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Response to: FCA guidance consultation GC20/2: Branch and ATM closures or conversions

Consultation Response

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Summary

- Which? welcomes the opportunity to respond to the FCA's proposals on branch and ATM closures or conversions.
- Bank branches and ATMs are closing at an alarming rate. Which? research shows that consumers, particularly older consumers and those in rural areas, rely on the services that branches offer. While closures are a commercial decision, it is vital that communities and vulnerable consumers are not cut off from cash and access to essential banking services.
- The Access to Banking Standard is failing communities as banks rarely reverse a decision to close a branch. HSBC, Lloyds Banking Group, Santander, the Co-operative Bank, TSB and Virgin Money have never reversed a decision¹.
- Which recommends that the FCA:
 - Implements the final guidance as soon as possible to prevent a rush of closures before proposed legislation to protect access to cash is introduced and to help mitigate the impact of the coronavirus pandemic on the already fragile branch and ATM networks.
 - Clarifies how their role and the proposed guidance interacts with the existing regulation and industry agreements of ATMs and branches. The FCA should also set out how they will work with stakeholders to ensure that ATM closures not covered by the guidance are undertaken in a fair way.
 - Uses the full range of enforcement tools available to them in cases where firms have not treated customers fairly.
 - Also focuses on supervision to prevent harm, intervening to ensure that adequate banking services remain in place they find that alternative provisions are insufficient.
 - Conducts an assessment of the viability of alternative provisions firms could provide after a branch or ATM closure.
 - Should carefully consider the suitability of Post Office as a viable alternative in place of a branch or an ATM.
 - Sets out what impact they expect the proposed guidance to have and what outcomes they will measure to evaluate whether the guidance is effective.

¹ Chiara Cavaglieri, Which? (2020) The battle to save our bank branches

Introduction

1. Which? welcomes the opportunity to respond to the FCA's draft guidance on Branch and ATM closures or conversions. Our Freedom to Pay campaign² highlights the importance of cash for consumers, communities and small businesses.
2. Both the branch and ATM network have rapidly shrunk in recent years. In the last two years, we have seen the loss of a staggering 9500 free to use cash machines³. More than 3500 UK bank branches have closed since 2015 and there are already 180 branch closures scheduled for 2020.⁴ We are concerned that these declining trends will be accelerated by the impact of coronavirus both on firms' business models and on the demand for cash.
3. This shrinkage of the ATM and branch networks has unacceptably reduced the choice of banking services and payment options available. Without urgent intervention, we risk leaving some people struggling to perform essential banking tasks or pay for essential items. While online banking and digital payments have increased in popularity in recent years, not everyone is ready to make the jump to digital.
4. Research by Which? and other organisations has consistently demonstrated the importance of cash and offline banking services to consumers. Our Everyday Finances Report, published in November 2019, found that 65% of consumers would find it difficult without the option to access a bank branch and 8.4 million adults (17%) would still prefer to bank at a branch⁵. Other research has highlighted the continued importance of cash: nearly half of people surveyed before lockdown said it would be problematic if there was no cash in society, and 17% were unsure how they would cope or would not cope at all⁶. Our research into digital inclusion found that consumers who depend on cash payments were significantly more likely to be vulnerable (35%) than not (22%)⁷. In particular, we found that two-fifths of those who depend on cash have a physical or mental health condition or have experienced a life shock⁸.
5. We are therefore concerned that reductions in the network have the potential to cause substantial harm to consumers, with many being left without access to cash or essential banking services. We have already seen evidence that consumers are facing challenges in accessing or using essential banking services. A survey before lockdown found that 3

² Which? (n.d.) Freedom to Pay. Our Way. Available at: <https://campaigns.which.co.uk/freedom-to-pay/>

³ Which? press release (2020) Sticking plaster solutions won't stem the cash crisis, warns Which?. <https://press.which.co.uk/whichpressreleases/sticking-plaster-solutions-wont-stem-the-cash-crisis-warns-which/>

⁴ Which? (2020) Bank Branch Closures: Is your local branch closing?

