ACCESS TO CASH CONSULTATION

POSITIVE MONEY RESPONSE

The following sections detail Positive Money's response to HM Treasury's consultation on Access to Cash, which asked respondents to put forward views on the government's legislative proposals for protecting cash access. The consultation ran from 1 July to 23 September 2021.

The consultation publication and accompanying impact assessment are available at: https://www.gov.uk/government/consultations/access-to-cash-consultation

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Positive Money welcomes the opportunity to respond to HM Treasury's consultation on Access to Cash.

We are a not-for-profit research and campaigning organisation, working towards reform of the money and banking system to support a fair, democratic and sustainable economy. We are funded by trusts, foundations and small donations.

Question 1: Do you agree that legislation should provide the government with powers to set geographic requirements to ensure the provision of withdrawal and deposit facilities to meet cash needs through time?

We agree that legislation should provide the government with powers to set requirements to ensure the provision of cash withdrawal and deposit facilities. The requirements should focus on providing comprehensive and consistent access to cash, especially for the most cash-dependent groups.

However, relying exclusively on a single geographic requirement that only targets specific large firms may not be sufficient. We advise the government to adopt a population-based approach, along the lines of the Post Office access criteria,[1] that features multiple targeted and appropriate requirements according to population density.

These requirements should be resilient for the long term, not subject to frequent revisions on the basis of current consumer demand for cash. Access to cash fulfils a vital social purpose *regardless of the short-term level of cash use*. For instance, it acts as a competitive floor, above which private sector payment methods must compete. Without a widely accessible publicly-provided alternative, the UK payments sector would become a 'captive market', with strong commercial incentives for dominant payment firms to raise fees. We have seen recent

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[1] Post Office Network Report 2020. Page 10. https://corporate.postoffice.co.uk/secure-corporate/our-network/post-office-network-reports/

examples of such fee increases in the recent hike in international fees announced by PayPal, which followed announcements of five-fold increases from Visa and Mastercard.[2]

<u>Question 2: Do you agree that legislative geographic requirements should target maximum simplicity?</u>

As a general principle, regulation should be straightforward to communicate and enforce, but the priority must be to provide comprehensive access to cash for all communities: simplicity should not come at the expense of comprehensive cash provision.

We support the creation of the two headline requirements — reasonable access to withdrawal and deposit facilities — and agree that local needs, deprivation, vulnerability, and service levels are important factors to address. Specific targets for rural areas and cash-deprived urban areas should be included to direct cash provision to where it is most needed, and they should be explicit about these social objectives. We also recommend setting geographic requirements for the provision of SME depositing services specifically, as comprehensive provision of cash deposit services is crucial for ensuring cash acceptance by businesses.

However, we are concerned that creating different sets of requirements for withdrawal and deposit services could complicate reporting by firms and effective oversight by the regulator. We recommend the requirements for withdrawals and deposits be made as symmetric as possible, supporting the entirety of the cash cycle.

<u>Question 3: Do you agree that geographic requirements should initially be set to provide a level of reasonable access to all areas, reflecting the current distribution of cash access facilities?</u>

Disagree. The government should set targets based on the UK population's access to cash, along the lines of the Post Office access criteria. The requirements should be determined by reviewing cash access needs of communities on an ongoing basis, not simply to preserve existing cash access facilities. In areas of the UK where cash access falls short of the community needs, expanded cash infrastructure must be provided.

We are also concerned that a regulatory approach that reflects the "current distribution" of cash access incentivises commercial banks to more rapidly withdraw cash services before the regulation comes into effect.

<u>Question 4: Do you agree it is necessary to allow for requirements in Northern Ireland and Great Britain separately?</u>

<u>Question 5: Do you think that requirements in Northern Ireland and Great Britain should be set at a consistent level?</u>

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[2] Rachel Pugh, Emma Munbodh (14 September 2021). "Compulsory fee warning issued to PayPal users in the UK." Manchester Evening News.
https://www.manchestereveningnews.co.uk/news/uk-news/paypal-warning-issued-all-brits-21566930

Setting cash access requirements at a lower level for Northern Ireland would clearly prioritise commercial interests of firms over social outcomes: a double standard that would neglect the payment needs of UK citizens in Northern Ireland. The government's evidence highlights the negative impact lack of access is already having on vulnerable groups who depend on cash: restoring the cash infrastructure in Northern Ireland to match the level of provision across the UK to meet community needs is a fair and appropriate response.

