EUROPEAN
COMMISSION

Brussels, 18.9.2017
C(2017) 6184 final

COMMISSION DECISION

of 18.9.2017

STATE AID
SA.47702 (2017/C) (ex 2017/N) – United Kingdom
Alternative package to replace the commitment for the Royal Bank of Scotland to divest the Rainbow business

(Only the English version is authentic)

COMMISSION DECISION

of 18.9.2017

STATE AID
SA.47702 (2017/C) (ex 2017/N) – United Kingdom
Alternative package to replace the commitment for the Royal Bank of Scotland to divest the Rainbow business

(Only the English version is authentic)

In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […]		PUBLIC VERSION This document is made available for information purposes only.

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provision(s) cited above [1] and having regard to their comments,

Whereas:

1. PROCEDURE

(1) By decisions of 14 December 2009[2] ("**Restructuring Decision**"), the Commission declared a number of State aid measures[3] granted to Royal Bank of Scotland ("**RBS**") compatible with the internal market. The conclusion was reached on the basis of the restructuring plan ("**Restructuring Plan**") and of the commitments ("**Commitments**") issued by the Government of the United Kingdom (the "**UK authorities**").

[1] Commission Decision SA. 47702 - OJ C 142, 05.05.2017, p. 8.

[2] Commission Decision N422/2009 and N621/2009, OJ C119, 07.05.2010, p. 1.

[3] For a full list of the State aid measures approved, see recitals (31) to (77) of the Restructuring Decision.

(2) By decision of 9 April 2014[4] (**"Amended Restructuring Decision"**), the Commission declared that the notified amended list of commitments[5] (**"Amended Commitments"**) does not constitute State aid. The Amended Commitments also do not affect the conclusion reached in the Restructuring Decision that the State aid provided to RBS is compatible with the internal market on the basis of Article 107(3)(b) of the Treaty on the Functioning of the European Union (TFEU).

(3) Since the Amended Restructuring Decision was adopted, the Commission services, the UK authorities and RBS (directly or via the Monitoring Trustee appointed pursuant to the Restructuring Decision) have had frequent exchanges, in the form of meetings, conference calls and exchanges of emails and documents.

(4) On 17 February 2017, Her Majesty's Treasury (**"HMT"**) announced publicly that it would seek a formal amendment to replace the commitment to divest the Rainbow business[6] with a package of measures aiming to increase competition in the SME and mid-corporate banking market[7] ("**SME and mid-corporate banking market**").

(5) By letter dated 2 March 2017, the UK authorities notified the Commission of the formal request to replace the commitment to divest the so-called Rainbow business, as identified in the Restructuring Decision[8] and subsequently amended the Amended Restructuring Decision[9].

(6) By letter dated 4 April 2017 ("**Opening Decision**"), the Commission informed the UK authorities that it had decided to initiate the procedure laid down in Article 108(2) TFEU in respect of such request.

(7) On May 5 2017, the Opening Decision was published in the *Official Journal of the European Union*[10]. The Commission called on interested parties to submit their comments.

(8) On 8 May 2017, the UK authorities submitted their response to the Opening Decision.

(9) During May and June 2017, the Commission received comments from interested parties. Meetings were held with some interested parties to clarify the comments received. The Commission provided the UK authorities with the comments received from interested parties.

(10) On 22 June 2017, the UK authorities submitted their response to the comments received from interested parties and to comments received as part of the UK authorities' own market testing exercise[11].

---

4 Commission Decision SA. 38304 (2014/N), OJ C24, 23.01.2015, p. 4.

5 For an overview of the amendments requested, see recitals (27) to (49) of the Amended Restructuring Decision.

6 Recital (73) of the Restructuring Decision.

7 Pursuant to recital (73) of the Restructuring Decision, SME banking market is defined as the segment of the banking market covering firms with a turnover up to GBP 25 million and mid-corporate as the segment covering firms with a turnover between GBP 25 million and 1 billion.

8 Recital (93) of the Restructuring Decision.

9 Recital (28) and Amended Commitments 3.1 and 3.2 (A) of Annex I of the Amended Restructuring Decision.

10 Commission decision SA. 47702 - OJ C 142, 05.05.2017, p. 8.

11 This market testing includes the UK Authorities' interviews with six large Challenger Entities, 12 smaller Challenger Entities and seven Venture Capital and Fintech respondents, as well as RBS

(11) By letter dated 28 July 2017, the UK authorities sent an updated notification to the Commission, reflecting an update to the alternative package proposed in the original notification of 2 March 2017.

2. ADDITIONAL OBSERVATION

(12) Since the United Kingdom notified on 29 March 2017 its intention to leave the European Union, pursuant to Article 50 of the Treaty on European Union, the Treaties will cease to apply to the United Kingdom from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification, unless the European Council in agreement with the United Kingdom decides to extend this period. As a consequence, and without prejudice to any provisions of the withdrawal agreement, this Decision only applies until the United Kingdom ceases to be a Member State.

3. DETAILED DESCRIPTION OF THE MEASURE/AID

3.1. RBS and the implementation of the Restructuring Plan and the Amended restructuring Plan

3.1.1. RBS

(13) Based in Edinburgh, RBS[12] is one of the largest financial services groups in Europe servicing private, corporate and institutional customers. At the end of 2016 it had a total balance sheet of GBP 799 billion[13] and total risk weighed assets **("RWA")**[14] of GBP 228 billion.

(14) A detailed description of the state aid measures in favour of RBS can be found in recital (31) to (54) of the Restructuring Decision. The Amended Restructuring Decision[15] indicated that the only not yet terminated or repaid capital aid measure in 2013 was the GBP 45.5 billion recapitalisation in ordinary shares and B shares[16], to which the Dividend Access Share (**"DAS"**) held by the State was related. The DAS was created to provide enhanced dividend rights to the UK Authorities.

(15) In August 2015, the UK Authorities sold 5.4% of the bank,[17] which was the first sale of the government shares in RBS group. All the B shares were converted into

---

commissioned research by Charterhouse into the switching behaviour of customers within the W&G perimeter. The large Challenger Entities were CYBG PLC; Co-op Bank; Handelsbanken; Metro Bank; Santander UK PLC; and TSB Bank. The smaller Challenger Entities were Aldermore Group PLC; Allied Irish Bank; Atom Bank; Cumberland Building Society; Danske Bank; Monzo; OakNorth Bank; Paragon Bank PLC; Shawbrook Bank; Starling Bank; Tesco Bank; and Virgin Money. The VC / Fintech respondents were British Business Bank Investments Limited; Business Growth Fund; Funding Circle; Louise Beaumont (an independent fintech expert); Iwoca; Nesta; and, Transferwise.

12 A detailed description of RBS can be found in the recitals (4) to (11) of the Amended Restructuring Decision. Key pro forma figures from 2008 to 2016 are described in recitals (7) to (10) of the Opening Decision.

13 In this decision, the Commission uses the results published by RBS in its annual report and accounts for full-year 2016.

14 RWA is a measure of the amount of a bank's assets, adjusted for risk. This measure is used in determining the capital requirements.

15 Recital (11) of the Amended Restructuring Decision.

16 Non-voting Core Tier 1 capital, as further described in recital (38) of the Restructuring Decision.

17 HMT press release: https://www.gov.uk/government/news/government-begins-sale-of-its-shares-in-the-royal-bank-of-scotland.

ordinary shares in October 2015[18]. Regarding the DAS, RBS paid to the UK Authorities a final dividend in March 2016 and the DAS was subsequently retired[19]. As a consequence of those actions, the UK Authorities currently hold 8.4 billion ordinary shares in RBS, representing 71.2% of the company's ordinary share capital.[20]

3.1.2. Implementation of the Commitments and Amended Commitments

(16) The implementation of the divestment and behavioural Commitments leading up to the Amended Restructuring Decision is described in detail in recitals (12) to (22) of the Amended Restructuring Decision.

(17) The implementation of the Commitments included in the Amended Restructuring Decision is outlined in recitals (15) and (16) of the Opening Decision. RBS completed these divestments ahead of the committed deadlines with the exception of the commitment related to the divestment of the Rainbow business.

3.2. The commitment to divest the Rainbow business

(18) The Commitments and Amended Commitments included the divestment of several businesses, including of the RBS branch-related Retail and SME business in England and Wales, and the NatWest branch-related Retail and SME business in Scotland, along with the Direct SME business and certain mid-corporate customers (referred to as 'the Rainbow business'). The deadline included in the Restructuring Decision was 31 December 2013 and in the Amended Restructuring Decision the deadline was extended to 31 December 2017.

(19) In its assessment of the compatibility of the aid to RBS in the Restructuring Decision, the Commission noted that the commitment to divest the Rainbow business contributed to limiting the distortions of competition created by the aid in the SME and mid-corporate banking market in the UK.

(20) A detailed description of the process followed by RBS and the UK authorities to divest the Rainbow business, and the related difficulties encountered, is described in recitals (19) to (25) of the Opening Decision.

(21) By letter dated 2 March 2017, the UK authorities notified the Commission of the request to replace the commitment to divest the Rainbow business with an alternative package of commitments. By letter dated 28 July 2017, the UK authorities sent an amended notification to the Commission, reflecting an update to the alternative package proposed in the original notification.

3.3. The updated alternative package proposed by the UK authorities

(22) According to the UK authorities, the objective of the proposed alternative package is, given the related difficulties to divest the Rainbow business[21], to find an alternative that is at least equivalent to the original commitment to divest the Rainbow business in terms of scope and impact and that also: (i) has a faster impact and thus more effectively mitigates any distortion of competition; (ii) takes into account current

[18] RBS press release: http://otp.investis.com/clients/uk/rbs1/rns1/regulatorystory.aspx?cid=365&newsid=580941.

