

19 December 2024

Memorandum of understanding between the Competition and Markets Authority, the Bank of England and the Prudential Regulation Authority for regulatory coordination under Part 1 of the Digital Markets, Competition and Consumer Act (2024)

Introduction

1. This Memorandum of Understanding (**'MoU'**) outlines the arrangements by which the Competition and Markets Authority (the **'CMA'**), the Bank of England (the **'Bank'**) and Prudential Regulation Authority (the **'PRA'**) (together, **'the Parties'**) will give effect to the provisions in Part 1 of the Digital Markets, Competition and Consumer Act 2024 (**'DMCC Act'**) with regard to regulatory cooperation.
2. Unless otherwise stated, references in this MoU to the Bank include the Bank in its capacity as the PRA.
3. This MoU relates to Part 1 of the DMCC Act only. In particular, it does not seek to amend, replace, repeal or affect the arrangements of the Memorandum of Understanding between the Bank and the CMA, dated December 2023, which establishes a framework of cooperation, information sharing and constructive communication between the Bank and the CMA.¹

Background

4. The DMCC Act includes certain provisions on regulatory coordination where there may be interactions between the CMA and various other regulators. There are a number of areas where there may be interactions between the CMA's statutory functions under the DMCC Act and those of the Bank. The CMA recognises that effective and proportionate coordination with the Bank will help the CMA achieve its purpose to help people, businesses and the UK economy by promoting competitive digital markets.
5. Coordination between the CMA and the Bank will engender a coherent approach to digital regulation in the round and enable the CMA to draw on the

¹ [CMA and Bank of England memorandum of understanding - GOV.UK](#)

expertise of sectoral regulators to help effectively promote competition in digital markets.

6. The arrangements covered by this MoU are, wherever possible, set out in terms providing sufficient flexibility for the relationship between the Bank and the CMA to develop in the light of experience. The CMA and the Bank may review these arrangements from time to time to evaluate their continuing fitness for purpose. Such review can be initiated at the request of the CMA or the Bank. This MoU may only be revised by agreement between the Parties.

Role of the CMA

7. The CMA is a non-ministerial department, established under the Enterprise and Regulatory Reform Act 2013 whose aim is to help people, businesses and the UK economy by promoting competitive markets and tackling unfair behaviour. The CMA has a statutory duty to seek to promote competition, both within and outside the United Kingdom, for the benefit of consumers.
8. Part 1 of the DMCC Act confers powers on the CMA in relation to the promotion of competition in digital markets. Under the DMCC Act, the CMA has the power to designate firms as having Strategic Market Status ('**SMS**') in relation to a digital activity. Once designated, the CMA will be able to set requirements on how these firms should conduct themselves in relation to that activity (Conduct Requirements ('**CRs**')). The CMA will also be able to investigate whether there are factors relating to a relevant digital activity that are adversely affecting competition and which could be addressed through Pro-Competition Interventions ('**PCIs**').

Role of the Bank

9. At the highest level, the Bank is responsible for monetary policy and financial stability, primarily through its Monetary Policy Committee, Financial Policy Committee, Financial Market Infrastructure Committee and Prudential Regulation Committee.
10. It is responsible for the oversight and supervision of recognised payment systems, securities settlement systems and central counterparties, collectively, 'financial market infrastructures'.
11. When acting through its Financial Policy Committee and in its role of oversight and supervision of financial market infrastructures through the Financial Market Infrastructure Committee the primary object is to protect and enhance the stability of the financial system of the United Kingdom (the Financial

Stability Objective). In relation to the oversight and supervision of central counterparties and securities settlement systems, the Bank has an additional secondary objective to, when exercising its functions in a way that advances the Financial Stability Objective, act in a way which, as a secondary objective, facilitates innovation in the provision of services provided by central counterparties and securities settlement systems (including in the infrastructure used for that purpose) with a view to improving the quality, efficiency and economy of the services.

12. It is also the UK's resolution authority with powers to manage the failure of banks, building societies, central counterparties and certain types of investment firms.
13. When acting in its capacity as the PRA, it is responsible for promoting the safety and soundness of PRA-authorized persons, that is, deposit-takers, designated investment firms and insurance firms, and in the specific context of insurance, contributing to an appropriate degree of protection for those who are or may become policyholders.
14. The PRA also has two secondary objectives. These require it, when discharging its general functions in a way that advances its objectives, so far as is reasonably possible, to act in a way which facilitates effective competition in the markets for services provided by PRA-authorized persons in carrying on regulated activities and, subject to aligning with international standards, the international competitiveness of the UK economy and its growth in the medium to long term.
15. Within these objectives, the Bank and the PRA share a common goal (also with the Financial Conduct Authority (the '**FCA**')) to manage potential risks to the stability of, or confidence in, the UK financial system that may arise due to a failure in, or disruption to, the service that a critical third party ('**CTP**') provides to one or more firms operating in that system. The Bank, the PRA and the FCA must coordinate the exercise of their respective functions under Chapter 3C of Part 18 of Financial Services and Markets Act 2000 ('**FSMA**') and requirements arising under that chapter. How these regulators achieve this coordination, including information sharing, is set out in the Bank/PRA/FCA CTP MoU. ²

² [Memorandum of Understanding between the Bank of England, FCA and PRA - GOV.UK](#)

