

PSR Consultation paper Generally applicable requirements: draft review framework

LINK's response to PSR Consultation Paper Generally Applicable Requirements: draft review framework

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Introduction

1. LINK is a not-for-profit company with a public interest objective to protect access to cash across the UK. It is governed by an independent Board.
2. LINK sustains access to cash through the operation of its well-established financial inclusion programme.
3. LINK's access to cash role is supported by a voluntary commitment from the UK's banking and ATM industry. The Financial Services and Markets Act 2023 places new obligations on a number of banks to support access to cash. LINK expects that some of its work on financial inclusion will become regulated by the Financial Conduct Authority (FCA) as a result, alongside existing regulation by the Payment Systems Regulator (PSR).
4. As part of its work, LINK manages the UK's main cash machine (ATM) network. LINK's network connects the vast majority of ATMs (both free and charging) in the country and allows customers of banks and building societies (card issuers) that are LINK Members to make cash withdrawals and balance enquiries with their payment cards at almost all ATMs. All of the UK's major card issuers and ATM operators currently choose to become Members of LINK. In 2022, LINK processed 1.5 billion transactions and dispensed £83 billion in cash through a network of around 50,000 ATMs.
5. LINK also assesses whether intervention is required to provide cash access facilities on behalf of the banking industry in all communities where cash infrastructure (such as bank branches) closes. Where there is inadequate access to cash after a closure, LINK specifies new shared facilities such as shared banking hubs and deposit services. These are then put in place by a bank-owned infrastructure company called Cash Access UK.
6. LINK is already regulated by the PSR, and by the Bank of England (the Bank) as a systemically important payment system and is recognised as such by the Treasury (HMT).
7. LINK's response to this Consultation reflects its experience of regulation by the PSR and subject to both General and certain Specific Directions from the regulator.

LINK's Response to the Consultation Questions

Q1: Do you agree with our proposed approach to keeping our generally applicable requirements under review?

8. LINK agrees with the need to keep the PSR's generally applicable requirements under review. LINK notes at 2.8 of the consultation, that there are two routes proposed for the PSR to consider reviewing a generally applicable requirement: through its own initiative and through representations from stakeholders.
9. LINK considers that it would be appropriate for a third (time bound) route to trigger a review. LINK suggests that the PSR considers including a review of a generally applicable requirement at the end a three-year period from the date that the requirement came into force if it has not been reviewed during that time. As recognised by the PSR when it conducted a review in 2020, this should serve to assess whether the requirement is still necessary and, if so, whether any modifications are required.

Q2: Do you agree with the indicators we have identified? Are there any other indicators you consider worth including?

10. Yes: LINK agrees with the indicators identified and has nothing else to add.

Q3: Do you have any views on the prioritisation factors we propose to use to decide whether to conduct a review?

11. Yes: LINK is in broad agreement with the prioritisation factors as set out at section 2.12 of the consultation but suggests the list should be expanded to include whether the generally applicable requirement has been subject to review in the preceding twelve months.

Q4: Do you agree with our proposals on how stakeholders can make representations, and how we will deal with them?

12. LINK agrees with the protocols of how to request a review as set out in the consultation document. However, in relation to section 2.10, LINK observes that when received, the PSR will initially pass representations to the most relevant PSR team to assess whether there is a case for a review. LINK wonders how the PSR proposes to ensure consistency of approach across the different PSR teams undertaking reviews and determining the outcome of the representation made. Also, if the relevant PSR team is the "owner" of the direction it may be inclined to the view that its own views are paramount. It is good practice for any review to be conducted by people independent of the issue being reviewed.

Q5: Do you have any views on our review methods?

13. LINK notes at 2.18 of the consultation, a wide range of methods may be used when carrying out a review of a generally applicable requirement. LINK agrees that in assessing the evidential basis for change, the PSR should look at its original rationale for the requirement, and analyse how effective it has been, but should also consider the costs that have been incurred by firms in meeting that requirement. This is of particular relevance to meeting the FSBRA regulatory principles (referenced at 2.14 of the consultation), specifically, that a burden or restriction should be proportionate.
14. LINK notes at 2.19 of the consultation, the tools that the PSR might use to analyse the evidence and assess the impact a requirement has had. LINK suggests that it may be beneficial to add 'independent consultants' to this list for the purposes of independent review and analysis. LINK also considers that financial impact through the use of a cost benefit analysis (CBA) should be a mandatory element to inform policy decision making for generally applicable requirements, including at time of review of an existing requirement.
15. In relation to section 3 of the consultation LINK considers that:
 - The final statement of policy as required by section 104C of FSBRA should include the PSR's detailed response to the consultation responses it has received.
 - The PSR should commit to a date for publication of the final statement of policy, rather than the currently stated aim to publish in 'early 2024'.
 - Regards footnote 10, page 9, where the PSR confirms that it will publish a statement of policy on its use of CBAs in early 2024. LINK considers that to meet the FSBRA regulatory principles (referenced at 2.14 of the consultation), specifically, the principle that the PSR should exercise its functions as transparently as possible, the PSR should first consult on its proposed approach to the use of CBAs in order to inform its policy development.

Concluding Remarks

16. LINK welcomes the opportunity to provide feedback on this consultation and would be happy to discuss any aspect its response, if helpful.