[19] RBS press release: http://otp.investis.com/clients/uk/rbs1/rns1/regulatory-story.aspx?cid=365&newsid=687910.

[20] UK Financial Investments Ltd Annual Report and Accounts 2016/2017.

[21] Described in recitals (19) to (25) of the Opening Decision.

market circumstances and the specific needs of challenger entities (**"Challenger Entities"**)[22] and other potential entrants in the UK SME and mid-corporate banking market; and (iii) does not jeopardise RBS's viability.

(23) The updated alternative package includes a range of behavioural remedies and consists of two elements

(a) The Capability and Innovation Fund ("**Measure A**"); and

(b) The Incentivised Switching Scheme ("**Measure B**").

(24) An independent body (**"the Body"**) would be established to manage and control the Capability and Innovation Fund and the Incentivised Switching Scheme[23].

(25) The updated alternative package would be funded by RBS. The UK authorities estimate the overall cost of the package to RBS will be around GBP [0.5-1.5]billion, taking into account upfront capital cost and an ongoing reduction in RBS's earnings.[24]

3.3.1. The Capability and Innovation Fund ("Measure A")

(26) The Capability and Innovation Fund would have a size of GBP 425 million which would be distributed to eligible entities to (i) develop the capability to compete with RBS in the provision of banking services to SMEs; and/or (ii) develop and improve the financial products and services which are available to SMEs. The investment projects that could benefit from support need to target the Permitted Purposes[25].

(27) The Capability and Innovation Fund would be divided into four pools and funds would be made available as set out in Table 1:

Table 1: Grants available for the Capability and Innovation Fund

Pool	Purpose	Grants available
A. Advanced BCA[26] Capability Pool (GBP 280 million)	To facilitate the development of more advanced BCA offerings and ancillary product sets by banks with an existing and substantive BCA capability	1 x GBP 120 million 1 x GBP 100 million 1 x GBP 60 million
B. BCA Capability	To facilitate the modernisation of existing	1 x GBP 50 million

[22] Non-incumbent financial entities competing for business with the 4 long-established national banks which have the highest market share (combined 82% market share in 2015) in the UK SME and mid-corporate banking market.

[23] The Body will be established in order to facilitate and oversee the delivery of the alternative package. It will be governed by the "Framework and State Aid Deed" which is a deed to be entered into between HMT, the Body and RBS in respect of the commitments

[24] Taking into account the upfront capital cost, the annual costs of operating the alternative package, and the loss of earnings associated with customers transferring as a result of Measure B, offset by the release of capital associated with such customers.

[25] Described in recital (37) and (38) of this Decision

[26] Business Current Account ("**BCA**"): means an account marketed to businesses rather than individuals, which provides the facility to hold deposits, receive and make payments by cheque and/or debit card, use automated teller machine facilities and make regular payments by direct debit and/or standing order, but does not include (i) an account in which money is held on deposit in a currency other than the official currency of the United Kingdom; or (ii) an account in which credit funds are held and offset against mortgage debt or a loan (other than an overdraft facility)

Development Pool (GBP 80 million)	BCA offerings or the development of new propositions	2 x GBP 15 million
C. Innovative Lending and Payments Pool (GBP 40 million)	To facilitate the development of new and existing SME lending and payments businesses with a particular focus on facilitating the deployment of new technology to the relevant markets	4 x GBP 10 million
D. Business Banking Fintech Innovation Fund (GBP 25 million)	To facilitate the commercialisation of financial technology that is relevant to SMEs	5 x GBP 5 million

The largest disbursements from the Capability and Innovation Fund would be targeted at entities with strong existing BCA capability. The three largest awards will be made available to entities with such capability, enhancing their ability to compete with RBS in the provision of banking services and financial products to SMEs. The eligibility criteria of the different pools are described in more detail in recitals (28) to (31).

(28) The eligibility criteria for Pool A: This pool would be open to any deposit-taking entity:

(a) which has a BCA offering;

(b) which is authorised by the UK Prudential Regulation Authority to take deposits;

(c) whose ultimate parent entity is or is itself at the time of the application, an entity domiciled in the United Kingdom, European Union, the European Economic Area or Switzerland and is a deposit-taking entity or financial holding company;

(d) which has gross assets in the United Kingdom of less than GBP 350 billion shown in its latest published consolidated accounts (or interim balance sheet);

(e) whose income in the United Kingdom relates primarily to the provision of deposit-taking, lending or payment services to individuals and businesses in the United Kingdom; and

(f) which has expressed an intention to expand its business offering to SMEs through the development of new products, expansion into new geographical markets in the United Kingdom or new business segments and/or investing in its customer service levels.

(29) The eligibility criteria for Pool B: The same eligibility criteria as set out in recital (28) in respect of Pool A would apply, except that the entity need not currently have a BCA offering (although it must have at least publicly stated its intention to launch one).

(30) The eligibility criteria for Pool C: This pool would be open to Pool A entities, Pool B entities and any other entity:

(a) whose ultimate parent entity is or is itself, at the time of the application, domiciled in the United Kingdom, the European Union, the European Economic Area or Switzerland;

(b) which derives (or if such entity is part of a group, such group derives) the majority of its revenue from the provision of financial services to individuals and businesses; and

(c) which offers, or has expressed an intention to expand its business offering to include, lending or payment services to SMEs in the United Kingdom or international payments services to SMEs.

(31) The eligibility criteria for Pool D: This pool would be open to any entity:

(a) whose ultimate parent entity is or is itself, at the time of the application, domiciled in the United Kingdom, the European Union, the European Economic Area or Switzerland;

(b) which either provides or develops financial products or services predominantly to or for SMEs in the United Kingdom or provides products or services to the SMEs in the United Kingdom; and

(c) which has raised capital of at least GBP 1 million in the three years prior to the date of submission of its business case to the Body.

(32) The Body would manage and control the Capability and Innovation Fund. The Body is designed to be independent of both RBS and the UK authorities, and will have the necessary powers to fulfil its task of administering, or arranging for the administration of, the applications to the Capability and Innovation Fund, and for monitoring the use that is made of the funds. There will be four groups of safeguards as to the deployment of funds by the recipient entities which would operate through the lifecycle of the fund: (i) safeguards before disbursement, (ii) ongoing reporting and monitoring by the Body, (iii) the Body's right of audit and (iv) the Body's right to claw back funds.

(33) The first group of safeguards occurs before disbursement. Applicants will be required to submit to the Body a business plan setting out, in a reasonable level of detail, how the applicant proposes to deploy any funds awarded. The Body must then consider each element of the plan under a number of pre-determined factors and whether the plan is consistent with the Permitted Purposes[27].

(34) The second group of safeguards consists in the ongoing reporting and monitoring by the Body: recipients will report to the Body on a quarterly basis for 18 months (the Body will produce its own annual report on its administration of the fund). The report will contain details as to how the funding received has been utilised, including the total amount spent during the last three months. In the case of Pool A entities, Pool B entities and Pool C entities the report will include:

(a) a brief account of the developments in the entity’s SME business over the preceding year;

(b) an overview and quantification of investments made in the relevant business in the last three months and how such developments relate to its business case;

(c) details of the entity’s SME business volumes, including customer numbers, BCA numbers, lending and deposit balances;

(d) confirmation that drawings on the SME Capability Fund have been used for the Permitted Purposes; and

(e) other items agreed between the Body and the recipient entity.

[27] Described in recitals (37) and (38) of this Decision

(35) The third group of safeguards consists in the Body's right of audit: the Body would have the contractual ability to appoint a "skilled person" [28] to investigate and audit the use of funds by recipients in circumstances where the Body had cause to doubt that the recipient was properly or fully deploying funds received under Measure A.

(36) The fourth group of safeguards consists in the Body's right to claw back funds: if the Body considers (either following an audit or otherwise) that there has been a material breach of the agreement entered into between the Body and the recipient, the former may request the clawback of the funds already disbursed to the latter. This includes any failure to use the funding amount for Permitted Purposes or any use of the funding amount for prohibited purposes[29]: in such cases, the Body may require the recipient to remedy the breach or request the repayment (in full or in part) of the funding amount.

(37) The provisions determining the use of funds of Pool A, Pool B and Pool C shall include provisions stating that:

(a) an entity shall use a grant for purposes which have a demonstrable link to (i) improving customer outcomes for SMEs; and/or (ii) expanding the entity's business capacity, product offering and/or target markets in order to improve its offering to SMEs (the "**Overarching Principles**").

(b) a grant may be used by an entity to cover its capital expenditure or operating expenses in relation to the following purposes ("**Permitted Purposes**"):

(1) the development of systems and/or infrastructure required to expand either (i) in the case of a Pool A entity or Pool B entity, its SME banking business or (ii) in the case of a Pool C entity, its SME lending business and/or SME payments business ("**Relevant Business(es)**")

(2) the recruitment and payment of employees in order to expand and/or operate its Relevant Business(es);

(3) the marketing of products related to its Relevant Business(es);

(4) the acquisition or leasing of premises required to expand its Relevant Business(es); or

(5) any other purpose which is (in the opinion of the Body) consistent with the Overarching Principles.

(c) A grant may not be used by an entity for any of the following prohibited purposes:

(1) to subsidise temporary price cuts for banking products and/or services;

(2) to repay any existing liability;

(3) to provide financing directly to customers;

(4) to finance capital expenditure and/or operating expenses which the company had planned prior to the date of the application and: (a) that the company would make regardless of whether or not any amount from the Capability and Innovation Fund is received; or (b) that had been included in the company's business plan prior to the date of the application;

[28] In a similar way to regulatory appointments under Section 166 of the Financial Services and Markets Act 2000.