<https://www.which.co.uk/money/banking/switching-your-bank/bank-branch-closures-is-your-local-bank-closing-a28n44c8z0h5>

⁵ Which? (2019). Everyday Finances: Key Statistics. Available at: <https://www.which.co.uk/policy/money/4348/everydayfinances>

⁶ LINK and Natalie Ceeney for UK Fintech Week 2020 (2020) The Future of Cash Post Covid-19 Webinar. Available at: <https://www.brighttalk.com/webcast/14309/398885/the-future-of-cash-post-covid-19>

⁷ Vulnerable in this context was defined as consumers who have said they'd experienced or have a physical/mental health condition, life shock or who have experienced financial hardship.

⁸ Which? telephone survey between 5th and 10th March 2020 (1006 adults). Weighted to be representative of the GB population (aged 18+)

in 5 had struggled with accessing cash free of charge from an ATM and two-fifths had encountered an issue with their bank branch.⁹

6. Although ATM withdrawals dropped sharply during the coronavirus pandemic, cash still remains an important payment mechanism for many. Recent Which? research conducted during lockdown found that 44% of people were accessing or using cash in the same way as before coronavirus measures were implemented¹⁰. And although the number of ATM withdrawals dropped sharply, the volume of withdrawals remained high, with approximately £1 billion being withdrawn from ATMs every week¹¹. Recent figures from LINK have also shown that cash use has increased by two-thirds since lockdown eased, demonstrating that cash remains a vital way to pay for many people¹².
7. Action is needed to protect both ATMs and bank branches. Which? has previously raised multiple concerns about the measures in place to protect ATMs.¹³ In 2018, we campaigned against changes to LINK's main interchange fee and fed into subsequent work by the Payment Systems Regulator (PSR)¹⁴. We have also raised concerns to the PSR around weaknesses within LINK's protected ATM scheme and Financial Inclusion Programme, highlighting data from LINK which found that hundreds of "protected ATMs" had closed or become pay-to-use since 2018¹⁵. In November 2019, we called on the PSR to review the Financial Inclusion Programme and Protected ATM scheme to ensure that they are fit for the purpose of protecting ATMs where consumers need them most. We have also highlighted shortcomings in the existing protection of branches, including the Access to Banking Standard¹⁶.
8. There are clear gaps in the protection of access to cash and no single body charged with overseeing how consumers can access cash. Which? has welcomed the government's commitment to legislation to help protect access to cash, which will help to address some of these gaps. We have called for a single regulator to be given the responsibility to protect access to cash and, given the FCA's remit on banking, we are clear that the FCA is the most suitable organisation to take this forward.
9. We are therefore pleased to see the FCA's proposals on branch and ATM closures and conversions. These proposals will help to address the fair treatment of consumers during

⁹ Which? telephone survey between 5th and 10th March 2020 (1006 adults). Weighted to be representative of the GB population (aged 18+)

¹⁰ Which? Survey of the general public (2091) people conducted 6-7th May 2020.

¹¹ LINK and Natalie Ceeney for UK Fintech Week 2020 (2020) The Future of Cash Post Covid-19 Webinar. Available at: <https://www.brighttalk.com/webcast/14309/398885/the-future-of-cash-post-covid-19>

¹² The Telegraph (2020) Cash usage increases by two-thirds after lockdown measures eased. Available at: <https://www.telegraph.co.uk/personal-banking/current-accounts/cash-usage-increases-two-thirds-lockdown-measures-eased/>

¹³ Our previous consultation responses on this issue are available at:

<https://www.which.co.uk/policy/money/3552/consultation-responses-payments>

¹⁴ Which? (2019). Which? response to the PSR CP19/5: Review of the structure of LINK interchange fees - call for views. Available at: <https://www.which.co.uk/policy/money/3552/consultation-responses-payments>

¹⁵ Which? (2019) Response to PSR Annual Review of Specific Direction 8 (LINK).

