

Terms of Reference for the Branch Access Feasibility Study

1. Background

In March 2002 the Competition Commission published its Report into the supply of banking services to SMEs. One of the remedies proposed by the Report was for the Banks to:

“investigate the feasibility, costs and associated benefits of a national scheme in which the main clearing groups would be required to enter into arrangements (not necessarily reciprocal) with those without a local branch presence in a particular area for use of branches on fair, reasonable and non-discriminatory terms to be approved by the DGFT, and publish the results one year after publication of this report”.

The Terms of Reference outline the proposed methodology that the Banks will adopt.

2. Overall Approach

In order to investigate and report on the feasibility, costs and associated benefits of a Scheme of Third Party Access, it is proposed to adopt a two phase approach. The first phase will review the key Money Transmission Transactions which new entrant banks may reasonably require and how these may be made available to them, including whether existing services (e.g. the current inter-bank agency arrangements) can be adapted to provide an effective service to new entrants to the extent that they do not currently do so. The second phase will only be undertaken if it is concluded that on balance of feasibility, costs and associated benefits, a Scheme of Third Party Access may be a proportionate action, especially in light of existing services which could be adapted if found necessary.

3. Phase I

The following issues will be considered in the first phase:

- (i) identification of the key Money Transmission Transactions which new entrant banks may reasonably require in order to provide a service to their customers in areas of the country where they have no branches;
- (ii) a review of current inter-bank agency arrangements and the extent to which such arrangements meet the reasonable requirements of new entrant banks;
- (iii) consideration of any enhancements that might reasonably be made to such current arrangements, e.g. increased transparency, increased public awareness of such arrangements;
- (iv) consideration of the ability and capacity of the Post Office to act as a potential supplier of facilities;
- (v) consideration of the identity, ability and capacity of other potential suppliers of such facilities;
- (vi) means by which such a scheme could operate within the legal and regulatory framework (e.g. money laundering requirements) to ensure that the responsibility for their customers remains with their bank and not any third party;
- (vii) identification of the cost effectiveness of any additional IT, operational or reporting requirements that will be placed on the bank branch offering access to third parties;
- (viii) consideration of the relevance of and lessons from the BBA sponsored Branch Sharing Pilot;
- (ix) the extent to which the Banks (or any of them) can be expected to offer adequate third party access without the adoption of a Scheme of Third Party Access and the terms and conditions upon which the access might be provided on a cost-effective basis;
- (x) an examination of the effects of a Scheme of Third Party Access on third parties (e.g. the Post Office);

- (xi) an examination of the effects on the Banks' infrastructure and customer service of being obliged to offer third party access (e.g. the ability to continue to serve new and existing customers to the requisite standard; the effects on the incentives for the Banks to invest and innovate vis-à-vis their respective infrastructure; and the effects on the Banks' policies vis-à-vis branch closure);
- (xii) consideration of issues related to charges for access to branches for new entrant banks .
- (xiii) outline the feasibility, costs and associated benefits of a Scheme of Third Party Access, in light of the above;
- (xiv) finally, whether on balance a Scheme of Third Party Access can be expected to make a material contribution to further enhancing competition in the provision of liquidity management services to SMEs in the United Kingdom.

4. Phase II

The main focus of this phase would depend on the conclusions and recommendations arising from Phase I, but would, if appropriate, include a more detailed review of the issues involved in developing a Scheme of Third Party Access. Some areas that may need to be considered could include:

- (i) the persons by whom access could be provided;
- (ii) the persons to whom access could be provided;
- (iii) the branches to which access could be provided;
- (iv) the terms and conditions upon which such access might be provided;
- (v) the procedures to be adopted for the resolution of disputes between any Bank providing such services and any person to whom it has agreed to provide such services; and
- (vi) the duration of any Scheme of Third Party Access.

5. Process and Other Points

Working Group

- (i) It is envisaged that the Banks would appoint a working group to run the project.
- (ii) This working group of Banks will be made up of one or two representatives of each Bank and the working group may also include an independent consultant employed by the Banks.
- (iii) The working group will meet with the OFT and its consultants as reasonably required to update on progress. The OFT will also be provided with drafts of the final report prior to publication. (It is presently anticipated that initial draft chapters could be shared with the OFT in late 2002, and that a draft of the complete Phase I report could be made available to the OFT in early 2003.)

Timing

- (iv) It is proposed that the Report will be produced in accordance with the timescales set out in the behavioural undertakings.

Publication (and content) of the Report(s)

- (v) The Report will be made available to the OFT and a non-confidential version, approved by all the Banks, will be made available to third parties.
- (vi) To the extent that any Bank or Banks disagree with any views or conclusions set out in the Report(s), the Report(s) will record that such disagreement exists and will set out the reasons for such disagreement.
- (vii) The final non-confidential version of the report will be published on the BBA website.

ANNEX

Definitions

The following terms above bear the following meanings:

“Banks” means each of the following;:

AIB Group (UK) plc, in respect of First Trust Bank’s SME business and branches in Northern Ireland.

Bank of Ireland, in respect of its SME business and branches in Northern Ireland.

Barclays Bank PLC, in respect of its SME business and branches in England and Wales.

Clydesdale Bank (a subsidiary of National Australia Bank Limited), in respect of its SME business and branches in Scotland.

HBOS plc, in respect of Bank of Scotland’s SME business and branches in Scotland.

HSBC Bank plc, in respect of its SME business and branches in England and Wales.

Lloyds TSB Bank plc, in respect of its SME business and branches in England and Wales,

Northern Bank Limited (a subsidiary of National Australia Bank Limited), in respect of its SME business and branches in Northern Ireland.

The Royal Bank of Scotland Group, including The Royal Bank of Scotland plc in respect of its SME business and branches in Scotland, National Westminster Bank plc in respect of its SME business and branches in England and Wales and Ulster Bank Ltd in respect of its SME business and branches in Northern Ireland.

“inter-bank agency arrangements” means arrangements proposed and agreed on a reciprocal basis as presently in place amongst [ten] banking groups (excluding the Bank of England and Girobank), whereby one bank agrees with another bank to allow customers of the other bank to use its branches to conduct certain money transmission transactions, in return for a payment by that other bank;

“liquidity management services” bears the meaning attributed to that phrase in paragraph 2.39 of the Competition Commission report;

“Money Transmission Transactions” means certain services currently supplied through the Banks’ existing branch networks namely the withdrawal of sterling cash, the deposit of sterling cash, the exchange of sterling cash for different denominations of sterling cash, and the paying in of sterling cheques (and the processing of special presentations and unpaid cheques), but is limited to the conduct of such transactions by an SME by prior arrangement between the SME customer’s bank and the relevant Bank at which such transactions are to be conducted;

“new entrant bank” means a bank which provides, or can reasonably be expected to provide, liquidity management services to SMEs in all or part of the United Kingdom and which may require facilities for its SME customers to conduct Money Transmission Transactions at branches of one or more Banks in those parts of the United Kingdom where such bank has no local branch presence (and a Bank may itself be treated as such a new entrant bank in parts of the United Kingdom where it does not itself have a branch presence to serve its SME customers);

“Scheme of Third Party Access” means a scheme whereby the Banks would be required to offer to some or all new entrant banks a contractual arrangement whereby SME customers of such a new entrant bank would be able to use specified branches of one or more of the Banks to conduct Money Transmission Transactions;

“third party access” means any arrangement concluded between one or more of the Banks and a new entrant bank whereby SME customers of such a new entrant bank are able to use specified branches of one or more of the Banks to conduct Money Transmission Transactions.