

LINK's response to the PSR's "CP21/9: Draft Specific Direction on maintaining free-to-use ATMs"

15th November 2021

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Classification: Public and available on LINK website

Introduction

1. Link Scheme Holdings Ltd (LINK) manages the UK's main cash dispenser (ATM) network and is central to the operation of the UK's cash infrastructure.
2. 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 card at almost all ATMs. All major card issuers and ATM operators currently choose to become Members of LINK. This helps to ensure that consumers in the UK have the choice of using cash should they wish to.
3. The LINK network is based on a highly resilient real-time high-volume infrastructure, currently supplied by Vocalink. LINK is the operator of the network and the systemic risk manager.
4. LINK is regulated by the Payment Systems Regulator (PSR) and by the Bank of England as a systemically important payment system.
5. Cash is in long term decline in the UK. Since the Government announced in March 2020 its intention to legislate to protect access to cash, that trend has accelerated as a result of COVID-19. Until legislation is introduced, there are no requirements that give consumers the right to access cash (free or otherwise). LINK has therefore chosen to set itself the objective of ensuring that communities throughout the UK have satisfactory free access to cash while policymakers consider a longer-term strategy.
6. LINK works closely with the members of the Joint Authorities Cash Strategy (JACS) Group which is the Government's vehicle for developing a longer-term strategy. This includes the PSR.
7. LINK is also working with the industry Access to Cash Action Group (CAG) to develop industry-led solutions while legislation is pending.
8. Part of LINK's objective is to support the orderly transition of the UK from cash to digital payments. Hence, LINK is active in supporting digital transition and has a broad interest in the successful development of an inclusive digital payments approach while ensuring access to cash remains available for consumers who remain reliant on cash.

LINK's Overall Position on Draft Specific Direction 11

9. LINK is extremely disappointed that the PSR is proposing a new Specific Direction to replace Specific Direction 8 ("SD8") on its expiry in January 2022. LINK requests that the PSR carefully consider whether there is a requirement for a new Specific Direction and whether, in all the circumstances, it is proportionate to issue one.
10. LINK has been, and remains, fully committed to its objective of maintaining a broad geographic spread of free-to-use (FTU) ATMs in the UK and of preserving free access to cash more generally. The former commitment was made when LINK announced its proposed four-stage reduction to interchange fees in January 2018, which excluded those FTU ATMs which are now termed Protected ATMs from this reduction. If LINK had not made this public commitment, the PSR would not have then issued SD8 in October 2018.
11. As the PSR itself has acknowledged, LINK has in place a coherent set of policies and practices to support its commitment to the maintenance of a broad geographic spread of FTU ATMs. These policies are not static, but continue to evolve as LINK seeks to be responsive to ever-changing circumstances. For example, in April 2019, LINK introduced the Low Volume Premium to help prevent Protected ATMs with low usage from closure. In March 2020, in response to the pandemic, LINK revised the average withdrawal calculation from a 12-month period to a 3-month period for the purposes of determining whether this premium was payable. As previously indicated to the PSR, what LINK has actually done in respect of Protected ATMs, for all practical purposes, has not been influenced by SD8.
12. In addition to its Financial Inclusion Programme which was first introduced in 2006 to maintain coverage of FTU ATMs in the most remote and rural locations and the most deprived areas of the UK, LINK has more recently introduced its Retail Centre ATM Policy and its Community Request an ATM initiative. Notwithstanding that these do not fall within SD8, this has not precluded LINK from engaging voluntarily with the PSR and reporting to it on these initiatives.
13. LINK remains of the view (which it has previously expressed to the PSR) that, in light of wider market developments and the anticipated changes to the legislative landscape with regard to access to cash, SD8 has served its purpose and a replacement is not warranted. LINK will continue to have Protected ATM policies and measures in place and would be happy to publish its effective policies, irrespective of whether or not there is a regulatory requirement to do so pursuant to a Specific Direction. As LINK has demonstrated to-date, LINK is fully engaged with meeting its public interest objectives and will continue proactively to develop initiatives and implement measures to support access to cash without the need for intervention by the PSR. Similarly, LINK is also happy to engage with the PSR on a voluntary basis about supporting access to cash, including in the context of Protected ATMs, and believes that a more constructive mechanism could be beneficially employed than simply prescriptive data reporting requirements under a Specific Direction.
14. Furthermore, a new Specific Direction would continue to place a significant administrative burden on LINK. The current administration associated with SD8 adds around £150,000 per annum to LINK's costs and these costs are only expected to increase with the requirements set out in the draft Specific Direction. LINK notes that the

PSR has several staff requesting information under SD8. While no feedback has been received from the PSR on the information provided via these requests, the PSR staff involved will have an associated cost which ultimately flows back to the FMI's such as LINK that the PSR regulates and their industry members.