¹⁶ Chiara Cavaglieri, Which? (2020) The battle to save our bank branches

the closure process. Although branch and ATM closures are a commercial decision, firms have a responsibility to meet the needs of the customers and communities they serve. If firms decide to close branches then they should ensure that their customers can continue to bank.

10. The FCA's guidance is particularly welcome given the shortcomings of existing industry agreements regarding branch closures. The Access to Banking Standard, overseen by the independent Lending Standards Board and set up by industry, was designed to protect communities from the impact of branch losses. However, our recent magazine investigation into bank closures¹⁷ found that it failed to address the issues most pressing to those affected by branch closures. For example, our investigation found that despite engagement with local communities being a requirement of the code, many people only learn about their local branch closing after it has already shut. Furthermore, we found that the Access to Banking Standard had done little to mitigate against the impact of the devastating cuts to the UK's branch network. While the Lending Standards Board does not have the power to halt or reverse a closure, it does require banks to complete an impact assessment of the closure decision. We believe the credibility of the Standard is highly questionable if these consultations have never led to a bank realising that access concerns could not be adequately addressed without keeping the branch open.
11. It is clear that while the Lending Standards Board can work with firms to help address the issues that have been identified with how the Standard is implemented, it is unlikely that a voluntary approach is sufficient to ensure the fair treatment of consumers. The proposed FCA guidance has several clear benefits when compared to the existing Standard. The guidance is far more detailed, wider in scope and crucially, the FCA can take stronger action in the event of non-compliance. However, there are further changes the FCA can make to the guidance which will strengthen its ability to protect consumers, which we have outlined below.

Urgency is key to protect consumers

12. The proposed guidance states that "if confirmed, the measures would start to come in force later this year". Our view is that the FCA should introduce these new rules as soon as possible. With the timing of forthcoming legislation unclear, there is a real risk that some consumers lose access to cash before legislation is even introduced. This risk is particularly high given that the coronavirus pandemic has exacerbated the current trend of closures. For example, the withdrawal of mobile branches during the coronavirus pandemic has left many rural communities with dramatically reduced access to cash and banking services. Therefore, enforcing this guidance too late could have real repercussions as branches and ATMs continue to close down without sufficient attention paid to ensuring continued access.

¹⁷ Chiara Cavaglieri, Which? (2020) The battle to save our bank branches

13. The FCA should introduce a specific timetable for the implementation of their draft guidance on branch and ATM closures and conversions, which should be as soon as possible to ensure that consumers are not left stranded as the branch and ATM infrastructure continues to shut.
14. The FCA should also set out in the final guidance which bank branch and ATM closures are in scope. As mentioned above, 180 branch closures have already been scheduled for 2020. The introduction of the guidance represents an opportunity to ensure that these announced closures treat customers as fairly as possible.
15. Therefore, it is key that the FCA clarifies whether the guidance will apply only to branch and ATM closures announced after the guidance comes into force or whether it will also apply to closures which have already been announced or are currently in process.
16. If the guidance does not cover closures which are already announced or are currently in process, the FCA should also set out the steps they intend to take to ensure that this group of closures is undertaken fairly and in the best interests of consumers.

The need for further clarity

17. We are pleased to see that, compared with the existing Access to Banking Standard, the FCA guidance is more detailed in what is expected from both impact assessments and communication with consumers.
18. However, the current guidance leaves a lot of room for interpretation. For example, when discussing communicating with harder to reach customers, the guidance merely states that “Firms may also wish to consider how to communicate with harder to reach groups”. This may lead to some firms choosing to reach out to harder-to-reach groups in the suggested ways and some deciding not to. Similarly, the guidance states that “Firms should consider whether individual communications may be appropriate for customers who are known to be vulnerable.” without specifying how firms should ensure that these communications are appropriate.
19. This room for interpretation may lead to differing approaches from firms. We have already seen much diversity in the way that banks have conducted closures under the Access to Banking Standard¹⁸. We are concerned that this may lead to some firms adopting less effective measures to contact vulnerable consumers, thus risking poor outcomes for them. Furthermore, an inconsistent approach from firms makes it more difficult for consumer groups such as Which? to advise consumers on how they can expect to be treated by their bank if their local branch or ATM is announced for closure and what they can do if they are not treated fairly in the process.