Legislative requirements

Coordination with regulators

16. Section 107(4) of the DMCC Act requires the CMA to consult the Bank on a proposal to exercise a regulatory digital markets function in a manner that the CMA considers is likely to have a material adverse effect on the ability of the Bank of England to advance the Financial Stability Objective as defined in the Bank of England Act 1998.
17. Section 107(5) of the DMCC Act requires the CMA to consult the PRA on a proposal to exercise a regulatory digital markets function in a manner that the CMA considers is likely to have a material adverse effect on the ability of the PRA to advance: (a) its general objective under section 2B of FSMA; or (b) its insurance objective under section 2C of FSMA.
18. The CMA's duty to consult the relevant regulators including the Bank and the PRA under section 107 of the DMCC Act applies only to the extent that the CMA considers that compliance does not impose a burden on it that outweighs the benefits of compliance.³

Regulatory digital markets functions

19. The 'regulatory digital markets functions', to which the duty to consult apply, are defined in the legislation as:⁴
 - the power to open a SMS investigation under section 9(1) of the DMCC Act or a further SMS investigation under section 10(1) or (2) of the DMCC Act;
 - the power to designate an undertaking as having SMS under Chapter 2 of the DMCC Act;
 - the power to revoke a designation under Chapter 2 of the DMCC Act;
 - the power to impose or revoke CRs under Chapter 3 of the DMCC Act; and
 - the power to make, replace or revoke PCIs under Chapter 4 of the DMCC Act.

³ Section 107(6) of the DMCC Act.

⁴ Section 118 of the DMCC Act.

Status of this MoU

20. The arrangements set out in this document are without prejudice to other statutory requirements for regulatory coordination (see paragraph 3). This MoU is not intended to have legal effect.
21. This MoU is to be read alongside the CMA's Guidance on the Digital Markets Competition Regime (**'the Guidance'**).⁵ This MoU supplements and does not supersede that material. In the case of any conflict between the processes set out in this MoU and the Guidance, the Guidance will prevail.
22. Unless otherwise stated, defined terms used in this MoU shall have the same meaning as under the DMCC Act.

General coordination

23. The Parties are committed to working closely together to ensure effective regulatory coordination, in support of the CMA's effective implementation and operation of the digital markets regime, and the Bank/PRA's responsibilities to protect and enhance the stability of the financial system. This approach builds on the existing close relationship between the Parties.
24. The Parties will take a flexible and efficient approach to implementing and operating the arrangements set out in this MoU, given the wide-ranging nature of the DMCC Act, and to ensure that coordination is manageable, given the available resources.
25. The Parties will have regular bilateral meetings to support effective coordination. Among other things, these meetings may be used insofar as appropriate and permitted by law, to share each party's respective pipeline of upcoming work related to digital markets known at the time of the meeting. This may include the CMA informing the Bank if it intends to exercise a regulatory digital market function relevant to the Bank. These meetings will exist in addition to, rather than as a substitute for, the arrangements relating to the CMA's duty to consult under section 107 of the DMCC Act, as set out below.

Duty to consult

26. Consultation with the Bank and the PRA pursuant to section 107 of the DMCC Act will engender a coherent approach to digital regulation in the UK and

⁵ [Digital Markets Competition Regime guidance - GOV.UK](#)

enable the CMA to draw on the expertise of the Bank and PRA to help effectively discharge their regulatory digital markets functions.

27. Where the CMA proposes to exercise a regulatory digital market function that it considers may relate to the Banks or the PRA's functions, it will share sufficient information with the Bank or PRA to enable the Parties to discuss whether the proposal relates to a relevant Bank or PRA function. The CMA will then take a decision on whether the duty to consult under section 107(4) or section 107(5) of the DMCC Act applies.
28. Where the CMA considers that it is appropriate to consult under section 107(4) or 107(5), any consultation will involve open dialogue between the Parties and the sharing of relevant information as appropriate, to the extent permitted by law.⁶ The form of consultation, including its duration, scope and objective will be agreed on a case-by-case basis by discussion between the Parties. The Parties may also discuss what information or expertise the Bank may have to support the CMA in discharging its functions
29. As set out in section 107(6) of the DMCC Act, the duty to consult applies only to the extent that the CMA considers that compliance does not impose a burden on it that outweighs the benefits of compliance. Any decision by the CMA not to consult the Bank, including where the CMA considers that the duty to consult under section 107 of the DMCC Act does not apply, will not preclude further consultation on the same matter where the CMA considers it appropriate.
30. The CMA will give full consideration to the Bank's views on the consulted matter and will discuss the CMA's intended next steps with the Bank at an appropriate point, as discussed between the Parties.

Information sharing

31. The CMA and the Bank recognise the importance of sharing relevant information to fulfil the duty for the CMA to consult the Bank, whilst maintaining each Party's statutory obligations with respect to confidential information under the relevant legal frameworks.
32. Any disclosure of information pursuant to the exercise of functions under Part 1 of the DMCC Act provided in the context of the regulatory cooperation arrangements set out in this MoU, and any use of such information by the recipient, shall be done in accordance with paragraphs 22 to 29 of the

⁶ See paragraphs 31–32.

Other forms of support

33. In addition, and separate to, the arrangements set out above, the Parties may provide each other with more informal support to enable the CMA to carry out its functions in relation to digital markets in the UK (in each case, to the extent that it is appropriate and permitted by law, and that resources permit) and the Bank to carry out its statutory and regulatory functions in relation to financial stability where these may relate to digital markets including, but not limited to:
- answering each other's specific queries from time to time;
 - providing each other with information or views on a specific sector or market, or an area of policy; and
 - providing each other with training on a specific sector or market, or an area of policy.
34. Such support may be requested and provided in connection with the exercise of a specific function or with the promotion of competition in digital markets more generally. In this regard, both the CMA and the Bank will act reasonably based on the circumstances, including by providing sufficient time and information for requests for support to be responded to fully and effectively and for the relevant staff to be engaged.

⁷ [CMA and Bank of England memorandum of understanding - GOV.UK](#)