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Antitrust Radar: Financial Services

Financial Services Antitrust Quarterly

September 2, 2026

This quarterly update highlights key EU and UK competition law developments from Q2 2026 in the financial services sector. Highlights include FCA enforcement activity in payments, reform of the UK merger control regime, and important EU-level policy developments relevant to the banking sector.

EU Developments

European Commission Investigation into Deutsche Börse and Nasdaq

A significant case with potential implications for the structuring of exchange cooperation agreements involving financial markets infrastructure providers and participants.

The European Commission is pursuing a formal antitrust investigation into Deutsche Börse and Nasdaq's conduct in the listing, trading, and clearing of financial derivatives in the EEA. The Commission is considering whether the parties allocated demand, coordinated prices, and exchanged commercially sensitive information. In its defence, Deutsche Börse claims that the cooperation was intended to be pro-competitive and build deeper liquidity in Nordic derivatives markets. The investigation arises from a cooperation arrangement dating back to 1999 between Eurex (Deutsche Börse's derivatives arm) and Finland's then-HEX exchange (later acquired by Nasdaq).

European Commission Communication on Banking Sector Competitiveness

While primarily a regulatory initiative, the Communication's emphasis on facilitating cross-border mergers and reducing barriers to market integration could facilitate future cross-border bank consolidation.

On 17 July 2026, the European Commission adopted a Communication on the competitiveness of the EU banking sector, following the Draghi and Letta reports and the Savings and Investments Union strategy. The Communication proposes measures to remove barriers to cross-border banking, including allowing more efficient allocation of capital and liquidity within banking groups, aligning the treatment of intragroup exposures. The Communication also challenges unjustified national interventions in mergers. This criticism comes after Germany initially rejected an offer from Italy's UniCredit to take over Commerzbank. The Communication also proposes a more clearly defined regulatory regime for small and less complex banks and support for a 50% reduction in reporting data points.

Article 102 TFEU Guidelines on Exclusionary Abuses – Finalisation Expected

Financial services firms with significant market positions – particularly in areas such as payment systems, exchange infrastructure, and data services – should assess their commercial practices against these new standards, as the Guidelines signal a more interventionist enforcement posture.

In Q3 2026, the European Commission is expected to finalise its inaugural Guidelines on the assessment of conduct which may constitute an exclusionary abuse of dominance contrary to Article 102 TFEU. Building on the draft published in August 2024 and extensive public consultation, the Guidelines introduce a two-stage test: (1) whether the conduct departs from competition on the merits, and (2) whether it is capable of producing exclusionary effects. Notably, for certain categories of conduct ((i) exclusive supply or purchasing, (ii) rebates conditional on exclusivity, (iii) predatory pricing, (iv) margin squeeze in the presence of negative spreads, and (v) certain forms of tying) the Guidelines introduce a rebuttable presumption that the conduct is capable of leading to exclusionary effects, thereby effectively shifting the burden of proof to the dominant firm.

UK Developments

FCA Opens Competition Act Investigation into Mastercard, Visa, and PayPal

While the FCA has not yet reached any conclusions, this investigation highlights the FCA's growing appetite to use competition enforcement tools in financial services, particularly in the rapidly evolving digital payments sector.

On 6 May 2026, the Financial Conduct Authority opened a formal investigation under the Competition Act 1998 into Mastercard, Visa, and PayPal over suspected anticompetitive conduct linked to the funding and usage of PayPal's digital wallet. The FCA is investigating under both Chapter I (anticompetitive agreements) and Chapter II (abuse of dominance). This is a rare and significant use of the FCA's competition powers. The investigation follows an FCA / Payment Systems Regulator report on digital wallets that raised competition concerns.

PSR Draft Directions on Business Card Fees

Following its March 2025 Market Review Report on card scheme payment and processing fees, the PSR has consulted on Draft Directions to increase transparency and enable oversight of Mastercard and Visa business card fees.