¹⁸ Chiara Cavaglieri, Which? (2020) The battle to save our bank branches.

20. Therefore, the FCA should set out more prescriptive guidance on how firms should communicate with vulnerable and harder-to-reach consumers. The FCA should also set out what they mean by vulnerable customer within the specific context of branch and ATM closures.
21. It is not clear from the proposed guidance the timescales for firms informing the FCA of key decisions during the closure process. Currently, the guidance states that “we expect to be kept informed of a firm’s plans and decisions throughout the process of closures or conversions being considered and implemented. This includes telling at the earliest opportunity about any key decisions”. We would like to see a definition of “earliest opportunity” including what the FCA deems an acceptable period of time to be informed of a key decision after that decision has been made.
22. We are pleased to see that the proposed guidance has set out that firms should inform customers about a branch or ATM closure at least 12 weeks in advance. We would like to see the final guidance emphasise that 12 weeks is the minimum acceptable period of time and that firms should inform customers of closures *earlier* than 12 weeks wherever that is possible.

The regulation of ATMs

23. We are pleased that the guidance covers ATMs as well as branches, unlike the existing Standard. However, the FCA should clearly set out how this guidance will sit alongside other regulation of ATMs. The PSR has led on regulating ATMs in the past, for example through Specific Direction 8. It is unclear how the proposed guidance from the FCA will sit alongside current and potential future regulation on ATMs from the PSR. Furthermore, it is unclear how the proposals will interact with LINK’s existing Financial Inclusion Programme and Protected ATM schemes.
24. Therefore, the FCA should set out how this guidance on ATMs will sit alongside existing regulation and industry standards. Furthermore, the FCA should provide clarity as to how they and the PSR plan to jointly regulate ATMs and which regulator will have the final say on issues in the regulatory space.
25. We are also concerned that the guidance may not cover a substantial number of ATM closures. The proposed guidance applies to “regulated firms that operate (or have agents operate) branches, or ATMs”. However, it is not clear whether all ATM operators are regulated by the FCA. While many ATMs are deployed by banks, a substantial number of ATMs are run by independent ATM deployers (IADs). According to LINK, IADs made up as much as 57% of the ATM network in 2016¹⁹. Although operators of

¹⁹ Scott Lucas (n.d.) The growing importance of independent ATM deployers. Available at: <https://www.cashflows.com/blog/the-growing-importance-of-independent-atm-deployers>

ATMs are regulated under PSD2²⁰, it appears independent ATM deployers offering cash withdrawals to users of card issuers are largely exempt from these regulations, beyond the requirement to notify customer of the cost of withdrawing money²¹. We are therefore concerned that the guidance will not cover IADs and therefore will not apply to a substantial percentage of the ATM network.

26. The FCA should clarify whether the guidance will apply to independent ATM deployers. If any IADs are not covered by the guidance, the FCA should set out how they will work with the PSR, LINK and other relevant stakeholders to ensure that closures of any ATMs not covered by the proposed guidance are undertaken in a way that is fair to consumers and does not leave them without access to cash.