Question 6: Do you agree that requirements should be targeted at the largest payment account providers?

We agree the requirements for cash services provision should capture the largest retail banking providers: specifically, banks and building societies. However, we believe challenger banks should also be required to provide cash services: their exemption could easily result in a race to the bottom for cash provision among the challenger banks, and leaves open the question of whether a subsidiary firm of a large bank would be subject to meeting the requirements (if not, this could incentivise the creation or acquisition of subsidiary firms to evade cash access requirements). Customers would be left unable to access cash at their bank unless they bank with the biggest banks. We are concerned that the proposed approach — designating a limited number of large firms according to geographic coverage, distribution of consumers and share of the payment account market — will not be sufficient to provide comprehensive access to cash for the UK.

As a guiding principle, we recommend the requirements target all firms that i) are regulated as banks or building societies, and ii) are run for-profit. These firms are explicitly licensed as deposit-taking institutions, and have the ability to extend credit based on those deposits to earn significant profits. In addition, the banking sector also benefits from significant state support — for example, through deposit insurance, and the Bank of England's funding facilities. Banks' considerable profits are based on the fact customers' deposits can be readily redeemed at par with risk-free public money (in the form of cash), due to this state backing. It is therefore necessary that all such banks provide access to cash, which provides the anchor of trust their deposits rely on.[3] Furthermore, banks and building societies are well positioned to provide cash withdrawal and deposit facilities, already have experience providing these services, and have pre-established infrastructure in place to support it.

The transition to digital payment methods is increasing the need for clearer and more strongly enforced regulatory boundaries between deposit-taking firms and other categories of financial institution. The FCA's recent intervention[4] compelling e-money firms to clarify the level of protection on the money users hold with them highlights this need, as do the Financial Policy Committee's (FPC) stablecoin expectations,[5] which emphasise the importance of redemption in fiat currency for systemic payment methods for the safety and resilience of the financial system. E-Money Institutions (EMIs) are not well placed to provide cash services, with many lacking the necessary experience and infrastructure, but some are

[3] Konstantin Bikas, Zack Livingstone (April 2020). Positive Money. https://positivemoney.org/money-we-trust/

[4] FCA (18 May 2021). "Please act: ensure your customers understand how their money is protected". Open letter. https://www.fca.org.uk/publication/correspondence/dear-ceo-letter-e-money-firms.pdf

[5] Bank of England (07 June 2021). New forms of digital money - Discussion Paper. Section 5. https://www.bankofengland.co.uk/paper/2021/new-forms-of-digital-money

attempting to secure deposit-taking status.[6] While cash remains the only form of fiat money accessible to the public, there must be strictly enforced alignment of the banking sector's unique capabilities — deposit taking, credit creation, and deposit insurance — with full cash services provision in order for the wider regulatory approach for deposit-taking institutions to be consistent.

Question 7: Are there other factors beyond those listed that the government should take into consideration when designating firms?

Yes, there may need to be exemptions built into the cash provision requirements for community development financial institutions (CDFIs) that already provide a clear social purpose, such as credit unions and small stakeholder banks. While such firms are regulated as deposit-taking institutions, they may have limited capacity to provide cash services, and are already relied on by communities for other vital financial services. The requirements should be calibrated with these extenuating factors in mind, to ensure CDFIs business models are not negatively impacted as new cash provision requirements are rolled out.

Question 8: Do you agree that the FCA should be the lead regulator for monitoring and enforcing requirements on access to cash?

Agree. The FCA is well placed to be the overall lead regulator for monitoring and enforcing requirements on access to cash, or take responsibility for creating and overseeing a bespoke regulatory body for this purpose.

Question 9: Do you agree with giving the FCA discretion on additional requirements for qualifying cash facilities?

Agree. The UK payments market currently faces a high degree of uncertainty, with the possibility of further economic lockdowns, and disruption from new forms of digital money highlighted in the Bank of England's discussion paper.[7] Giving the FCA discretion over setting additional requirements will allow for unforeseeable future developments to be addressed without amending the legislation at the highest level, which could prove slow and cumbersome in the context of another national lockdown or a rapid transition to novel digital payment methods.

We further recommend that any substantive changes to the requirements be undertaken with consultation of stakeholder groups, including banks and building societies, the Post Office, relevant civil society organisations, and consumer groups.

