

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*,² or an operationally distinct brand of such a *firm*,² 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]
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[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)
	Material to which the transitional provision applies		Transitional provision	Transitional provisions: dates in force	Handbook provisions coming into force
...					
<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>