Clearer application of FCA powers

27. A key benefit of the proposed guidance is that the FCA will be able to use their enforcement powers in the event of non-compliance. We were therefore pleased to see that the guidance is potentially relevant to enforcement cases. However, the proposed guidance is unclear about how the FCA will hold firms accountable if they close a branch without giving the right support and communications to their customers. The FCA should set out how they will intervene if they find that firms are not adequately following the proposed guidance. We would encourage the FCA to use the full range of enforcement tools that are available to them in cases where firms have not treated their customers fairly.
28. We would also want to see the FCA not only focus on enforcement as a reactive tool, but to use its supervisory function to prevent consumer harm. The FCA should make its own case-by-case assessment of the analysis that firms produce. If it finds that the options for alternative provision proposed by the firm are insufficient, the FCA should intervene to ensure that adequate banking services remain in place. This may involve requesting that firms put in place different or further alternative solutions before closing a branch. In instances where the analysis and FCA assessment find that adequate alternatives cannot be put in place, the FCA should inform firms that the closure would fail to act in accordance with the guidance and should hold firms to account where they fail to meet the standards in the guidance.
29. It is also important that the impact of closures is made as transparent as possible. Therefore, the firm's analysis of the closure and any subsequent assessments by the FCA should be made publicly available.

²⁰ Financial Conduct Authority (2020). PERG 15.3 Payment services. Available at: <https://www.handbook.fca.org.uk/handbook/PERG/15/3.html>

²¹ Financial Conduct Authority (2020). PERG 15.5 Negative scope/exclusions <https://www.handbook.fca.org.uk/handbook/PERG/15/5.html>

The FCA should assess alternative provisions

30. We are pleased to see the inclusion of a list of alternative provisions that firms could consider providing, such as shared banking services, cash delivery services and supporting consumers to use digital channels.
31. Recent innovations in supporting customers during lockdown have shown that industry can adapt quickly to deliver support and alternatives to consumers struggling to access cash and banking services. Firms have introduced a variety of new services, from additional helplines for those shielding, to virtual digital skills training and cash delivery services. There are clearly potential benefits to these innovations and some may be a suitable alternative in the event of a closure or conversion.
32. However, our recent research into payment behaviour during lockdown found that that uptake and awareness of many of these new schemes is low. Although many people are still reliant on cash, only 5% of consumers are using a cash replacement service, with only 1% using delivery services and 1% third party payment systems.²² Given the low uptake, it has been difficult to assess the effectiveness of different support schemes and whether they can reach those who need them.
33. The introduction of this guidance represents a perfect opportunity for the FCA to conduct an assessment of the viability of alternative provisions firms could provide after a branch or ATM closure. This assessment would give a greater understanding of the efficacy and reach of different schemes, which would thus allow for a more accurate assessment of whether a firm had introduced sufficient alternative provisions after a branch closure.
34. Any assessment should also cover whether alternatives, such as cash deliveries, have effective safeguards against scams. This will help to ensure that vulnerable customers are not taken advantage of if their local branch or ATM is replaced with an alternative that could be exploited by fraudsters.
35. The FCA must collect and publish information about the viability of alternative provisions that firms may put in place after a closure, including an assessment of emergency coronavirus measures that were brought in to support consumers during lockdown. This assessment would a.) help to give a clearer picture of whether a firm had introduced sufficient provisions after a closure and b.) may help identify promising schemes which could be rolled out more widely.

The Post Office is not a perfect alternative to bank branches and ATMs

36. The proposed guidance mentions that the Post Office may provide an alternative to a bank branch. However, we are concerned that, at present, the Post Office is not suitable.

²² Which? online survey of the general public (2091 people) conducted 6-7 May 2020.

Post Office banking director, Martin Kearsley, told the Treasury Select Committee in 2019 that it doesn't set out to replace a bank²³. The Post Office does not currently offer many essential banking services that customers would be able to access from a branch, including:

- Setting up direct debits
- Making bank transfers
- Registering Power of Attorney or Grant of Probate
- Requesting a replacement card
- Lodging a complaint

37. Which? research from 2018 found that 47% of consumers were unlikely to use their local Post Office for banking because of long queues (42%) and a lack of privacy (32%) in Post Offices, given that they also attend to a range of non-banking services²⁴. These findings were echoed in deliberative research for our Everyday Finances report, which found that post offices were not currently perceived to offer the required privacy or space when undertaking sensitive banking transactions.²⁵ These findings raise further questions about how well placed the Post Office is at present to act as a replacement to a branch.

