

Financial Services Future Regulatory Framework Review: The Government's Proposals for Reform

LINK's response to the Financial Services Future Regulatory Framework (FRF) Review published in November 2021 – CP548

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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 (part of Mastercard). LINK is the operator of the network and the Systemic Risk Manager.
4. The LINK Network also supports the provision of cashback without a purchase at retailer terminals connected to LINK.
5. LINK is regulated by the Payment Systems Regulator (PSR), and by the Bank of England as a systemically important payment system.
6. 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.
7. 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.
8. LINK is also working with the industry's Access to Cash Action Group (CAG) to develop industry-led solutions while legislation is pending.

9. As part of that work, LINK has agreed to act as the “Co-ordinating Body” to support the retail banks in ensuring adequate provision of access to cash to communities across the UK. Further details of this initiative can be found on the UK Finance website¹. As part of this new commitment, LINK will independently review the impact of all changes to banking provision in communities. LINK will then commission new services where needed.
10. 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 Feedback on the Government’s FRF Proposals

11. LINK responded to the first stage of the Government’s FRF review in 2019 and this is published on LINK’s website².
12. It is worth repeating the key observation of LINK’s review, as LINK is pleased to note that the Government’s proposals incorporate much of this thinking. LINK therefore supports the Government’s proposals.
13. LINK’s key observations in that review were as follows:
 - 12.1 *The financial services market is changing rapidly, primarily in response to technological developments.*
 - 12.2 *The policy and regulatory framework is bound to lag behind changes in the marketplace, which can cause problems for financial institutions and for the markets in which they operate.*
 - 12.3 *Regulators tend to operate in silos, reflecting their mandates, which can mean that their policies and practices may not fully reflect the interests either of other regulators or more importantly of wider public policy concerns.*
 - 12.4 *Memoranda of understanding, overlapping boards and joint committees can all mitigate this problem although it needs managing proactively and with clear overarching objectives. The Bank of England’s overarching requirement on the need for operational reliance is an example of this being done well. An effective feature of the Bank’s approach is the strong coordination of different participants as well as different regulators. This approach should be developed.*
 - 12.5 *More direct input from the Government on clear high-level policy is required to help regulators align. The Treasury’s recent helpful guidance on the need to manage cash access is an example of this being done well.*
 - 12.6 *The PSR has a very narrow focus and in retrospect its responsibilities should have been assigned either to the Bank of England or to the Financial Conduct Authority (FCA) rather than to a standalone regulator. LINK welcomes moves to integrate more closely the work of the PSR with the FCA and the Bank.*
14. LINK agrees that the Prudential Regulation Authority (PRA) and the FCA remain the right institutions to deliver the UK’s financial services regulatory framework. LINK notes the progress made in bringing the work of the FCA and PSR closer together since our

¹ <https://www.ukfinance.org.uk/area-of-expertise/personal-finance/access-cash-action-group>.

² <https://www.link.co.uk/media/1541/regulatory-framework-link-response-final.pdf>.

original response. In line with our observations then, LINK believes that it would now be timely to integrate day-to-day PSR operation into the FCA.

15. LINK also supports the Government's intent to provide for a greater focus on growth and competitiveness by introducing new, statutory secondary objectives for the PRA and the FCA. Specifically, in relation to payment systems, the PSR's approach on infrastructure competition for the interbank settlement systems is an area that LINK believes should be changed. LINK sees limited benefit in focusing on such infrastructure competition and instead believes that the emphasis for competition should be on services provided directly to consumers and businesses. Interbank infrastructure provision, especially in areas such as settlement and systemic safety (eg operational resilience and fraud control) has many characteristics of a natural monopoly and is better dealt with via a regulated utility approach. LINK's detailed views on this have been published in response to the PSR's consultation on the New Payments Architecture and can be found on the LINK website³.
16. The introduction of new secondary objectives for the PRA and FCA on growth and competition, coupled with further integration of the PSR into the FCA, would provide an opportunity to improve the interbank infrastructure regulation approach. This is much needed, given the UK's urgent challenge of improving digital inclusion and dealing with the growing problem of digital fraud.
17. On accountability, scrutiny and engagement, LINK agrees that strengthening regulators' relationship with HM Treasury can be effective in improving outcomes. It will ensure there continues to be appropriate democratic input into, and public oversight of, the regulators' activities. The work on access to cash through the Joint Authorities Cash Strategy (JACS) Group is an excellent example of this working well. The JACS Group has been instrumental in encouraging the industry's work through the Cash Action Group noted earlier, and in informing the legislation that will be put in place to ensure the success of the joint retail bank and LINK initiative to protect access to cash. It was also key to informing the changes to legislation that have led to the successful launch of the new retailer counter terminal cashback without purchase service that is being rolled out by LINK and its membership.
18. Finally, LINK strongly supports the intention to improve the use of cost-benefit analysis (CBA) and agrees that CBA is an important part of the regulators' policymaking process. It helps the regulators and the industry to understand the likely effects of a policy, and to determine whether a proposed intervention is proportionate. The Government's proposal to create a new statutory panel designed to review, and make recommendations on, the regulators' production of CBA has the potential to improve the process. LINK does not consider that the current approach has always been as good as it should be. For example, the PSR's approach to consulting on Specific Direction 11 lacked adequate CBA. LINK's concerns with this Direction, as set out in our response to that consultation⁴, could have been mitigated through an up-front CBA. Instead, a CBA was not done by the PSR. If useful, LINK offers its support to setting up the new panel.

³ <https://www.link.co.uk/media/1719/new-payments-architecture-link-response-final.pdf>.

⁴ <https://www.link.co.uk/media/1835/link-response-to-draft-sd11-final.pdf>.