Specific Challenges with the Draft Specific Direction

15. Notwithstanding LINK's position set out above that a new Specific Direction is unwarranted, LINK nevertheless wishes to raise concerns regarding particular aspects of the draft Specific Direction. Furthermore, if the PSR had conducted an impact assessment of its proposals, it would have been aware of the additional costs and/or complexities created by these proposals.
16. Section 3.7: Definition of Protected ATMs: LINK is concerned that the PSR has proposed a change of date with regard to Protected ATM status from 1st February 2018 to 2nd January 2022 without considering the actual practical implications for consumers or for LINK's strategy, costs and the interchange costs for its Issuer Members.
17. In particular, this will have a negative impact for some consumers. For example, there are currently 60 locations going through direct commissioning where the Protected ATMs have already closed but the replacement ATMs have not yet been installed. The change in date would mean that these locations would drop out of Protected status. Furthermore, approximately 173 Protected locations that are currently served by a post office would cease to be protected and therefore cease to be immediately eligible for a replacement ATM should the post office close.
18. LINK has also conducted an initial estimate as to the number of FTU ATMs opened since 1st February 2018 which are not currently Protected ATMs, but which would become so as a result of the date change. LINK believes that these would number about 200 and would increase the annual cost of interchange fees (in terms of the higher Protected levels of interchange rates and applicable premiums) by c.£750,000.
19. Furthermore, the proposed change in date would require LINK to reset its public reporting on the ATM Footprint which would reduce transparency for consumers and those wishing to monitor LINK's progress in maintaining the ATM footprint.
20. Section 7- Non-Objection Provision: The PSR is proposing to extend the minimum notification timescale regarding proposals to vary/revoke/replace procedures, policies, processes and measures from the current two weeks under SD8 to one month. In addition, LINK would be prohibited from bringing into effect any changes in the event that the PSR "raises objections" within one month of being duly notified.
21. The PSR has not explained why the current arrangement under SD8 has now become unworkable and why the proposal is necessary and proportionate in light of its negative impact on LINK. Fundamentally, the PSR has enforcement powers under FSBRA to ensure LINK's compliance with a Specific Direction, so LINK is unclear as to why an indirect approval process is necessary when such safeguards exist. Does the PSR not consider its legislative enforcement powers to be adequate? In addition, LINK notes that s54 FSBRA does not give the PSR the specific right to approve changes to policies and measures giving effect to obligations under a direction (while these rights are expressly provided in relation to payment system rules (s55)).

22. LINK is deeply concerned at the proposed Section 7, particularly 7.2, and considers it to be unworkable for a number of reasons. Fundamentally, LINK needs to be in a position to be able to respond very quickly to developments, if required, and make judgements, taking into account all relevant considerations, including the impact for the wider LINK Scheme.
23. Provided that any LINK proposals do not breach the Specific Direction, LINK must be free to decide itself how best to approach its commitments to maintaining the geographic spread of FTU ATMs without having to justify its position to the PSR. Similarly, the PSR should only be able to object if the proposal would mean that LINK was in breach of the Specific Direction rather than because the PSR might have a preference for a different approach (and, in any event, is unnecessary given that the PSR has requisite enforcement powers). Section 7.2 does not clarify that this is, indeed, the case nor provides any mechanism for swift resolution should the PSR raise an objection. This risks placing LINK in a completely untenable position. This provision also risks inhibiting innovation on the part of LINK as well as undermining positive engagement going forward.
24. LINK is also concerned that the non-objection requirement and the month-long notice period could compromise LINK's ability to fulfil its wider access to cash commitments in the context of the anticipated legislative changes with respect to access to cash and the potential regulatory role of the FCA.

Concluding Remarks

25. LINK is committed to working with the PSR in supporting consumers and free access to cash initiatives. However, it does not believe that a new Specific Direction is necessary or proportionate to this objective and is concerned that it may have the opposite effect to that which the PSR is seeking to achieve.
26. Notwithstanding LINK's position above, if the PSR were still minded to proceed with a new Specific Direction following the conclusion of its consultation, LINK would urge the PSR to reconsider its proposed changes, given their serious, adverse implications as highlighted above. LINK reserves all of its rights in the event that the PSR were not to reconsider its proposals.