On 19 December 2025, the PSR consulted on draft directions involving: (i) schemes to simplify and clarify information provided to businesses about card processing fees; and (ii) pricing governance measures to ensure decisions are evidence-based, consistent and subject to stronger internal oversight. On 21 May 2026, the PSR published a further consultation paper concerning draft directions and guidelines for a Regulatory Financial Reporting (RFR) remedy. The RFR would require the major card schemes to report specific UK profitability and financial performance data to assist regulatory oversight of payment and processing fees. The consultation closed on 3 July 2026.

UK Government Consultation on CMA Merger Control Reforms

The reforms point towards greater predictability in UK merger control, but it is potentially at the expense of fully independent Phase 2 decision-making.

The UK Government's consultation on reforms to the UK competition regime closed on 31 March 2026. Key proposals include: abolishing the CMA's independent panel system for Phase 2 mergers (replacing it with CMA Board sub-committees comprising non-executive members of the CMA Board, non-CMA staff experts and CMA senior staff); clarifying the "share of supply" and "material influence" jurisdictional tests via a closed list of factors; and extending the Phase 1 remedies period from 10 to 20 working days. The King's Speech in May 2026 confirmed the Starmer Government's firm intention to legislate, but members of the new Burnham Government have not expressly touched upon competition policy in their initial days in office. That said, given the still pressing need for growth and investment, we are unlikely to see a wholesale reversal of the proposed reforms. Either way, any legislation realistically will not take effect until 2027.

Abolition of the Payment Systems Regulator

For banks and payment institutions, the practical implication is a single regulatory interlocutor going forward.

HM Treasury confirmed in April 2026 that the Payment Systems Regulator will be abolished and its functions consolidated into the FCA. Unless this decision is reversed by the new Burnham Government, the FCA will absorb the PSR's competition objectives. The transition is expected to extend into 2027.

FCA Market Study into Pure Protection Products

The FCA is scheduled to release its Final Report on the distribution of pure protection products to retail consumers in Q3 2026.

In January 2026, the FCA released interim findings on the distribution of term assurance, critical illness cover, income protection, and whole of life policies to retail consumers. While recognising that there are largely good outcomes for consumers, the Interim Report identified a "protection gap" with 58% of consumers holding no pure protection products. The FCA engaged with stakeholders in workshops focused on strategies to address the perceived gap. The upcoming Final Report due in Q3 2026 is expected to contain a summary of the stakeholder feedback and the regulatory action to be taken.

FCA Market Study into Claims Management Services

Launched on 19 May 2026, this FCA Market Study is examining whether practices by claims management companies (CMCs), legal professionals, and lead generation firms adversely affect consumers and competition.

The study was prompted by concerns including complex or unclear fee structures, misleading advertising, weak oversight of customer sign-up practices and limited customer understanding of fees, termination charges and likelihood of success in claims. Comments on the scope of the market study closed on 19 June 2026, and interim findings are expected in December 2026.

CMA Strategic Review of Market Remedies

The CMA's review is a welcome attempt to ensure that existing market remedies remain appropriate and effective in current market conditions.

In January 2026, the CMA launched a strategic review of 33 CMA-imposed market remedies to assess whether they should be retained, amended or removed. Within the financial services sector, the review includes certain long-standing remedies in retail banking, consumer credit, insurance and audit: (i) Retail Banking Market Investigation Order 2017, (ii) Current Account Switch Service (CASS) Remedies Undertakings 2017, (iii) Payment Protection Insurance (PPI) Market Investigation Order 2011, (iv) Home Credit Market Investigation Order 2007, (v) Private Motor Insurance Market Investigation Order 2015, (vi) Statutory Audit Services Order 2014, and (vii) Store Card Market Investigation Order 2006. The deadline for responses was 2 March 2026 and the CMA's provisional decision is awaited.

For further information, please contact Greg Olsen, partner at Willkie Farr & Gallagher LLP (Golsen@willkie.com).

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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