

## **Pre-notification: current requirements, practices and future requirements**

### **Introduction**

1. This appendix outlines (a) the requirements and obligations that banks face concerning the need to pre-notify customers of charges and interest costs on PCAs, and (b) the banks' current practices on pre-notification. It also outlines requirements which are expected to come into force in 2008 arising from the CCA 2006.

### **The Code requirements**

2. Section 5.5 of the Code requires that banks give customers at least 14 days' notice of any charge and interest for standard account services that accumulates to the PCA (ie that is rolled up to be deducted from a customer's account at the end of a particular period).
3. Examples of charges where 14 days' prior notification is required are:
  - usage fees for arranged overdrafts;
  - debit interest; and
  - charges for standard account services such as for processing cheques, standing orders, direct debits, and UK debit card transactions.
4. There is no requirement to pre-notify:
  - charges for services that are deducted from a customer's account at the time the service is provided and where the customer has been notified in advance (eg in the bank's price lists or terms and conditions), for example charges and additional interest payable for authorized or unauthorized borrowing (Code sections 5.1 to 5.3); and
  - charges for services that are deducted from a customer's account at the time the service is provided, and where the customer is informed of the charge at the time the service is requested, for example charges for stopped cheques or CHAPS (Code section 5.4).
5. The BCSB told us that the independent directors of the BCSB had, in their submission to the current review of the Code, recommended that all banks pre-notify default charges (eg unauthorized overdraft charges).

### **The Consumer Credit Act 2006 future requirements**

6. The relevant requirements on pre-notification of the CCA 2006 (which amends the CCA 1974) are likely to come into force in October 2008.
7. The CCA requires that creditors give the customer a notice when a sum becomes payable due to a breach of the agreement (default sum). Examples of such a default sum include charges imposed for late payment of an instalment or a fee imposed for exceeding a credit limit on a credit card. The term default sum does not apply to

interest, and therefore this provision would not apply to differential interest rates applied to unauthorized overdrafts.

8. The bank can only enforce the agreement and deduct charges from a customer's account once they have given notice. The CCA does not, however, provide for a particular notice period before the default sum is deducted from a customer's account. The bank may only require the customer to pay interest in connection with a default sum 28 days after the day the notice was given.
9. The notice may be issued separately or incorporated in a statement or another notice that is required under the CCA.
10. Practically, where a charge is incurred because a customer has exceeded their authorized overdraft, that charge would be considered to be a default sum. The bank could not, therefore, impose the charge until it had provided the customer with a notice. The bank would not be able to charge interest on the value of the charge until the 29th day after the notice was given, although it could charge a higher rate of interest on the overdrawn balance.

### **Banks' current practices**

11. Table 1 summarizes the banks' current practices on pre-notification, which comply with and may exceed the requirements of the Code.

TABLE 1 **Banks' current practices on pre-notification of charges**

	<i>Charges pre-notified</i>	<i>Pre-notification period</i>	<i>Pre-notification document</i>
<i>(i) Banks that exceed the Code requirements and pre-notify unauthorized overdraft charges</i>			
Nationwide	Nationwide pre-notifies all charges associated with unauthorized overdrafts	28 days from date of Notice of Charges statement with account statement	Notice of charges with account statement
Abbey	Abbey pre-notifies all paid and unpaid charges associated with unauthorized overdrafts.	Customers are notified in their monthly statement that the fees will be taken out of their account 14 days after the statement date	Account statement and in some instances, additional letters are also sent to customers
Halifax	Halifax pre-notifies unauthorized overdraft charges for paid and unpaid items.	Seven days from date of notification letter	Letter generated when charge incurred
<i>(ii) Banks that comply with the Code requirement and only pre-notify interest and charges that accumulate to the account</i>			
Bol	Bol pre-notifies authorized and unauthorized debit interest.		
	Default charges are not pre-notified.	Not applicable	Not applicable
<b>Paid items</b>			
	- A paid item charge (Referral Item Charge) is levied on the day the item is paid.		
	- Charges are detailed on the customers' bank statement. Customers are also notified by letter informing them that they have exceeded their overdraft facility and that they have incurred a charge. The customer is advised that should this happen again further charges may be incurred. The letter highlights the fact that these charges could have been avoided. Enclosed with the letter is a leaflet advising the customer how to avoid unauthorized borrowing and default charges.		
<b>Unpaid items</b>			
	- An Unpaid Charge is levied on the day the item is returned unpaid.		
	- Charges are detailed on the		

