

Q&As on the definition of sweeping

This document is intended to provide clarity and guidance on the use of variable recurring payments (VRPs) for sweeping. Its application will depend on the specific circumstances and the guidance is subject to change.

Introduction

The Competition and Markets Authority (CMA) has published a further clarification on the definition of sweeping. You can view this [here](#)¹. Several questions have arisen regarding interpretation of this clarification, so the OBIE has published answers to key questions, listed below:

These Q&As concern destination accounts for sweeping transactions which the nine mandated banks under the CMA Order (the “CMA9”) are required to grant sweeping access for under the Order. We anticipate that in addition to sweeping, individual CMA9 firms and Third Party Providers (“TPPs”) may wish to enter into commercial arrangements to access VRPs for purposes other than sweeping. Nothing in the clarification restrict this.

This is a live document which will be updated to reflect market and regulatory developments. If you have queries about the information provided, please raise a ticket via the [Open Banking Service Desk](#).

Sweeping definition Q&As

1 What account features are required for an e-money account to be a valid sweeping destination account?

The guidance provided by the CMA clarified that “e-money accounts that are used by consumers and SMEs as substitutes for current accounts [are in] scope”¹. Therefore, the destination account should have all the following characteristics:

- **The account should have the features of a current account**

The account should have the features typically provided by a current account including supporting day-to-day payment transactions, for example receiving salary payments, setting up Direct Debits, receiving one off payments, using a debit card for purchases, making ATM withdrawals, setting up standing orders, and paying in funds.

1 Continued

- **The account should be promoted and marketed as an alternative to a traditional current account**
- **The account should be used as an alternative to a traditional current account**
The product should typically be used for day-to-day transactions such as paying-in funds, withdrawing cash, executing and receiving payment transactions to and from third parties including credit transfers.

2 Is a Buy Now Pay Later account a valid sweeping destination?

It is unlikely that a transfer into a Buy Now Pay Later (BNPL) account would meet the definition of sweeping. These transactions are invariably linked to the purchase of goods or services and so would be excluded from the definition of sweeping because “sweeping to make e-commerce purchases” was identified by the CMA as clearly outside of the scope of the Order¹.

Even where the BNPL facility is potentially a form of credit providing a competitor to an overdraft, because the level of borrowing and repayment terms are directly linked with an e-commerce transaction it is out of scope.

3 Can sweeping be used to repay an agreement under the Consumer Credit Act?

This depends on the nature of the proposition to the customer. The CMA clearly states¹ that one of the intended purposes of sweeping is to introduce competition for overdraft customers such as provision “of alternative forms of credit that closely compete with overdrafts”. Some agreements under the Consumer Credit Act would meet the criteria but others would not. For example, hire purchase (HP) or personal contract purchase (PCP) are unlikely to be considered sweeping as they are facilitating a purchase (which is explicitly ruled out) and it would be difficult to argue that these agreements provide a credible alternative to an overdraft, as an overdraft provides a line of credit with no formal repayment schedule.

¹https://assets.publishing.service.gov.uk/media/622ef71fd3bf7f5a86be8fa4/Sweeping_clarification_letter_to_be_sent_14_March_2022_.pdf

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Can sweeping be used to repay a business loan?

This depends on the nature of the proposition to the customer. The CMA clearly states¹ that one of the intended purposes of sweeping is to increase competition for overdraft customers such as provision “of alternative forms of credit that closely compete with overdrafts”. The proposition for the business loan would therefore need to be an alternative to an overdraft to qualify as a valid destination account for sweeping.

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Is sweeping into a collection account allowed under the definition of sweeping?

For a transaction to be considered sweeping it needs to be between two accounts belonging to the same person or legal entity. There is nothing in the definition that prevents financial institutions from using collection accounts to facilitate the movement of funds if this ultimately results in a transaction between two accounts belonging to the same person. It is worth noting that some savings accounts, credit card accounts and other lending accounts use collection accounts to facilitate the processing of payments into customers' accounts.

For clarity, the ultimate destination account must be such that the definition of sweeping can be met. There will be collection accounts that are NOT valid destination accounts for sweeping, for example mortgage accounts.

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Does a destination account for sweeping have to have a unique sort code and account number?

No. Destination accounts which fall within the definition of sweeping and fulfil the sweeping objectives set out in the letter¹ must belong to the same customer as the source account but there is no need for a valid sweeping destination account, to have a unique sort code and account number.

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Can you sweep from a current account into a savings account from which funds can be transferred into investments?

A cash savings account is a valid destination account if it satisfies the following criteria:

- **The cash savings destination account itself should support the intended outcomes of sweeping**
One of the intended outcomes of sweeping was to help customers earn higher interest on their cash balances. The destination account will need to help customers achieve this outcome and fall within the definition of sweeping.
- **The cash savings destination account must NOT be used as a transfer mechanism to enable sweeping into investments.**

The CMA has stated that sweeping into investments is not within the scope of the Order¹. For example, if the destination account enabled the automatic transfer of funds into investments on receipt of a sweeping transaction then the account is being used as a transfer mechanism to support sweeping into investments. However, if a customer decided to manually move funds from the savings account into investments, that would not invalidate the account from being a valid destination account for sweeping as the transfer into investments was completely independent from the sweeping transaction.

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Are there limitations where money can be transferred after a sweep into a savings account?

There are no specific limitations on the use of funds after sweeping has taken place. However, sweeping destinations must not be used as a transfer mechanism for destinations outside the scope of sweeping, so the onward transfer must be completely independent of the sweep. For example, the transfer takes place following a specific request from the customer. If the onward transfer is carried out automatically and triggered by the receipt of the sweeping transaction it is likely that the account would be considered to be enabling the sweeping of funds into the onward destination account which may not be within the scope of the Order.

If this condition has been met, the limitations about onward transfer will be determined by the terms and conditions of the destination account receiving the sweeping transaction.

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What should a party do if it disputes that a transaction or use case is sweeping?

In the first instance, we would expect the Account Servicing Payment Service Provider (ASPSP) and the Payment Initiation Services Provider (PISP) to discuss the issue and where possible reach a common understanding.

If the ASPSP and the PISP are unable to reach an agreement, we would expect both parties to do all they can to minimise any adverse impact on consumers and SMEs who are using sweeping-dependent services. For example, we would not expect ASPSPs to unilaterally switch off sweeping access to a PISP.

In addition, we would expect the parties to adopt the following process

- The ASPSP or PISP to inform the OBIE (including by raising a ticket via the Open Banking Service Desk) that they believe a particular use case does not meet the definition of sweeping within scope of the Order as clarified by the CMA in its March 2022 letter.
- The OBIE will investigate the matter. For example, by requesting evidence from the ASPSP as to why they believe the use case is not sweeping, and asking the PISP for evidence to support their assertion that a particular use case meets the definition of sweeping.
- Based on the evidence provided, the OBIE will make a recommendation as to whether a particular transaction meets the definition of sweeping. This recommendation would be provided to the ASPSP and the PISP involved in the dispute. The CMA will also be informed by the OBIE of its recommendation.

This process does not prevent the CMA from taking enforcement action against a breach of its remedy where appropriate or for parties to undertake private enforcement action against a breach.