[29] As described in recitals (37) and (38)

(5) to return capital by any means to existing shareholders of the company; or

(6) for a purpose which is inconsistent with the Overarching Principles and/or its Business Case.

(38) The provisions determining the use of funds of Pool D shall include provisions stating that:

(a) the entity shall use a grant to develop improve, operate, expand and/or commercialise (or support the development, improvement, operation, expansion and/or commercialisation of) its Fintech[30] product or service and the grant may be used by an entity to cover its capital expenditure and operating expenses in relation to the following purposes ("**Permitted Purposes**"):

(1) the development of systems and/or infrastructure required to develop, improve, operate, expand and/or commercialise the Fintech product or service;

(2) the recruitment and payment of employees in order to develop improve, operate, expand and/or commercialise the Fintech product or service;

(3) the marketing of the Fintech product or service; or

(4) any other purpose which (in the opinion of the Body) furthers the development, improvement, operation, expansion and/or commercialisation of the Fintech Product or Service.

(b) a grant may not be used by an entity for the following prohibited purposes:

(1) to repay any existing liability;

(2) to provide financing directly to customers;

(3) to return capital by any means to existing shareholders of the company; or

(4) for a purpose which is inconsistent with its Business Case.

(39) The funding for Pools A, B and C entities would be phased so that any entities that do not win an application for Pool A would be eligible to apply for funding from Pool B, and any entities that do not win an application for Pool B would be eligible to apply for funding from Pool C. The Pool D funding process will run concurrently with the phased funding process for Pools A, B and C.

(40) The Body will market the Capability & Innovation Fund to Pools A and D entities as soon as reasonably practicable following its establishment and signature of the Framework and State Aid Deed[31]. Marketing to Pools B and C bodies will follow 3 and 6 months (respectively) after the Capability & innovation Fund is marketed to Pool A entities.

(41) The application period for Pool A funds will end within 2 months after the Body first starts marketing the fund, whilst the Pool B application period will end within 5

30 Financial technology or Fintech is a line of business based on using software to provide financial services, such as peer-to-peer, crowdsourced services, etc.

31 See footnote 23

months after this date and the Pool C period will end within 8 months after this date. The Pool D application period will run concurrently with the application periods for Pool A – C funds, and will end up to 6 months after the Body first starts marketing the fund.

(42) The fund is intended to terminate after the end of the Incentivised Switching Scheme (although may be extended under predetermined criteria depending on the amount of undistributed funds remaining). The rights and obligations of the Body as regards reporting would however continue for three months after the termination of the last agreement between the Body and any recipient participating in the Capability and Innovation Fund.

(43) The cost to RBS of Measure A comprises the GBP 425 million upfront capital cost plus the Body's operating costs[32], which would be paid for by RBS.

3.3.2. Incentivised Switching Scheme ("Measure B")

(44) Entities which are eligible to participate in the Incentivised Switching Scheme ("**Eligible Entities**") are those deposit-taking entities which fulfil the following criteria:

(a) they have, or have publicly stated an intention to launch, a business current account offering;

(b) they meet the criteria set out in recital (28) paragraphs (b) to (f) for a Pool A entity; and

(c) they participate in the UK Current Account Switching Service ("**CASS**") [33].

(45) The Incentivised Switching Scheme funded by RBS would provide funding to the Body to distribute funds to Eligible Entities as they successfully switch customers. This is to enable Eligible Entities to offer incentives to RBS's SME banking customers to encourage them to switch their BCAs, deposit accounts and loans to the Eligible Entities. This would take the form of a commitment by RBS to:

(a) pay up to GBP 225 million in dowries (i.e. a monetary incentive) to Eligible Entities in relation to any customers that agree to transfer their BCAs ("**BCA dowries**");

(b) pay up to an additional GBP 50 million for loan related dowries (**"loan dowries**") for those customers who move a loan-product alongside their BCA;

(c) ear-mark an additional GBP 75 million of its costs which would also be available to help facilitate switching (compensation for break fees related to the transfer of loan balances or other third party costs such as legal fees).

(46) The BCA dowries and loan dowries will enable Eligible Entities to fund attractive price offers or other incentives to RBS's customers within the Williams & Glyn ("**W&G**") perimeter[34] and attract those customers to switch.

[32] The total funding for establishment and operation of the Body will amount to GBP 20 million.

[33] A service supported by Bacs Payment Schemes Limited that allows to automatically transfer all payment arrangements to a new bank and to closes an existing account. See: https://www.currentaccountswitch.co.uk

[34] The term "Rainbow" and "W&G" refer to the same business perimeter as set out in Schedule 2 to the Revised Term Sheet annexed to the Amended Restructuring Decision.

(47) BCA dowries paid to recipient entities would be steeply tiered so that they have sufficient resources to provide compelling incentives for both smaller and larger SME customers to switch to them. The BCA dowry amounts proposed to be offered at the commencement of the scheme are set out in the table below.

Table 2: Proposed initial BCA dowry amounts of Incentivised Switching Scheme

Turnover band of SME customer	BCA dowry amount (GBP)
< GBP 15,000	750
GBP 15,000 – GBP 100,000	1,000
GBP 100,001 – GBP 1,000,000	3,000
GBP 1,000,001 – GBP 1,500,000	6,250
GBP 1,500,001 – GBP 2,000,000	13,125
GBP 2,000,001 – GBP 2,500,000	16,875
GBP 2,500,001 – GBP 7,500,000	25,000
> GBP 7,500,000	50,000

(48) Loan dowries will enable Eligible Entities to reduce the rates of interest charged on loans to customers, making their offers more competitive while maintaining adequate returns on capital. Where a customer switches its primary BCA and a loan product from RBS, the Body will pay to the recipient entity an additional dowry of 2.5% of the drawn loan balance transferred.

(49) RBS would target its customers within the W&G perimeter (which contains roughly 200,000 SME banking customers) who would be provided with information on the benefits of switching and potential alternative Challenger Entities that they may wish to consider.

(50) RBS would start communicating the Incentivised Switching Scheme to customers around three months after launch of the package, and dowries would be available as early as Q2 2018 (around three months from when RBS starts communicating to its customers). The process of distributing dowries for the Incentivised Switching Scheme would be repeated quarterly for as long as dowries are available. Dowries would cease when a maximum of GBP 225 million has been paid in respect of BCA dowries or, in the event that this has not occurred earlier, 18 months after RBS's communication of the Incentivised Switching Scheme (subject to an extension of up to 12 months, see recital (51)(d)).

(51) The Body would be responsible for managing and controlling the Incentivised Switching Scheme, in addition to the Capability and Innovation Fund, and would monitor RBS’s behaviour towards and interaction with customers on an ongoing basis. This would include enabling the Body, subject to applicable laws and data protection requirements, to:

(a) make changes to the amount of dowries paid to ensure they are as effective as possible;

(b) approve the communication materials to be sent by RBS to its SME customers in relation to the Incentivised Switching Scheme;

(c) require RBS to increase the frequency of such communications;

(d) extend the period for which dowries are available by up to 12 months if fewer than […] Eligible Customers[35] have switched (or commenced the switching process) within […] months of the Incentivised Switching Scheme commencement date (the "**Extended Incentivised Switching Date**"); and

(e) require RBS to extend the customer base to which it sends such communications beyond the W&G perimeter if a given volume of switchers is not achieved in a given timeframe. If the perimeter is extended, the scheme will target switching offers at SMEs representing around […] of UK BCA market share. The perimeter will be extended where:

(1) […][36];

(2) […]

(3) […]

(52) In order to ensure that RBS has the appropriate incentives to implement the Incentivised Switching Scheme effectively, in the event that fewer than […] customers have switched and there is an underspend in the dowries by the end of the […] month period (or, in the event the Body decides to extend the relevant period, the date when the extended period ends), RBS would be required to transfer a pre-defined additional multiple (the “**Multiplier**”) of this underspend to the Body, subject to a cap of GBP 50 million.

(53) The Multiplier has been set at […] of the underspend. This penalty is subject to the following conditions:

(a) as the success of the Incentivised Switching Scheme will be dependent on the ability of Eligible Entities to build attractive propositions for RBS’s SME customers, the Body would have the power to reduce the Multiplier to the extent that it was reasonably satisfied that any underspend was a result of factors beyond the control of RBS;

(b) with the consent of the Body, RBS may be allowed to restructure the dowries after a period of time in order to improve the efficacy of the scheme and reduce the probability of it incurring a penalty; and

(c) if (i) the Body has extended the perimeter by the incentivised switching termination date; (ii) there are fewer than […] switched customers; and (iii) the Body considers that RBS did not actively communicate incentivised switching to customers in the wider pool, the Body may increase the Multiplier to such percentage as it considers appropriate, subject to a cap of GBP 50 million.

(54) […]

(55) Where the sum of the underspend and Multiplier (together with any amounts clawed back and any amounts not distributed out of the Capability and Innovation Fund) amounts to less than GBP 5 million, the Body will distribute the funds to charities.

[35] Eligible Customer means a customer of the division of RBS known as W&G which is an SME

[36] […]

(56) RBS will agree to non-solicitation arrangements under the Incentivised Switching Scheme, which will prohibit RBS and members of its group from (i) taking certain actions which may have an adverse effect on the Incentivised Switching Scheme; and (ii) soliciting, inducing or encouraging Eligible Customers (or customers who have switched to an Incentivised Switching Eligible Entity) to remain a customer of the group in respect of any BCA or relevant loan product, or to transfer any BCA or relevant loan product from Incentivised Switching Eligible Entities to any member of the group within certain prescribed time periods.