	customers' bank statement. Customers are also notified by letter informing them that an item presented for payment to their account has been returned due to insufficient funds and that they have been charged for this. The customer is advised that should this happen again further charges may be incurred. Enclosed with the letter is a leaflet advising the customer how to avoid unauthorized borrowing and default charges.		
A&L	A&L pre-notifies: <ul style="list-style-type: none"> <li>• Authorized overdraft interest</li> <li>• Unauthorized overdraft interest</li> <li>• Authorized overdraft charge</li> <li>• Unauthorized overdraft charge</li> </ul>		
	A&L does not pre-notify: <ul style="list-style-type: none"> <li>• Paid and Failed Item charges.</li> </ul> <b>Paid items</b> <ul style="list-style-type: none"> <li>- A referral item charge is levied immediately and shown on statement</li> </ul> <b>Unpaid items</b> <ul style="list-style-type: none"> <li>- A referral item charge is levied immediately and shown on statement</li> </ul>	Not applicable	Not applicable
Woolwich	Woolwich pre-notifies debit interest	Minimum 14 days	Bank statement
	Woolwich pre-notifies unauthorized overdraft fees	Minimum 14 days	By letter
	<b>Paid items</b> Charged the day after a guaranteed payment has caused an account to go overdrawn on an unauthorized basis. Woolwich notifies customers when they incur one of these charges		
	<b>Unpaid items</b> Charge applied and notified the day it is incurred		
First Trust	First Trust pre-notifies authorized and unauthorized debit interest.	14 days	Pre-notification advice
	It does not pre-notify unauthorized overdraft charges.	Not applicable	Not applicable
	<b>Paid items</b> <ul style="list-style-type: none"> <li>- Charge debited from account the day after the transaction</li> <li>- Customers informed via statement†</li> </ul>		
	<b>Unpaid items</b> <ul style="list-style-type: none"> <li>- Charge debited on return of item</li> <li>- Customers informed via statement†</li> </ul>		
Northern	Northern pre-notifies authorized and unauthorized debit interest and charges that accumulate over the period.‡ It does not pre-notify unauthorized overdraft fees.	12 working days	Letter detailing breakdown of charges and interest.
	<b>Paid and unpaid items</b> It takes a range of actions, both verbal and written, to help customers avoid unauthorized borrowing and to be aware of any associated charge. Texting & emailing service Unlike many other banks, Northern offers a service to send customers a text message or email when they near their overdraft limit. This service is available to all customers who elect to receive it. There is a charge of 10p for the text service to cover the cost of sending the message; email service is free of charge	Not applicable	Not applicable
		Sent on day customer exceeds their pre-selected balance, eg a customer with an overdraft limit of £1,000 may choose £800	Text or email triggered when customer's balance hits/exceeds a pre-arranged level

		debit as the level to trigger an email/text message	selected by customer
Ulster	<p>Ulster pre-notifies authorized and unauthorized debit interest. In addition to authorized and unauthorized debit interest, Ulster also pre-notifies the Unarranged Borrowing Fee. It does not, however, pre-notify the Unpaid Fee, Guaranteed Card Payment Fee or the Paid Referral Fee.</p> <p><b>Paid items</b></p> <ul style="list-style-type: none"> <li>- Charge is applied on the sixth business day of the month after the transaction took place.</li> <li>- Charge is not pre-notified</li> </ul> <p><b>Unpaid items</b></p> <ul style="list-style-type: none"> <li>- Charge applied at time transaction takes place</li> <li>- Charge is not pre-notified</li> </ul>	Not applicable	Separate pre-notification document for charges that are pre-notified

Source: CC analysis.

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†Statement frequency can be daily, weekly, fortnightly, monthly, quarterly, half yearly or annually.  
‡In addition, under Danske, Northern also pre-notifies the monthly package fee on Northern Choice Plus and Northern Prestige.

## Summary and conclusions

12. Only three banks currently pre-notify all unauthorized overdraft charges. Some of the banks (BoI, Northern and Woolwich) that do not pre-notify paid and unpaid item charges, nonetheless contact customers to inform them that the charges will be deducted from their account as soon as one of these charges is incurred.
13. After October 2008, to comply with the CCA 2006 all banks will need to pre-notify all unauthorized overdraft charges (interest is pre-notified already as it accumulates to the account). Requirements on pre-notification of authorized overdraft charges and interest will not change; these would not need to be pre-notified unless they accumulate to the account.
14. The CCA 2006 does not mandate the length of the pre-notification period and it does not require banks to link the pre-notification to the issuance of statements.
15. If the BCSB independent directors were to recommend that banks pre-notify 'default charges', it seems that this requirement, if included in the Code, would replicate the provision in the CCA 2006.