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# New access to cash rules published by the FCA

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Despite trends toward digital and cashless payments, the previous Government assessed that access to cash remained vital for a portion of the population, including small businesses and consumers with vulnerable characteristics. In line with this thinking, the Financial Services and Markets Act 2023 (the ***2023 Act***) mandated that the FCA seek to ensure reasonable provision of cash access. The FCA opened a **consultation** on this new remit on 7 December 2023. It has now published a **Policy Statement** (PS24/8), setting out the final rules for the new access to cash regime (the ***Rules***). The new regime will involve substantial change from the existing voluntary regime operated by the industry. In light of this, the FCA has introduced an eight-week implementation period, before the Rules come into force on 18 September 2024. The FCA has also indicated its intention that the Rules be outcome-based, to provide flexibility for designated institutions to respond to different local needs as demand changes in different communities over time. The Rules are also intended to work alongside existing FCA guidance on branch closures.

The Rules will apply to 14 large banks and building societies **designated by HM Treasury** in May 2024 (***designated firms***). Designated firms will be required to assess and fill potential gaps in cash access provision, which are determined to significantly impact consumers and businesses.

The Rules, which are likely to substantially affect any decision to provide (or continue to provide) access to cash services in any particular region, are intended to promote access to: free to use withdrawal and deposit services for personal current accounts; withdrawal services for businesses; the availability of assisted cash; and the functionality for a reasonable mix of both coins and banknotes to be deposited or withdrawn.

***The regime***

Where certain "trigger events" occur, designated firms will be required to conduct cash access assessments (***Assessments***), to assess the additional cash access services they should provide (if any).

These trigger events are:

1. the closure of, or material changes to the provision of cash access services at, existing facilities; or
2. the receipt of a cash access request from a member of the local community, representative organisation or others with a sufficient interest.

When a trigger event occurs, unless an Assessment is already ongoing or has completed within the preceding 12 months (or in certain excepted circumstances), a designated firm must conduct one. Save in exceptional circumstances, the designated firm must then put into place any services identified through an Assessment, without unreasonable delay and within 3 months (or by the date of closure or material change to the existing cash access services triggering the Assessment, if later).

A designated firm becoming aware of the closure of, or material changes to the provision of cash access services at, a facility (whether operated by a designated firm or otherwise) also has a duty to notify other designated firms of this.

***Assessments***

Assessments can be undertaken either by designated firms themselves, or through coordination bodies designated by HM Treasury to undertake these Assessments. To avoid duplication of Assessments, the FCA recommends that firms participate in Assessments conducted by these coordination bodies, although it has not mandated that they do this.

Assessments involve three steps:

1. ***first***, establishing whether a deficiency in cash access services in the local area exists, or would exist after the intended change;
2. ***second***, if a deficiency does or would exist, considering whether it would have a significant impact on the provision of cash access services; and
3. ***third***, if so, identifying additional cash access services that would address these impacts, and which would be reasonable to provide.

Designated firms have substantial discretion in setting the parameters at each stage of an Assessment. For instance,  the FCA has permitted a substantial flexibility of methodology in defining the local area, and has refused to set numerical thresholds for identifying a significant impact, and adopted a channel-neutral approach on the additional services to be provided. Where a deficiency is not identified, or it is not assessed that the intended change would have a significant impact, the Assessment will not be required to proceed beyond that stage.

The results of an Assessment and the criteria used for that Assessment must be published. In the interests of transparency, information published in this way must be easily accessible, kept up to date, and published as soon as reasonably practicable. Within 28 days of publication, where a person with a sufficient interest in a local area is dissatisfied with the outcome of an Assessment, they can request that the relevant designated firm conduct a review of that Assessment, to correct factual inaccuracies, or supply new information, which could impact the outcome of an Assessment.

As noted above, save in exceptional circumstances, following the outcome of an Assessment, designated firms must then put into place any services identified as reasonable to provide through that Assessment, without unreasonable delay and within 3 months (or by the date of closure or material change to the existing cash access services triggering the Assessment, if later).

***Further notable points***

The FCA has confirmed that closures of cash access services will not fall within the new regime until 18 September 2024. However, existing FCA guidance requires that firms must communicate closures to customers and relevant stakeholders 12 weeks ahead of time, and firms should be mindful of the consumer duty.

Finally, the new regime imposes substantial notification duties on designated firms (particularly where they become aware of closures of cash access services in local areas) and encourages coordination between these designated firms in the conducting of Assessments.