(57) In order to support the success of the Incentivised Switching Scheme, RBS will offer to entities participating in the Incentivised Switching Scheme the option of entering into an Inter-Bank Agency Deed allowing customers they attract under the Incentivised Switching Scheme the option of continuing to use cash and cheque handling services in RBS branches (the "**Branch Access Scheme**"). This branch access will be available for Eligible Customers for a minimum of three years from the launch of the Incentivised Switching Scheme on reasonable and non-discriminatory commercial terms, at the expense of the entity concerned.

(58) The upfront capital cost of Measure B is GBP 350 million plus the implementation cost for RBS and RBS's ongoing loss of future earnings[37].

4. COMMENTS FROM INTERESTED PARTIES AND UK AUTHORITIES

4.1. Overall comments on the alternative package

(59) The Opening Decision gave interested parties the opportunity to comment on the proposal of the UK authorities. A large number of comments have been received during the consultation phase. The comments received were on the initial alternative package as described in recitals (28) to (68) of the Opening Decision ("**Initial Alternative Package**"). Reflecting the comments from interested parties and their own market study[38], the UK authorities have updated the alternative package, as described in section 2.3.

(60) Given the large number of comments[39], the main comments that were shared by several interested parties to help assess the equivalence of the alternative package with the divestment of the Rainbow business are outlined in this section.

4.1.1. Overall comments from interested parties on the alternative package

(61) The majority of comments received indicate that the Initial Alternative Package has a number of features that could enhance competition in the UK SME markets. Some indicate that the alternative package would have a faster impact on competition with less execution risk and has the capacity to strengthen not just one Challenger Entity (as with the divestment of the Rainbow business).

(62) Some interested parties suggest on the overall Initial Alternative Package that

---

37 The UK authorities estimated an implementation cost of GBP 38 million for RBS and an additional ongoing cost in reduced profit of about GBP [...] per annum.

38 See footnote 11

39 Comments have been received from Santander UK plc, CYBG plc, Metro Bank PLC, Aldermore Bank plc, Masthaven Bank Ltd, Paragon Bank plc, Secure Trust Bank plc, Shawbrook Bank Ltd, Virgin Money plc, OakNorth Bank Ltd, Cumberland Building Society, Tide and RBS.

(a) the overall size of the Initial Alternative Package is insufficient to drive structural change in the UK SME market, which has high barriers to switching;

(b) a transfer of business current accounts equivalent to a market share of 2% of the SME market is not equivalent to the divestment of the Rainbow business (representing roughly a 5% SME market share in terms of the number of SME customers);

(c) a transfer of BCAs does not address a transfer of assets; and

(d) the Body and its decisions will be central to the success (or otherwise) of the Alternative Measures. It will be difficult to ensure the Body has the requisite degree of impartiality.

4.1.2. Overall comments from UK authorities on the alternative package and on comments from interested parties

(63) The UK authorities consider that the alternative package is at least equivalent to a divestment of the Rainbow business in terms of its impact on limiting potential distortions of competition, and can be implemented with more certainty and more quickly than a divestment.

(64) The UK authorities consider that the alternative package as a whole is designed to build the capacity in the market to drive higher ongoing levels of market-wide switching in the SME and mid-corporate banking markets. As the largest player, the burden of this will fall most heavily on RBS. Although less easily quantifiable than the benefits of the Incentivised Switching Scheme, the Capability and Innovation Fund will strengthen multiple banks' SME banking offerings, bringing more choice to the market, creating a diversity of business models and driving switching. It will also accelerate the development of new businesses and new technologies that would weaken SMEs' dependence on their banks.

(65) The UK authorities submit that the alternative package has been designed to meet the same objectives as the original divestment of the Rainbow business:

(a) Reduce RBS's market share: The implementation of the Incentivised Switching Scheme and the provision of funds to develop SME banking capability will strengthen smaller competitors and allow them to exert a greater competitive constraint on RBS;

(b) Reduce the commercial gain from having received the aid: The alternative package has a significant upfront cost with an additional ongoing impact through reduced turnover from a reduction in SME customers through the Incentivised Switching Scheme;

(c) Transfer of SME customers: Unlike a divestment, which would involve the forced transfer of SME customers who have not chosen to move bank, the Incentivised Switching Scheme encourages customers to make their own decision to switch. Empowered customers should be more likely to engage with their new bank, and switch again in the future if they can obtain a better deal with another bank; and

(d) Access to branches to cater for SME customers: The Branch Access Scheme supports the switching of customers away from RBS to Challenger Entities under the Incentivised Switching Scheme, as these customers will not need to change their day to day cash handling arrangements.

(66) In terms of impact of the alternative package on the mid-corporate segment, the UK authorities also consider that:

(a) RBS has lost [5-10]% of market share in the corporate segment since Q4 2010, moving from a [30-35]% to a [20-25]% share. It is no longer the largest bank for serving mid-corporate customers in the UK. This reduction in market share also substantially exceeds the reduction in market share envisaged by the divestment of the Rainbow business[40].

(b) The Capability & Innovation Fund includes a number of very significant grants to help banks with an established SME banking franchise enhance and extend their existing business banking propositions for large SMEs and mid-corporates. The UK authorities anticipate that many of these developments will enhance certain banks' ability to serve mid-corporate customers and will increase the total number of banks able to consequently develop and offer propositions for mid-corporates.

(c) The Incentivised Switching Scheme is targeted to deliver a movement of large SME customers from RBS to other banks. For recipient banks the increased number of large SME customers will incentivise the development of services for larger firms including mid-corporates. In addition, over time, some of the large SME customers can be expected to grow to being mid-corporate firms, which will further incentivise the development of relevant offerings.

(d) The CMA[41] found that SMEs with turnover above GBP 2 million were generally able to negotiate pricing and service terms with their banks. For this to be an effective means of generating competition it is critical that these customers have viable alternative providers. By enabling additional banks to build mid-corporate capabilities competition will be materially enhanced.

(e) Due to the complexity of handling mid-corporate customers, the proposals RBS had received when attempting to sell the Rainbow business[42] in the past envisaged […].

(67) Furthermore, the UK authorities consider additional advantages of the alternative package over the divestment of the Rainbow business.

(a) Geographic scope: The alternative package would impact competition throughout the UK, without any geographic limitation

(b) Broad market impact: The alternative package would help to bring about a systemic and long lasting change on the market by assisting a number of Challenger Entities to compete with the incumbent banks more effectively. More specifically:
(i) The Capability and Innovation Fund will assist entities to develop their capacity to service SMEs and mid-corporates, whilst also increasing their liquidity and financial standing. It will also encourage the development of new technologies to be used by Challenger Entities;
(ii) The Incentivised Switching Scheme will help the Incentivised Switching Eligible Entities to become established, by growing their customer-bases;

---

40 Charterhouse Research supplied to RBS measuring market share for businesses with turnover in excess of GBP 25M.

41 CMA Retail Banking market Investigation main report appendix A8.1-16, figure 12

42 See also recital 25 of the Opening Decision

(iii) The Branch Access Scheme will enable Eligible Entities to physically service newly acquired SME customers under the Incentivised Switching Scheme e.g. by providing cash and cheque handling services.

(c) Addresses market issues identified by the UK Competition and Markets Authority ("**CMA**"): The alternative package also addresses some key market issues identified by the CMA in its recent review of the UK SME banking market. These issues include:
(i) Low levels of customer engagement with their banking services, weak responses to variations in price and quality and a lack of trigger points to prompt switching;
(ii) A lack of incentives for banks to invest in attracting customers to switch;
(iii) High customer acquisition costs for new entry and expansion by Challenger Entities;
(iv) The lack of product and technical innovation in SME banking
(v) Concerns from Challenger Entities about the cost of building and running a branch network.

(d) Timing and certainty of execution: The alternative package can be implemented in a more timely and certain manner. It would avoid the risks and uncertainties of a capital transaction, as experienced in previous attempts to sell the Rainbow business.

(e) Removing barriers to the UK Authorities' exit from RBS: The UK Authorities has publicly expressed its intention to progress with the sale of its stake in RBS and thereby return RBS to private ownership. The prevailing difficulties and delays to the divestment of the Rainbow business, which is the only one of the divestment Commitments remaining to be satisfied, have led to uncertainties which have affected the attractiveness of RBS as an investment proposition. The alternative package would remove these uncertainties.

(68) On the comments from interested parties, the UK authorities mention that

(a) RBS's market share decreased from [25-30]% in Q4 2010 to [20-25]% in Q4 2016[43], representing a decrease of [3-7]% for the period. The 5% decrease expected from the divestment of the Rainbow business is therefore exceeded when the market share loss expected from the Incentivised Switching Scheme alone is aggregated with the observed organic RBS market share loss since 2010.

(b) The UK Authorities have made a number of changes to the proposed package to address the key points made by interested parties. The UK authorities consider that the updated alternative package addresses the third party concerns, will be equivalent to the divestment of the Rainbow business (in terms of its impact both on RBS and the market as a whole) and will be effective in boosting competition in SME banking in the UK.

(c) Regarding the comment on the need to ensure the independence of the Body, the UK authorities note that the Body will be bound by the Framework and State Aid deed[44] which specify the functions and duties of the Body, and which

[43] Source: Charterhouse Research Business Banking Survey Q4 2016 for SMEs with turnover from GBP 0-25 million. 12 month rolling data. Data weighed by region and turnover to be representative of businesses in Great Britain. Estimated total market size of [...].

[44] See footnote 23

determine the obligations and restrictions of the Body. Furthermore, an individual shall not be permitted to take up office as a director of the Body if that individual concurrently holds any office (other than any non-executive office which is not as the chair or equivalent position) or a senior management position in any public sector body or is a director or senior manager of the RBS Group or is a related party (or an associate of a related party) of RBS.

4.2. Comments on the SME Capability Fund

4.2.1. Comments from interested parties on the SME Capability Fund

(69) A number of comments from interested parties mentioned that the size of the SME Capability Fund should be increased, as this would lead to a greater impact on competition in the SME banking market.

