Consultation Response:

FCA Branch and ATM closures: updated guidance for firms

Response by the Money Advice Trust

Date: July 2022

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Introduction

About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

In 2021, our National Debtline and Business Debtline advisers provided help to over 170,400 people by phone, webchat and our digital advice tool with 1.63 million visits to our advice websites. In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2021 we delivered this free training to more than 1,000 organisations.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Find out more at www.moneyadvicetrust.org.

Public disclosure

Please note that we consent to public disclosure of this response.

Introductory comment

We welcome the opportunity to comment on the updates to the FCA guidance to firms on maintaining access to cash. It is vital that consumers and small businesses can easily access cash into the future. Like other organisations, we remain concerned that continued closures of bank branches and a loss of access to free ATMs will have a disproportionate impact on people in vulnerable circumstances.

We are still concerned that the guidance does not go far enough to ensure a fair outcome. Without legislation in place to protect access to banking services for consumers and small businesses, it would appear that FCA guidance may have a limited ability to influence commercial decisions by firms.

It is still not clear to us that there is any action the FCA can take to prevent a firm taking action to close branches or to remove a free ATM. This seems to be the case even if the FCA considers this action to be unfair to consumers, beyond requesting that the firm delays its decision. For example, if a firm does not put in place alternative access to cash for consumers, it does not appear that there is a requirement on firms to do so before the closure can take place. In addition, it is unclear that there is any remedy or action the FCA can take to ensure compliance if the FCA feels that a firm has acted unfairly.

We can only presume that this reflects the point that the FCA has a lack of sufficient regulatory powers in place. If this is the case, it demonstrates a requirement for early primary legislation to be put in place to enable regulators to adequately protect access to cash for consumers and small businesses. We look forward to the speedy implementation of the Financial Services and Markets Bill[1] which was announced in the Queen's speech. This is expected to give the FCA enhanced powers to protect access to cash. We hope that this will ensure that the FCA can prevent branch and free cashpoint closures where necessary.

[1] New law to protect access to cash announced in Queen's speech - GOV.UK (www.gov.uk)

Responses to individual questions

Question 1: Do you agree that we should extend the definition of closures as proposed (to include partial closures caused by a long-term reduction in opening hours or services which would have a significant impact on customers)?

We agree that the FCA should extend the definition of closures as proposed. It is vital to include partial closures in the guidance. We agree that a reduction in opening hours or available services can cause significant detriment to consumers in the longer term.

It makes sense for this guidance to cover extended periods of closure lasting six months or longer, to avoid including temporary closures due to building works or other temporary issues.

We are pleased to see recognition of changes in provision such as the new banking hubs. However, these do not yet seem to be up and running in any numbers. It is difficult for a firm to rely on the provision of in-person banking services at other venues such as the new banking hubs on a permanent basis at this stage.

In addition, the guidance falls short as it does not require firms to put the alternative provision proposals it has identified in place, such as sharing services with other providers, or commissioning mobile banking hubs, new free ATMs and so on.

Question 2: Do you have any comments on the other proposed changes to our Guidance?

We agree that it is important for firms to conduct robust analysis before they decide to close a branch. We are pleased that the FCA is proposing that this analysis should include usage trends and transaction volumes across a representative time period.

It makes sense to expand the communications requirement to include local councils and relevant local consumer groups and to require firms to publish a list of stakeholders to proactively contact about the plans.

Point 1.21 of the guidance requires the firm to *"publish a high-level summary of the analyses referred to in paragraph 1.17"*. However, it does not appear that any individual consumer or group consulted has any ability to intervene or take any action as a result of the information and analysis they have been given.

We find it hard to envisage situations where a branch closure does not impact vulnerable customer groups who may need to access branch services in person. The paper gives the examples of power of attorney and requirements to establish identity as relevant issues here. If a firm is unable to *"make the effective migration of these services, to a channel which customers will find accessible"* then we query whether the closure should be allowed to go ahead.

As we have said before, we would like to see the guidance strengthened to ensure that alternative provision must be put in place by the firm, before a closure can take place. There should be a requirement to put in place equivalent services including through physical channels that are adequate to meet peoples' needs. We cannot see how this guidance puts safeguards in place to ensure that this will happen.

We struggle with establishing whether the FCA has any powers to prevent the closure going ahead in such circumstances. We note that, under point 1.19 of the guidance, the FCA will ask for further analysis if not satisfied. However, the FCA seems to be limited to challenging the process and asking firms to delay their plans if not satisfied.

"1.15 We expect to challenge processes and if appropriate may ask firms to delay their closure or conversion plans where we are not satisfied that they are complying with Principles 6 or 7. The guidance is potentially relevant to supervisory and enforcement action and we may take it into account when considering whether firms could reasonably have understood or predicted that the conduct in question fell below the standards required by Principle 6, Principle 7, or Principle 11."

We have said in our previous consultation response on this guidance in July 2020[2] that FCA powers need to be strengthened in this regard, to enable the FCA to prevent closures where necessary.

For more information on our response, please contact:

Meg van Rooyen, Policy Lead

meg.vanrooyen@moneyadvicetrust.org

07881 105 045

[2] https://moneyadvicetrust.org/media/documents/MAT_response_to_the_FCA_Guidance_consultation_on_Branch_and_ATM_closures_or_co_fWIPSF1.pdf

The Money Advice Trust

21 Garlick Hill

London EC4V 2AU

Tel: 020 7489 7796

Fax: 020 7489 7704

Email: info@moneyadvicetrust.org

www.moneyadvicetrust.org