Question 10: Are there any other factors, beyond those listed, that the FCA should consider as part of evaluating qualifying cash facilities?

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[6] Paulina Duran (27 August 2021). "UK banking app Revolut seeks Australian banking licence." Reuters.
https://www.reuters.com/technology/uk-banking-app-revolut-seeks-australian-licence-2021-08-27/

[7] Bank of England (07 June 2021). New forms of digital money - Discussion Paper. Section 3.
https://www.bankofengland.co.uk/paper/2021/new-forms-of-digital-money

Cash provision requirements should explicitly include access to both notes and coins. Many individuals have tight weekly budgets that require cash services to the penny, which are currently provided exclusively by Post Office and bank branches. This is also a crucial consideration for small businesses, who must be able to reliably withdraw and deposit coins in order to accept cash transactions.

For universal access to cash to be sustainable and cost-effective in the long term, we expect it will be increasingly delivered by shared facilities, including Post Office branches, BankHubs, and the LINK network of ATMs. The requirements should also reflect the need for the banking industry to enter binding commitments to support the existing Post Office network and the ongoing progress and expansion of Community Access to Cash Pilots.

The requirements should also highlight the importance of in-person cash services, which is essential for fully meeting the needs of more vulnerable customers. In addition, banks and similar financial institutions offering in-person cash services have regulatory accountability for anti-money laundering (AML) measures, submitting Suspicious Activity Reports (SARs). As a result, a reduction of in-person cash services would not be compensated for by greater provision of automated facilities: this would mean less effective regulatory oversight of cash, and also risks less sensitivity to community needs on the part of cash providers.

Question 11: If geographic requirements are being met at a national level, do you think there are any circumstances in which the FCA should nevertheless be able to intervene at a local level?

The FCA should be able to intervene at a local level if cash services provision falls short of local needs for communities while still technically meeting the national requirements. This will ensure that the FCA is able to respond effectively to ‘edge cases’. The power to make targeted local-level interventions will be particularly important if the government chooses to adopt national requirements that maximise simplicity.

Question 12: Do you have any other views regarding the future role of the regulators in protecting cash?

Payment service providers directly impose fees on retailers for card transactions, but transactions are priced equally across the board for customers paying by card or cash, giving customers the false impression that card payments carry no additional cost. As Bank for International Settlements analysis has shown, card payments are significantly more expensive for merchants than cash.[8] Card payments are particularly costly for UK SMEs, who pay average fees of nearly 2% on such transactions.[9] However, in real terms, customers paying with cash are paying towards the overall cost of card transactions, without seeing any advantage for this additional expense. Illustrating this, a £10bn class action

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[8] BIS Annual Economic Report (23 June 2021). “CBDCs: an opportunity for the monetary system.” https://www.bis.org/publ/arpdf/ar2021e3.htm

[9] Andy Haldane (18 November 2020). Speech: “Seizing the Opportunities from Digital Finance.” Bank of England. https://www.bankofengland.co.uk/-/media/boe/files/speech/2020/seizing-the-opportunities-from-digital-finance-speech-by-andy-haldane.pdf?la=en&hash=508F4972D17DE5A6DE3E0A1439A284BE904AC1C5

lawsuit has been brought against Mastercard, alleging that each UK adult is owed £300 each as a result of retailers raising prices to compensate for Mastercard's excessive transaction fees.[10] This is a direct result of the prohibition against businesses passing the cost of card payments directly onto the customer at the point of purchase, and gives a significant competitive advantage to card companies, and is unfair for cash users. We recommend the prohibition on passing card charges on to customers directly be reviewed, given these negative impacts, as it may not be fit for purpose.

A further consideration is whether the government should mandate the acceptance of cash as a form of payment in all essential businesses. Access to cash and cash acceptance are interdependent and mutually reinforcing — two sides of the same coin. We believe this could be implemented with an overall positive impact, provided that withdrawal and deposit facilities are made universally available. As a complementary policy, essential small businesses that operate in rural areas that fall outside areas covered by the requirements — and may struggle to sustainably provide cash services as a result — could be supported through a public subsidy (for example, being granted the ability to claim cash provision costs against tax).

[10] Kirstin Ridley (19 August 2021). UK court sets scene for $14 bln-plus class action against Mastercard. Reuters. https://www.reuters.com/world/uk/uk-court-sets-scene-14-bln-plus-class-action-against-mastercard-2021-08-18/