(70) Other comments from interested parties mentioned that fragmenting funds between a large number of banks, such that none can make meaningful investment, will have no material effect on competition or concentration. Rather than there being equal disbursements within the respective pools, the size of the disbursements should vary to take into account the applicant's actual needs and investment plans.

(71) A number of parties also submitted that the SME Capability Fund should be opened up further to those institutions without existing strong BCA capability and that non-banks (e.g. building societies) should be able to benefit from the Capability Fund.

4.2.2. Comments from UK authorities on the SME Capability Fund and on comments from interested parties

(72) The UK authorities consider that it is reasonable to expect that the SME Capability Fund, especially when combined with the Incentivised Switching Scheme, will increase the market shares of Challenger Entities, and therefore result in a corresponding decrease in RBS's market share.

(73) The UK authorities consider that the Capability Fund will increase the Challenger Entities' market shares as it will materially improve the economics of banks entering the SME (and, if they so wish, mid-corporate) banking market and/or further developing existing capabilities. By way of illustrating the underlying concept, a GBP 3 million grant from the fund might make a borderline GBP 10 million project economic, by increasing the return on investment on a project from a return below the cost of capital to a viable and sustainable level.

(74) In response to the comments from interested parties, the UK authorities have made the following changes to the alternative package:

(a) the size of the SME Capability Fund that the Challenger Entities have access to will be increased. The largest disbursements of the Capability and Innovation Fund will be targeted at those Challenger Entities with strong existing BCA capability. This is likely to lead to the largest impact on competition in the SME banking market and in the shortest time period, since these banks have already spent time and money developing their BCA products and the associated distribution infrastructure.

(b) the SME Capability Fund will be combined with the Innovation Fund. The distinction in pool 1 and 2 will be removed. The flexibility will be increased to improve opportunities for banks without strong existing BCA capability and for non-banks to access sizeable disbursements from the Capability and Innovation Fund.

4.3. Comments on the Incentivised Switching Scheme

4.3.1. Comments from interested parties on the Incentivised Switching Scheme

(75) Some interested parties questioned whether enough customers would be sufficiently incentivised by the proposed size of the dowries to overcome the efforts involved in switching. Customers have historically proven to be inert and there should be a clear, seamless process for customers to switch. To facilitate switching RBS should also share information on their customers with the Challenger Entities (incl. credit track record). Some interested parties also indicated the need to provide historical track records of customers for creditworthiness assessment.

(76) A number of comments indicated that the size of the dowries should be increased to enable switching (and linked to the complexity and size of the customer), which would require the overall size of the Incentivised Switching Scheme to be significantly increased.

(77) Some comments indicated that the duration of the Incentivised Switching Scheme should be sufficient to ensure time is not a significant constraint. Furthermore, an automatic extension of the customer perimeter (if the desired level of switching is not reached) was put forward.

(78) Several comments suggested that the alternative package should also focus on transferring loans next to transferring BCAs, as the focus on BCAs ignores the need for greater competition in the SME lending market. The package would be too focussed on BCA providers. The SME lending market is viewed as significantly more profitable than BCAs and competition distortion needs to be remedied in the SME lending market as well. The comments also outline that currently Challenger Entities are disadvantaged, as the largest 4 banks are allowed to use an Advanced Internal Ratings Based model rather than standardised capital model: this allows the four banks to offer better pricing for loans than the Challenger Entities.

(79) Some comments suggested that RBS should be forced to divest customers (including forced sales of BCAs and/or loans), rather than giving customers the opportunity to switch banks. Other comments suggest that RBS should commit to transfer a minimum number of net BCAs and have a penalty for non-performance.

(80) A number of comments also suggest that the Incentivised Switching Scheme should only start after they have been able to implement the investments enabled through the SME Capability Fund.

4.3.2. Comments from UK authorities on the Incentivised Switching Scheme and on comments from interested parties

(81) Regarding the Incentivised Switching Scheme included in the Initial Alternative Package, the UK authorities consider that:

(a) the current size of fund has capacity to result in more than a 2% reduction in RBS's current market share. The targeted two percentage point reduction was specifically structured in order to incentivise a greater number of large SME customers to switch. There is nothing to stop RBS customers from continuing to switch to Challenger Entities (without dowries being given) and therefore continuing to reduce RBS's market share further. Indeed, they are much more likely to do so after being exposed to Challenger Entity marketing;

(b) the Incentivised Switching Scheme involves incentives to switch that are themselves likely to be much greater than those currently in the market. Further, these are expected to be paid in addition to those incentives already available;

(c) Challenger Entities will compete hard for customers and create sufficiently attractive offers to entice customers to switch. There is clearly demand in the market for these customers;

(d) switching to a Challenger Entity in the UK has been made easier for many customers following the introduction of CASS in 2013. BCA customers already use CASS to switch away from RBS to Challenger Entities;

(e) RBS intends to mitigate/counter any resistance by customers from switching by committing to measures identified by the CMA[45] as competitive, including informing eligible customers about CASS and assisting customers with on-boarding data requests;

(f) RBS would be required to engage with a defined pool of its customers (including through the provision of marketing materials) on behalf of Challenger Entities on the benefits of switching; and

(g) the Incentivised Switching Scheme has various built-in safety mechanisms to ensure that sufficient switching occurs. For example: The Body overseeing the scheme would have the ability (i) to require RBS to increase the frequency of the communications or (ii) to extend the period for which dowries are available by up to 12 months or (iii) to restructure the dowry formula, after a period of time, in order to improve the efficacy of the scheme and (iv) if there is an underspend in the dowries, RBS would have to transfer the Multiplier as outlined in recitals (52) and (53).

(82) In response to the comments from interested parties, the UK authorities state that they are confident that enough SME customers would switch with the financial incentives on offer as:

(a) incentives have historically induced customer switching as reflected also in the CMA Retail Banking Investigation Final Report and the RBS-commissioned Charterhouse research[46] "[…]" [47];

(b) the switching process is likely to be smooth for customers with most customers taking advantage of the Incentivised Switching Scheme to make their transfer through CASS. However, sharing customer financial records or other information on customers will likely be restricted by data protection legislation;

---

[45] The CMA retail Banking Investigation Final report (9 August 2016): https://www.gov.uk/cma-cases/review-of-banking-for-small-and-medium-sized-businesses-smes-in-the-uk

[46] RBS commissioned Charterhouse to undertake research with eligible SME customers within the W&G perimeter to explore their attitudes to switching and the impact of incentives on their likelihood to do so. The research focused on business banking customers, who account for […] of the […] customers in the W&G perimeter. The research was both quantitative (with a representative sample of […] customers interviewed) and qualitative ([…] in-depth interviews)

[47] RBS response to the Opening Decision, paragraph 4.12

(c) customers in the W&G perimeter are not less likely to switch. RBS states that the switching and customer attrition rates of those customers within the W&G perimeter are broadly in line with RBS's "core" customers and that W&G customers have been expected to leave the RBS group since 2010;

(d) protection and anti-avoidance mechanisms are in place to ensure customer switching. The Body has the power to impose a financial penalty on RBS if the BCA dowries have not been used up within the term of the scheme's operation (i.e. the Multiplier). Furthermore, the Body will be able to make changes to the amount of the dowries paid to ensure they are as effective as possible, force RBS to increase its frequency of marketing of the scheme. Furthermore, the perimeter and the length of the scheme will be increased if certain switching levels are not reached.

(83) Further, in response to the comments from interested parties, the UK authorities consider that:

(a) customers would transfer their other banking products (e.g. loans) in addition to their BCAs. The CMA have found that "the vast majority of SMEs seeking finance go to their BCA bank…over 90% of SMEs in UK went to their main bank for overdrafts, loans and credit cards" [48]; and

(b) empowering customers to make their own decision to switch is preferable to forced divestments, since empowered customers should be more likely to engage with their new bank and switch again in the future if they can obtain a better deal with another bank. This approach also has support in the CMA's Retail Banking Investigation Final Report, which states that "divestment might induce some additional customer engagement on a temporary transitional basis, particularly among customers who saw themselves as having been transferred against their will to a "new" bank, but this is clearly not a desirable way of inducing greater sustained customer engagement"[49]. Instead, the CMA found that non-structural remedies "directly targeting the underlying causes of the AEC – i.e. by improving customer engagement and facilitating switching – are much more likely to be effective in addressing the competition issues we had identified…"[50] The Incentivised Switching Scheme will build up SME customer awareness of a large number of Challenger Entity brands through the targeted marketing, encouraging the customer to engage with the Challenger Entity options and brands before deciding which one to choose.

(84) In response to the comments from interested parties and to its own market study, the UK authorities have also made the following changes to the Incentivised Switching Scheme:

(a) the total size of the scheme will increase from GBP 175 million to GBP 350 million of which GBP 225 million will be available for BCA dowries. GBP 50 million will be available for loan-related dowries to accommodate the comment that the scheme should also focus on transferring loans next to transferring BCAs. GBP 75 million would also still be available to help facilitate switching

[48] CMA's retail Banking Investigation Final Report, paragraph 8.169

[49] CMA retail Banking Investigation Final Report, paragraph 17.19.

[50] CMA retail Banking Investigation Final Report, paragraph 17.14.

(compensation for break fees related to the transfer of loan balances or other third party costs such as legal fees);

(b) with the increase in size, the Incentivised Switching Scheme will also target a transfer of 3% market share instead of the initial 2%; and

(c) RBS would start communicating the Incentivised Switching Scheme to customers around three months after launch of the package and after the first awards of the capability fund are granted.