38. Furthermore, we are concerned that there are inconsistencies in how well Post Office branches are set up to help customers with mental and physical disabilities. In rural areas, vans, village halls and local pubs host services for a few hours each week, which can pose problems for accessibility. In 2018, Citizens Advice reported that mystery shoppers were not able to use a hearing loop in 44% of the Post Offices visited²⁶.

39. Banks are also supposed to engage with local postmasters to support customers and prepare for an expected uplift in traffic, yet a recent survey²⁷ by Citizens Advice found that only 15% of postmasters reported engagement from the bank when a local branch closed, and 77% of postmasters weren't contacted at all. There is also the question of what happens if the local post office itself closes down: we have not seen examples of banks reestablishing branches after the closure of a local post office.

40. We are also concerned that firms may withdraw or not participate fully in the Post Office Banking Framework, undermining the ability of consumers to access essential banking

²³ Oral evidence: Consumers' access to financial services 5 Feb 2019

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/treasury-committee/consumers-access-to-financial-services/oral/96277.html>

²⁴ Which? Money, Access to Banking: Is the last bank in your town under threat?, December 2018. YouGov surveyed 2,049 British adults between the 17th – 18th September 2018 for a nationally representative survey on behalf of Which?

²⁵ Which? (2019). Everyday Finances Collaborate research report. Available at:

<https://about-which.s3.amazonaws.com/policy/media/documents/5ddd3ab84b3ec-Consumers'%20everyday%20finances%20-%20Annex.pdf>

²⁶ Citizens Advice (2018). Accessibility at Post Offices. Available at:

<https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Post%20Office%20newsletters/Report%20-%20accessibility%20at%20post%20offices.pdf>

²⁷ Citizens Advice (2020). Banking on it: How well are post offices delivering cash and banking services? Available at:

<https://www.citizensadvice.org.uk/Global/CitizensAdvice/Post%20and%20Telecoms/Banking%20on%20it%20.pdf>

services. Last year, Barclays planned to stop customers withdrawing cash from Post Offices for free last year and only reversed its decision after public criticism.

41. For this reason, the Post Office is not currently a sufficient substitute to an ATM. Barclays' decision to stop cash withdrawal services at Post Offices undermines industry's claims that the network is a long-term back up for consumers. While Barclays' reversal addressed immediate concerns, the Post Office should not be considered by default an adequate alternative to an ATM. This is particularly pertinent given that PSR research found that just 5% of consumers prefer to use the Post Office to access cash²⁸.
42. Therefore, the FCA should carefully consider whether the Post Office is a viable alternative in place of a branch or an ATM. While the Post Office might form part of a wider package of alternative options, it is vital that alternative provisions which firms implement or direct customers to cover all essential banking services.

Evaluating the effectiveness of the guidance

43. There is currently no cost-benefit analysis included in the guidance. While we understand the reasoning behind not including one, we do think it is important that there are clear outcomes which are used to evaluate the effectiveness of the guidance. Therefore, the FCA should set out what impact they expect the proposed guidance to have and what outcomes they will measure to evaluate whether the guidance is effective.

About Which?

Which? is the largest consumer organisation in the UK with more than 1.7 million members and supporters. We operate as an independent, a-political, social enterprise working for all consumers and funded solely by our commercial ventures. We receive no government money, public donations, or other fundraising income. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.

For more information, please contact Grace Natusch, Policy Adviser

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²⁸ BritainThinks (2019). Access to cash research with consumers and small businesses. Commissioned by the Payment Systems regulator. Available at: <https://britainthinks.com/pdfs/PSR-Access-to-Cash.pdf>