMS text message to the *banking customer's* mobile telephone number;

(2) by push notification from a mobile banking application; or

(3) by an alternative method if:

(a) that method provides for secure and reliable receipt by the *banking customer* in a comparable timeframe from the point when the *firm* sends the alert to the methods provided for in (1) or (2); and

(b) the *banking customer* has expressly and freely opted to receive alerts by way of such delivery method instead of the methods provided for in (1) or (2).

8.4.9 G An 'opt-out' or pre-filled check box to receive alerts by an alternative method would not satisfy the requirement in ■ BCOBS 8.4.8R(3)(b) for the *banking customer* to have expressly and freely opted to receive alerts by an alternative method.

Customising alerts

8.4.10 R (1) A *firm* must put in place arrangements that allow a *banking customer* to choose not to receive the alerts required by ■ BCOBS 8.4.12R and ■ BCOBS 8.4.13R.

(2) A *firm* may restrict a *banking customer's* ability to choose not to receive the alerts required by ■ BCOBS 8.4.13R so that the *banking customer* can choose not to receive those alerts only if they also choose not to receive alerts under ■ BCOBS 8.4.15R.

(3) A *firm* must ensure that any arrangements put in place for *banking customers* to choose not to receive alerts, or to otherwise customise alerts, are easily accessible free of charge, clear and straightforward.

(4) A *firm* must warn a *banking customer* who chooses not to receive some or all alerts that they will not receive alerts about their overdraft use and as a result may incur avoidable charges.

8.4.11 G (1) ■ BCOBS 8.4.10R does not prevent a *firm* from allowing a *banking customer* to customise alerts in additional ways to that required by that *rule*.

(2) The effect of ■ BCOBS 8.4.10R(1) and (2) is that a firm:

(a) need not allow a *banking customer* to opt out of receiving attempt to overdraw without prior arrangement alerts; and

(b) may offer a combined opt out for attempt to overdraw without prior arrangement alerts and unarranged overdraft alerts, and not offer an independent opt out for each of these alerts.

A *banking customer* should be able to opt out of arranged overdraft alerts regardless of the other alerts the banking customer chooses to receive.

(3) Nothing in this section prohibits a *firm* from offering alerts additional to those required by this section, such as alerts sent when:

(a) the balance of the personal current account is low;

(b) the personal current account approaches the applicable overdraft limit; or

8

(c) there are insufficient funds to process a transaction at a particular time but the *firm* will attempt to process the transaction again.

(4) A *firm* that provides alerts by push notification from a mobile banking application should take reasonable steps to enable it to detect circumstances where a *banking customer* has disabled push notifications, including otherwise than through the banking application, so as to enable it to either:

(a) continue to provide alerts by an alternative permitted method; or

(b) comply with ■ BCOBS 8.4.10R(4).

(5) A *firm* should continue to send the alerts required by the *rules* in this section unless the *banking customer* chooses not to receive them. If the *firm* is dealing with a *banking customer* who is in financial difficulty, in default, or otherwise vulnerable the *firm* may discuss with the *banking customer* whether they wish to continue receiving alerts under the *rules* in this section, but the choice of whether to do so should remain with the *banking customer.*

Arranged overdraft alerts

8.4.12   R

(1) A *firm* must send an alert to a *banking customer* if the *firm*:

(a) knows based on information available to it that the *banking customer's* personal current account is making use of arranged overdraft; or

(b) is reasonably able to determine that, taking into account information it has access to on transactions due to be settled, the *banking customer's* personal current account will make use of arranged overdraft that *day* in the absence of:

(i) action by the *banking customer*; or

(ii) a transaction other than those the *firm* is aware of.

(2) The alert must communicate to the *banking customer* in plain simple language:

(a) the reason why the alert has been sent;

(b) that the *banking customer* will or may incur charges if they become or remain overdrawn, if this is the case.

Unarranged overdraft alerts

8.4.13   R

(1) A *firm* must send an alert to a banking customer if the *firm*:

knows based on information available to it that the *banking customer's* personal current account has entered unarranged overdraft;

is reasonably able to determine that, taking into account information it has access to on transactions due to be settled, the *banking customer's* personal current account will enter unarranged overdraft in the absence of:

(i) action by the *banking customer*; or

(ii) a transaction other than those the *firm* is aware of.

(2) The alert must communicate to the *banking customer* in plain simple language:

(a) the reason why the alert has been sent;

(b) that the *banking customer* will or may incur charges if they enter or remain in unarranged overdraft, if this is the case; and

(c) that the *banking customer* has a period of time during which they have an opportunity to take action to avoid or reduce charges, and specify:

(i) the actions which may be taken; and

(ii) the time by which the *customer* must take such action to reduce or avoid the charge or charges.

8.4.14   G   (1) The period communicated under ■ BCOBS 8.2.13R(2)(c) should give the *banking customer* as good an opportunity to take action to avoid or reduce charges as possible, having regard to:

(a) the time when the alert is required to be sent;

(b) the terms and conditions applicable to the personal current account; and

(c) the *firm's* obligations under:

(i) the *Payment Services Regulations*; and

(ii) ■ BCOBS 5.1.1R.

(2) Firms should keep in mind regulation 89 of the *Payment Services Regulations* (Value date and availability of funds). Where it applies, the alert must reflect that, if a payment is made in response to an alert and credited to the *firm's* account, the *firm* must give value for the payment on the same business day (as defined in the *Payment Services Regulations*) no matter how late in the business day the payment is credited to the *firm's* account.