4.4. Comments on the Branch Access Scheme

4.4.1. Comments from interested parties on the Branch Access Scheme

(85) A number of interested parties questioned the benefits that the Branch Access Scheme would have on competition in the SME banking market and that the administration and funding of the scheme would be burdensome on the customers and Challenger Entities involved, and may be an unfruitful distraction for the Body.

(86) A small number of interested parties were supportive of the Branch Access Scheme, and believed that they would take advantage of it.

4.4.2. Comments from UK authorities on the Branch Access Scheme and on comments from interested parties

(87) Reflecting the comments received that the Branch Access Scheme is likely to be of limited interest to Challenger Entities, although important to a few, the Branch Access Scheme will be retained, but with the following revisions:

(a) the Branch Access Scheme will only be open to those customers that have switched under the Incentivised Switching Scheme (and where the relevant bank participating in the Incentivised Switching Scheme has entered into an Inter-Bank Agency Deed with RBS).

(b) banks will no longer have access to branches for free, but branch access will be provided for their eligible customers on reasonable and non-discriminatory commercial terms. Banks will be able to use money from the Capability and Innovation Fund and/or dowries received under the Incentivised Switching Scheme to cover this cost. The money saved has been reallocated to other aspects of the alternative package.

4.5. Comments on the Innovation Fund

4.5.1. Comments from interested parties on the Innovation Fund

(88) Some interested parties were critical of the proposed Innovation Fund, considering it to be unnecessary and, given its long term nature, believing that it would not have a meaningful impact on competition and will have no effect on RBS's position in the UK SME market. They argued that funding from the Innovation Fund would be better diverted to other elements of the package.

(89) A few comments about the Innovation Fund were positive and this would help to speed up innovation in the SME banking sector. Some also argued that banks and building societies should also be able to access the benefits of this funding.

4.5.2. Comments from UK authorities on the Innovation Fund and on comments from interested parties

(90) In response to comments received, the Innovation Fund will be merged with the SME Capability Fund to create a Capability and Innovation Fund. This is intended to

address concerns about having two distinct funds by allowing more flexibility in who may apply and how the funds are allocated, whilst maintaining the benefits of funding for innovations relevant to SMEs.

5. ASSESSMENT OF THE MEASURE/AID

5.1. Existence of State aid

(91) According to Article 107(1) TFEU, any aid granted by a Member State or through State resources in any form whatsoever which distorts, or threatens to distort, competition by favouring certain undertakings, in so far as it affects trade between Member States, is prohibited. The Commission observes that the UK authorities consider that no additional State aid would be granted as part of the updated alternative package.

(92) The qualification of a measure as State aid within the meaning of that provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and have the potential to affect trade between Member States.

5.1.1. Potential aid to RBS

(93) The updated alternative package described in section 2.3, represents a financial cost to RBS. Based on the data provided by the UK authorities, the alternative package would have an estimated upfront cost to RBS of around GBP 833 million[51], with an additional ongoing cost in lost profits.[52] There will be no State resource flowing from the State to RBS to finance those Measures. The cost of the updated alternative package will be borne entirely by RBS.

(94) Given that the updated alternative package does not involve State resources with respect to RBS, there is no need to assess the other cumulative conditions for a measure to qualify as State aid. Hence, the alternative package does not involve new aid to RBS.

5.1.2. Potential aid to beneficiaries of alternative package

(95) The Commission observes that there is no direct link between the State aid granted to RBS in 2008 and 2009 and the updated alternative package described in section 2.3. Indeed, in the procedure leading to the Restructuring Decision, the UK authorities committed to divest the Rainbow business and the approval of the aid was based on that commitment. The alternative package has been proposed eight years after the granting of the last capital aid to RBS. Therefore, it can be excluded that the alternative package is directly linked or funded by the 2008 and 2009 aid to RBS.

(96) It should however be noted that, as indicated in recital (15), the State still owns 71.2% of RBS's shares. This suggests that the financial burden of the alternative package is indirectly but largely borne by the State, as the majority shareholder of

[51] Includes the upfront capital cost of GBP 425 million of the Capability and Innovation Fund (43), the funding for the establishment and operation of the Body of GBP 20 million (footnote 32), the upfront capital cost of the Incentivised Switching Scheme of GBP 350 million (recital 13) and the estimated operating expenses for implementation by RBS of GBP 38 million (footnote 37).

[52] The UK authorities estimate ongoing cost in reduced profit of about GBP […] per annum (footnote 37).

RBS. In addition, the UK authorities have been closely involved in the design of the alternative package which could suggest that the design of the package is imputable to the State. Moreover, the alternative package could give a selective advantage to the undertakings that are entitled to benefit from it. The measure is also designed in such a way as to channel its effects towards the Challenger Entities.

(97) However, even if the alternative package was considered to constitute State aid to the banks which would benefit from it, the Commission considers that it is compatible as a necessary part of the Commitments on the basis of which the aid measures in favour of RBS are considered compatible on the basis of the Restructuring Decision, the Amended Restructuring Decision and the present Decision.[53]

5.1.3. Conclusion on the existence of new aid

(98) In view of the elements discussed in section 5.1.1, the Commission concludes that the updated alternative package does not qualify as new State aid to RBS.

(99) As analysed in section 5.1.2, to the extent the alternative package qualifies as State aid to the banks which benefit from it, such aid is considered compatible on the basis of Article 107(3)(b) TFEU as necessary part of the Commitments on the basis of which the initial aid measures in favour of RBS are considered compatible in the present case. The compatibility of the existing aid to RBS in view of the replacement of the divestment commitment by the alternative package is analysed in section 5.2 of the present Decision.

5.2. Compatibility

(100) Whilst the updated alternative package does not appear to contain new State aid to RBS, the existing aid was authorised, *inter alia*, on the basis of the commitment to sell the Rainbow business. The UK authorities now request to replace this commitment with a commitment to implement the updated alternative package. Therefore, the Commission has to assess whether the proposed replacement would alter the conclusion that the existing aid to RBS is compatible with the internal market.

(101) A restructuring decision, such as the Amended Restructuring Decision, can in principle be amended by the Commission where the modification is based on new commitments which can be considered equivalent to those originally provided.[54] In that situation, the existing aid measures would remain compatible on the basis of Article 107(3)(b) TFEU if the overall balance of the original decision remains intact. In order to preserve the original balance, the replacement of the divestment commitment by the alternative package should not negatively affect the viability of the aid beneficiary, with the overall set of commitments remaining equivalent in terms of burden-sharing and compensatory measures taking into account the requirements of the Restructuring Communication.[55]

5.2.1. Viability

(102) The Commission has to assess whether the modifications to the Amended Commitments call into question the conclusion reached in the Amended

[53] As analysed in section 0 of the present Decision.

[54] Recital (65) of the Amended Restructuring Decision.

[55] Commission communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules, OJ C 195, 19.8.2009, p. 9.

Restructuring Decision as to RBS's ability to restore its viability without requiring further State aid.

(103) According to the estimation provided by the UK authorities (see Table 3), the cost of the alternative package is not higher than the costs of continuing with the divestment of the Rainbow business. The Commission therefore considers that switching to the alternative package would not significantly affect RBS's viability.

(104) It should also be noted that the Rainbow business itself is not a loss-making entity[56]. Consequently, the modifications to the Amended Commitments to allow RBS to retain the Rainbow business would not negatively impact the profitability of RBS.

(105) The Commission preliminarily concludes that the amendments proposed by the UK authorities do not endanger the viability of RBS.

(106) RBS has had significant losses attributable to the ordinary shareholders since 2008[57], which are mainly a result of the accumulation of large one-off items as fines and settlements for past misconduct and mis-selling of certain products, restructuring costs and higher than expected losses on non-core assets. The Commission has therefore to assess whether its conclusion that RBS will be able to restore its profitability and viability without further State aid is still valid.

(107) The Commission notes that the H1 2017 results of RBS indicate improved profitability[58]. RBS reported an operating profit to ordinary shareholders of GBP 939 million for 1H 2017.

(108) The Core Tier 1 capital ratios have improved further since 2013 and the core operating profit has continued to be positive as described in recital (11) of the Opening Decision.

(109) The Commission therefore considers that the proposed amendments do not call into question the conclusion reached in the Amended Restructuring Decision as to RBS's ability to restore its viability.

5.2.2. Burden sharing

(110) The Amended Restructuring Decision indicates that the divestment of the Rainbow business was taken into account as a measure to limit distortions of competition and it was neither a burden-sharing measure nor a measure to limit restructuring costs.[59] As such, the proposed updated alternative package does not affect the burden-sharing assessment previously carried out by the Commission.

(111) The notified changes therefore do not affect the assessment of burden sharing made in the Restructuring Decision and the Amended Restructuring Decision.

5.2.3. Measures to limit distortions of competition

(112) Pursuant to the Amended Restructuring Decision,[60] the primary purpose of the commitment to divest the Rainbow business was to limit the distortion of competition that the aid to RBS could have created. More precisely, the commitment

---

56 W&G's operating profit amounted to GBP 345M in 2016, GBP 431M in 2015, GBP 467M in 2014 (source: segmental analysis RBS annual reports).

57 Recital (10) of the Opening Decision.

58 http://investors.rbs.com/~/media/Files/R/RBS-IR/results-center/rbs-group-announcement-04-08-2017.pdf

59 Recital (78) of the Amended Restructuring Decision.

60 Recital (82) of the Amended Restructuring Decision.

to divest the Rainbow business aimed at avoiding that the very large amount of State aid granted to RBS in 2008 and 2009 resulted in undue distortion of competition in the UK market for banking services to SME and mid-corporate customers, where RBS was the market leader[61]. To avoid strengthening RBS's position in that market and thereby decreasing competition in it, the UK authorities committed that RBS would divest an entity having a market share of 5% in the UK SME customers and mid-corporate customers market[62].

(113) The purpose of the alternative package as described in section 3.3 is to address distortion of competition in the same way as the divestment commitment of the Rainbow business it is replacing.

(114) The Commission therefore has to assess whether the updated alternative package is equivalent to the divestment commitment it will replace.

5.2.3.1. Design of individual measures

(115) The alternative package consists of largely two individual measures. The Commission intends to assess the equivalence both on an individual level and on the level of the package.

Capability and Innovation Fund

(116) The Commission observes that the provision of funds from the Capability and Innovation Fund[63] to Challenger Entities to increase their capacity to offer SME banking services will likely increase competition in the SME banking market.

(117) Based on the comments of interested parties received by the Commission as a result of the Opening Decision, the Commission finds that the distribution of the funds in different awards sizing up to GBP 120 million allows it to strengthen multiple entities' banking offerings and bring more choice to the market.

(118) Interest shown and feedback received from interested parties on how they would use the funds they may receive from the Capability and Innovation Fund provides further comfort that the Capability Fund will have a positive impact on competition in the market.

(119) Based on the comments received from interested parties, the size of the awards corresponds largely to the size which some of the interested parties indicated they would need to be incentivised to invest in their SME banking capabilities. Disbursements from the funds will be competed for, with most funding being directed to those entities that are able to make the strongest pro-competitive case to the Body. The Commission believes that the size of the awards of the Capability and Innovation Fund is appropriate and the competition will result in a larger impact on the market.

(120) The Commission notes that, out of a total of GBP 425 million, the resources of the Capability and Innovation Fund are concentrated around four large awards which jointly account for GBP 330 million. Indeed, there is a large gap between the market share of the four leading UK SME banks[64] and the Challenger Entities. Further, among the Challenger Entities, there is large difference between those entities having

61 Recital (238) of the Restructuring Decision.

62 Recital (29) of the Amended Restructuring Decision.

63 As described in detail in recitals (26) to (43) of this Decision

64 RBS, Lloyds Banking Group, HSBC and Barclays.

established SME banking operations and those just entering the market or offering a limited range of products, often targeting the smallest of the SMEs. The purpose of the divestment of the Rainbow business was to create a SME and mid-corporate bank which, even if smaller than the four leading SME banks, would nevertheless be sufficiently large to challenge them. Targeting most of the funds at those few Challenger Entities with strong existing SME BCA capability is likely to lead to the largest impact on competition in the market and results with more certainty in significantly strengthening the position of one or more entities. This would therefore increase the equivalence with the impact which the divestment of the Rainbow business would have had, compared to an alternative package which would have been focused on the new entrants or banks offering only a limited range of SME banking products, often targeting only the smallest SMEs.

(121) According to the comments received from interested parties, it is important for Challenger Entities to first build extra capabilities to support the effort to convince W&G's customers to switch with the Incentivised switching. The Commission believes that providing a period of three months after the granting of an award by the Capability and Innovation Fund enables the Challenger Entities to plan and implement additional investments without unnecessarily delaying the implementation of the Incentivised Switching Scheme.

Incentivised Switching

(122) The Commission observes that the Incentivised Switching Scheme[65] will increase competition in the SME banking market, by transferring customers from RBS to Challenger Entities. The implementation of the Incentivised Switching Scheme aims at transferring customers amounting to 3 percentage points of market share of RBS in the UK SME banking market (calculated based on the number of SMEs).

(123) In terms of the number of SMEs transferred, the Incentivised Switching Scheme could lead to a reduction in the market share of RBS larger than 3 percentage points, but in this case the portfolio of customers switching would have a higher proportion of smaller SMEs. Indeed, as the amount of funding available for Measure B is capped, switching more customers necessarily implies that the dowries have to be smaller on average, which entails that the transferred customers would have to be very small SMEs, which was not the target of the divestment of the Rainbow business. In conclusion, when assessing the equivalence, it should be considered that the Incentivised Switching Scheme will allow that the transfer of market share of RBS is limited to 3 percentage points.

(124) Regarding the likelihood that the 3 percentage point reduction will be reached, the Commission observes that the offers made by the Challenger Entities will need to be attractive enough to convince the maximum number of customers to switch. Considering the comments received from interested parties, the dowry size mentioned in RBS-commissioned Charterhouse research[66], and the increased funding available for Measure B, the Commission considers that it is now large enough to incentivise the transfer of customers equivalent to a market share of 3 percentage points.

(125) The Commission considers the duration extension, perimeter extension and the Multiplier as described in recitals (52) and (53) to be important safeguards which

[65] The Incentivised Switching Scheme is described in detail in recitals (44) to (58) of this Decision.

[66] As described in recital (82)(a) and footnote 46.

deliver additional comfort that a market share transfer of 3 percentage points of RBS can be reached.

(126) The Commission also considers that BCAs are a 'gateway' product for SMEs and will generally consider their BCA provider when they seek other banking services such as loans[67]. The Commission therefore considers that the incentives to switch BCAs also incentivise customers to switch loan products.

(127) The Commission observes that the loan dowries described in recital (48) would allow the Challenger Entities to further incentivise SME customers to transfer other products along their BCAs. The loan dowry size also reduces the disadvantage interested parties have mentioned in using the standardised capital model[68]. The Commission considers that this provides more comfort that the alternative package is equivalent with the divestment of the Rainbow business in which those loans would have been transferred to a potential buyer.

(128) The Commission also notes that the GBP 75 million earmarked to help facilitate switching (compensation for break fees related to the transfer of loan balances or other third party costs such as legal fees) and the Current Account Switching Service will reduce barriers for customers to switch to the Challenger Entities.

(129) The Commission also considers that the powers and oversight of the Body[69] ensures that the Incentivised Switching Scheme can be further adapted to market signals after the scheme has been launched.

(130) The Commission does not find problematic that the access to RBS branches (as described in recital (57)) is no longer proposed to be offered for free, as envisaged in the initial version of the alternative package. Indeed, the established SME Challenger Entities commented that they do not need such access to be able to compete with the four leading SME banks. By using the funds that were initially allocated to the (initially free) Branch Access Scheme for Measures A and B, the funds of the alternative package are allocated more effectively to reach equivalence with the effect of the divestment of the Rainbow business.

(131) Based on the changes that have been introduced to the Incentivised Switching Scheme and the safeguards that are included in the scheme and the comments received from interested parties, the Commission concludes that the Incentivised Switching Scheme would have a high likelihood of delivering on a 3 percentage point RBS market share transfer.

5.2.3.2. Overall equivalence of the package to the commitment to divest the Rainbow business

(132) As stated in the Opening Decision[70], there are different ways to assess the equivalence of the alternative package. In terms of counterfactual scenario, the impact of the alternative package can be compared to the impact which a sale of the Rainbow business to a trade buyer would be expected to have if implemented now ("Rainbow divestment" in Table 3) or to the impact which the divestment of the Rainbow business was expected to have according to the Restructuring Decision

[67] As described in recital (83)(a).

[68] As described in recital (78).

[69] As described in recital (51)

[70] As described in recital (122) and (123) of the Opening Decision.

("Objective 2009 Decision" in Table 3). In terms of indicator used, one can measure the equivalence using different indicators, such as the evolution of the SME market share of RBS, the financial costs on RBS, and the size of the transferred assets and liabilities.

(133) Table 3 compares the three scenarios along different indicators.

Table 3: Comparison 3 scenarios along different indicators

	Objective 2009 Decision	**Rainbow divestment**	**Updated alternative package**
Motivation commitment	Limitation of distortion of competition in UK SME market	Limitation of distortion of competition in UK SME market	Limitation of distortion of competition in UK SME market
Market Share Loss RBS in UK SME market[71]	5%	[0-5]% [[5-10]]	3% [[5-10]]
Total Capital Loss[72]	GBP […]	GBP […] [GBP […]]	GBP […] [GBP […]]
CET1 Ratio Impact	N.A.	[…]%	[…]%
Total Asset Transfer	GBP 20 billion	GBP [15-25]billion	GBP [0-5]billion

(134) The motivation behind the divestment of the Rainbow business in the Restructuring Decision and the Amended Restructuring Decision is to limit the distortion of competition in the UK SME and mid-corporate banking market. The UK authorities have designed the alternative package with the aim to accomplish the same underlying objective.

(135) The alternatives can be compared using the impact on the market share of RBS in the UK SME market. According to the Restructuring Decision, the divestment of the Rainbow business was expected to result in a market share loss of 5%, as described in recital (112) of the Opening decision. The alternative package should also result in a market share loss. It would amount to up to 3%, if one takes into account only the Incentivised Switching Scheme. The Commission considers that the impact of the Capability and Innovation Fund will also be significant enough to enable SMEs switching from RBS and from other banks. However, this is difficult to quantify.

(136) As indicated by the UK authorities[73], it is reasonable to take into account the fact that RBS has lost market share in the UK SME banking market since the Restructuring Decision. The UK authorities referred to a data provider. Unfortunately, the data provider started to produce market share calculations only as of Q4 2010. As a result, there is no consistent time series covering the period from 2008 or 2009 to date. According to the data calculated by the provider, RBS's market share was as high as

[71] Numbers in brackets for Rainbow divestment and updated alternative package includes market share loss since Q4 2011

[72] Numbers in brackets for Rainbow divestment and updated alternative package includes GBP [1-3] billion of already incurred costs

[73] See recital (68)

[25-30]% in the 4th quarter of 2010 (first data point) in the market for SMEs with a turnover up to GBP 25 million. According to those data, RBS lost [3-7]% of market share between the 4th quarter of 2010 and the 4th quarter of 2016 in the market for SMEs with a turnover up to GBP 25 million.[74] The Commission considers that using the market share loss since Q4 2011 ([0-5]%) is more prudent versus using the market share loss since Q4 2010 ([3-7]%), because the first data point (Q4 2010) gives a market share higher than what was communicated from other sources at the time of the Restructuring Decision and it can therefore not be excluded that it is a one-off peak not reflecting correctly the starting point in 2008-2009. The Commission therefore considers that the market share in the UK SME market segment which has already been lost can be prudently quantified at [0-5]%.