[**Note:** Guidance on the concept of a business day is available in the FCA's Approach to Payment Services and Electronic Money document: https://www.fca.org.uk/publication/finalised-guidance/fca-approach-payment-services-electronic-money-2017.pdf]

Attempt to exceed alerts

8.4.15   R   (1) A *firm* must send an alert to a *banking customer* if the *firm*:

(a) knows based on information available to it that the *banking customer* has incurred a charge for attempting to enter unarranged overdraft but has not entered unarranged overdraft because the *firm* declined to process the transaction; or

(b) is reasonably able to determine that, taking into account information it has access to on transactions due to be settled, a situation described in (a) will occur that *day* in the absence of:

(i) action by the *banking customer*; or

(ii) a transaction other than those the *firm* is aware of.

(2) The alert must communicate to the *banking customer* in plain simple language:

8

(a) the reason why the alert has been sent; and

(b) that the *banking customer* has incurred or may incur charges, if this is the case.

8.4.16 R [deleted]

General provisions about the timing and content of alerts

8.4.17 R Where a *firm* has sent an alert under ■ BCOBS 8.4.12R to ■ 8.4.15R it is not required to send a further alert in respect of the same personal current account under the same rule unless, since the last alert under that rule was sent:

(1) in respect of alerts sent under ■ BCOBS 8.4.12R(1)(a), any arranged overdrawing has been repaid;

(2) in respect of alerts sent under ■ BCOBS 8.4.12R(1)(b), either:

    (a) the personal current account did not enter arranged overdraft on the *day* the alert was sent; or

    (b) the personal current account entered arranged overdraft but any arranged overdrawing has been repaid;

(3) in respect of alerts sent under ■ BCOBS 8.4.13R(1)(a), any unarranged overdrawing has been repaid;

(4) in respect of alerts sent under ■ BCOBS 8.4.13R(1)(b), either:

    (a) the personal current account did not enter unarranged overdraft on the *day* the alert was sent; or

    (b) the personal current account entered unarranged overdraft but any unarranged overdrawing has been repaid; or

(5) in respect of alerts sent under ■ BCOBS 8.4.15R, the obligation to send the alert arises because of a further attempt to enter unarranged overdraft.

(6) [deleted]

(7) [deleted]

8.4.18 R (1) Subject to (2) to (4), a *firm* must send an alert required by this section as soon as practicable after the circumstances giving rise to the obligation to send the alert arise.

(2) Where the obligation to send an alert or alerts is brought about by one or more scheduled payments, the *firm* must:

    (a) where the alert is required under ■ BCOBS 8.4.13R or ■ BCOBS 8.4.15R, send an alert no later than 10:00 am on the day when the obligation to send the alert arises;

    (b) where the alert is required under ■ BCOBS 8.4.12R, send an alert no later than 12:00 midday on the day when the obligation to send the alert arises; and

(c) treat all scheduled payments due to be debited from the personal current account on a single *day* as a single transaction for the purposes of (3).

(3) Where a transaction would, apart from this paragraph, give rise to an obligation to send multiple alerts under different *rules* in this section, a *firm* must only send the alert most relevant to the anticipated final balance of the personal current account after the transaction.

(4) Where a series of transactions that the *firm* becomes aware of in rapid succession would, apart from this paragraph, give rise to an obligation to send multiple alerts under different *rules* in this section, a *firm* may treat them as a single transaction for the purposes of (3).

(5) Nothing in this section requires a *firm* to send an alert where doing so would be a breach of another regulatory requirement applicable to the *firm*.

(6) In this *rule*, a "scheduled payment" is a payment where the *firm* has knowledge of both the amount and date of the payment on the *day* before it is to be debited from the personal current account.

8.4.19   G   (1) The purpose of the alerts in this section is to give *banking customers* notice of potential and actual arranged and unarranged overdraft use to enable them to:

(a) take informed decisions about their personal current account use; and

(b) where possible, take action to avoid such use if it is not in their interests.

(2) The *rules* in this section leave scope for *firms* to customise alerts to suit the method used to send them, the *firm's* products, brands and customers.

(3) The content required by the *rules* in this section is minimum content and *firms* may choose to include additional content in the alerts including information about:

(a) the balance of the personal current account;

(b) the *banking customer's* pre-arranged overdraft limit; and

(c) the amounts of charges that the *banking customer* will or may incur.

(4) Certain accounts provide for arranged or unarranged borrowing to be free of charge in limited circumstances, or for certain amounts. This is a situation where the customer 'may be charged' for their overdraft use. Where this is the case, a *firm* that is required under the *rules* in this section to inform a *banking customer* that they will or may be charged should take care that the alert is fair, clear, and not misleading. In particular where the borrowing does not give rise to a charge the *firm* may:

(a) inform the *banking customer* that they may be charged;

(b) inform the *banking customer* that they will not be charged in the circumstances that have triggered the alert and set out the

circumstances in which the *banking customer* may be charged in the future; or

(c) where the *firm* has put in place arrangements to provide a further alert to the *banking customer* if a charge arises in the future:

(i) make no reference to charges in the alert; or

(ii) inform the *banking customer* that they will not be charged based on the usage that has triggered the alert.

(5) *Firms* should have regard to available evidence about the content and presentation that is most effective at engaging *banking customers* when designing the content and presentation of alerts in compliance with these *rules*.

(6) The requirement to send alerts as soon as practicable in ■ BCOBS 8.4.18R(1) does not preclude a *firm* from grouping alerts due to be sent to *banking customers* in 'batches', provided that alerts are sent at reasonable intervals.