(137) The 5% decrease in market share of RBS expected in the Restructuring Decision is exceeded when one aggregates the market share loss expected from the alternative package (up to 3% resulting from Measure B alone) with the observed market share loss of [0-5]%.

(138) Based on the analysis in recitals (122) to (131) the Commission assesses that there is a high likelihood a 3% market share transfer in SME customers will be achieved by the alternative package.

(139) In conclusion, the Commission considers that the market share loss for SMEs anticipated in 2009 at the time of the Restructuring Decision would be met by the alternative package.

(140) The Commission observes that Measure A is targeted to SME customers, but it does not exclude mid-corporates from benefiting from the alternative package. The Capability & Innovation Fund will enable banks to enhance and extend their existing business banking propositions for larger SMEs and therefore also for mid-corporates. For example, one of the banks indicated in their submission following the Opening Decision that it would invest up to GBP 25 million in a sophisticated Internet Banking for Business platform that would provide sophisticated digital capabilities (including FX and international payment capabilities) to small, medium and large corporates. This bank also anticipated that up to GBP 50 million of other investments plans would help it to address all market segments.

(141) The Commission also considers that the Incentivised Switching Scheme (with large dowries for the larger, more complex SME's) will further incentivize Challenger Entities to further enhance the products and services for those larger SME's. Therefore those Challenger Entities will also enhance the capability to serve mid-corporate customers.

(142) The Commission also observes that the grants and dowries of Measures A and B are concentrated with those few Challenger Entities with strong existing SME BCA capability. Those Challenger Entities will also be the ones which are likely to try to compete for the mid-corporates.

(143) According to the data calculated by the provider, RBS's market share segment was as high as [30-35]% in the 4th quarter of 2010 (first data point) in the market for corporates with a turnover above GBP 25 million[75]. According to those data, RBS lost [5-10]% of market share between the 4th quarter of 2010 and the 2nd quarter of

[74] Based on Charterhouse Research data provided by the UK authorities (see footnote 43)

[75] The Commission notes no separate data is available for the mid-corporate segment and therefore the market share of customers above GBP 25 million is used as market share indicator.

2017 in the market for SMEs with a turnover up to GBP 25 million.[76] Similar to the SME market segment, the Commission considers that using the market share loss from Q4 2011 is more prudent versus using the market share loss since Q4 2010. The Commission notes that the observed market loss of RBS for corporates from Q4 2011 to Q4 2016 ([0-5]%) is in line with the market loss for the SME's ([0-5]%). The observed market loss is even larger when considering the market loss from Q4 2011 to Q2 2017 ([5-10]%).

(144) The Commission also notes that the mid-corporates often require more complex and more varied banking products. Only a very limited number of Challenger Entities have shown real interest in those customers[77], as most entities do not have the capacity to develop those products in a profitable way. The Commission also thinks it is reasonable to consider the UK comments in recital (66)(e), outlining that the divestment of the Rainbow business would have had a smaller and/or more uncertain impact on competition in the mid-corporate segment compared to the SME segment.

(145) Although the distortion of competition is more difficult to quantify due to the indirect impact of the alternative package on the mid-corporate segment, the Commission considers that, together with the observed market loss, the alternative package will likely achieve a competition impact for mid-corporates at least equivalent to the divestment of the Rainbow business. Therefore, the Commission concludes that the distortion of competition is also addressed for the mid-corporates by Measures A and B.

(146) With respect to both mid-corporates and SME clients, the estimated total capital loss of the different scenarios may also be used to compare the equivalence between the divestment of the Rainbow business and the alternative package.

(147) The Restructuring Decision did not contain an estimation of the capital cost of the divestment of the Rainbow business. However, it is reasonable to use the estimation of the capital cost which the Rainbow business sale would generate if it is pursued, which has been quantified by the UK authorities.

(148) The cost that RBS has incurred since 2009 to comply with the divestment commitment stands at GBP [1-3] billion.[78] This covers several types of costs, the biggest of which are technology costs to create a separate IT platform for the Rainbow business.

(149) The direct capital loss[79] of the alternative package is lower than if the divestment of the Rainbow business is continued. In addition, when adding the costs already incurred by RBS, the alternative package is clearly more costly than what was implicitly envisaged in the Restructuring Decision [80].

76 Based on Charterhouse Research data provided by the UK authorities

77 As part of the feedback received following the opening decision

78 The amount of GBP [1-3]billion was reconciled with the actual costs booked under the W&G programme by an external consultant.

79 Table 3 indicates the direct total capital loss of the different alternatives. The total capital loss when adding the GBP [1-3]billion cost already incurred by RBS is indicated within brackets.

80 The Restructuring Decision did not contain an estimation of the capital cost of the Rainbow divestment. However, it seems a reasonable estimation to use the estimation of the capital cost which the Rainbow sale would generate if it is pursued, which has been quantified by the UK authorities. The cost that RBS has incurred since 2009 to comply with the divestment commitment is standing at GBP [1-3]billion.

(150) In conclusion, using that indicator, the alternative package, as claimed by the UK authorities, does not lighten the financial burden of RBS compared to what was envisaged in the Restructuring Decision; it is actually significantly more costly.

(151) The CET1 ratio impact may also be used to compare the different scenarios. The difference between the CET1 ratio indicator and the capital loss indicator is that the former also takes into account the reduction in RWA: if a scenario generates a larger reduction in risk weighted assets, it has – for a given capital loss – a less negative effect on the CET1 ratio.

(152) The CET1 figures were provided by the UK authorities. Table 3 illustrates that the CET1 impact of the alternative package is more significant. This seems to be the consequence of the fact that it involves a smaller loss of assets. Hence, even if the capital loss is slightly smaller, is has a slightly more negative effect on the CET1 ratio.

(153) The alternative scenarios can be compared across total assets as well. The total asset impact of the alternative package is significantly smaller than under the commitment to divest the Rainbow business.

(154) The commitment to divest the Rainbow business aimed at divesting a viable entity. In order to be a viable entity, the Rainbow business needed to have enough income-generating assets and customers to bear the costs of its large branch network and infrastructure. Therefore, besides SME loans and deposits which were the focus of the measure targeted at increasing competition on the SME market, the Rainbow business' perimeter also included a large amount of retail loans and deposits.

(155) The alternative package does not envisage the transfer of the retail and other non-SME assets and liabilities. It is focused on achieving a transfer of part of the SME customers, with their assets (loans) and liabilities (deposits). The alternative package is therefore much smaller in terms of amounts of assets transferred, but attempts to deliver a similar outcome on the UK SME banking market.

5.2.3.3. Conclusion on equivalence of the updated alternative package

(156) From the date of the Restructuring Decision (14 December 2009), RBS has genuinely tried to divest the Rainbow business as evidenced by the successive procedures launched, the significant amount of resources involved and manpower dedicated to the divestment of the Rainbow business.

(157) In doing so, RBS has incurred significant costs (notably, the estimated costs of attempting to divest the Rainbow business, as described in recital (148)).

(158) The Commission also notes that the alternative package does not seem to lighten the requirements on RBS. In terms of costs, besides the cost already incurred by RBS in the past, the implementation of the alternative package would impose an additional cost burden on RBS. The cumulative costs since 2009 would be significantly higher than what was implicitly expected by the Restructuring Decision.

(159) The alternative package, in combination with the lost market shares, will result in total decrease of RBS market share in the SME market which is at least equivalent to what was envisaged in the Restructuring Decision. The concern that the very large

Including the total cost of GBP [1-3]billion, the total capital loss of GBP [...]to GBP [...] significantly exceeds the GBP [...] capital cost which the Rainbow loss would have generated.

2008-2009 aid is used by RBS to consolidate or grow its market share in the already concentrated SME market would therefore be as much allayed as it would have been if the divestment of the Rainbow business had been implemented as envisaged by the Restructuring Decision.

(160) The Commission therefore considers that, in order to achieve the intended effect on competition, the alternative package is equivalent to the divestment of the Rainbow business.

(161) The Commission also notes that RBS has implemented all Commitments and Amended Commitments (other than the divestment of the Rainbow business) from the Restructuring Decision and the Amended Restructuring Decision. The notified replacement of a single divestment commitment is therefore taking place in the context of a correct implementation of the rest of the restructuring plan.

6. CONCLUSION

(162) On the basis of the foregoing assessment, the Commission's doubts on the equivalence of the alternative package expressed in the Opening Decision have been dispelled. The amendment in commitments does not affect the conclusion reached in the Restructuring Decision and the Amended Restructuring Decision and the State aid provided to RBS should therefore be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU.

(163) Furthermore, the Commission concludes that the potential State aid to beneficiaries from the alternative package should be declared compatible as a necessary part of the commitments on the basis of which the aid measures in favour of RBS are declared compatible.

HAS ADOPTED THIS DECISION:

Article 1

The replacement of the commitment to divest the Rainbow business with the alternative package notified by the United Kingdom regarding RBS is compatible with the internal market within the meaning of Article 107(3)(b) of the Treaty. The replacement of the commitment to divest the Rainbow business by the alternative package is accordingly authorised.

Article 2

The potential State aid to beneficiaries of the alternative package is compatible with the internal market within the meaning of Article 107(3)(b) of the Treaty.

Article 3

This Decision is addressed to the United Kingdom.

Done at Brussels, 18.9.2017

For the Commission

Margrethe VESTAGER
Member of the Commission

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION