

Ministry of Finance
Financial Market Department
Banking Division
SE-103 33 Stockholm



SVERIGES RIKSBANK
SE-103 37 Stockholm
(Brunkebergstorg 11)

Tel +46 8 787 00 00
Fax +46 8 21 05 31
registratorn@riksbank.se
www.riksbank.se

REF 2018-0644

ER REF Fi2018/02359/B

Consultation response on Secure access to cash 17/10/2018

The Riksbank mainly welcomes the Riksbank Committee's proposal to impose an obligation on most major banks to offer access to cash services throughout Sweden. The proposal is a step in the right direction. But, in contrast to the Committee, the Riksbank is of the opinion that all banks and other credit institutions that offer payment accounts and associated services shall be obliged to offer cash services to their customers.

The Riksbank is also of the opinion that the obligation to offer cash services shall also cover deposits made by individuals. Otherwise there is a major risk of facilities for depositing cash being even further restricted in the future. If no such requirement is introduced, the Riksdag needs to ensure both that the facilities for individuals to make deposits are monitored by, for example, the Swedish Post and Telecom Authority (PTS), and that any shortcomings can be rectified at short notice.

Finally, the Riksbank considers it very important that the status of cash as legal tender be clarified. For example, it needs to be clear which services, in addition to public medical care, are to be obliged to accept cash. The Riksdag also needs to adopt a fundamental position on the issue of whether society and its citizens need to have access to means of payment issued by the Riksbank and to clarify what legal status such a means of payment should have. The Riksbank is of the opinion that provisions on legal tender shall be technology-neutral so that they can be applied to any new forms of means of payment issued by the Riksbank.

All credit institutions shall be obliged to offer cash services

The Committee proposes that certain banks shall be obliged to provide cash services. This proposal is a step in the right direction as it helps to ensure that the need of the general public and society for cash is satisfied.

The Riksbank has previously pointed out that a regulation requiring credit institutions¹ to offer basic payment services to their customers entails a clarification of the responsibility already incumbent on them to, for example, accept deposits from the general public. This responsibility, which must be considered to be part of a credit institution's license to conduct

¹ The term credit institutions refers to banks and credit market companies.

business operations, is one that customers can expect these institutions to take. It can be seen as a reasonable reciprocal service bearing in mind the significant benefits enjoyed by the banking sector as a result of the government safety net in place in the event of a credit institution encountering financial problems.

In the Riksbank's opinion, all banks and other credit institutions that offer payment accounts with basic functions shall be obliged to offer cash services. However, this obligation does not mean that the institution itself needs to do this but can instead commission other agents to perform these services. A proposal covering all banks and other credit institutions also implies equal treatment and competitive neutrality. When assessing whether an institution fulfils the obligation to offer cash services, the supervisory authorities shall be able to consider such factors as its size and geographical distribution, its deposit volumes, etc. This also fulfils the principle of proportionality.

Deposit facilities for individuals shall be included in the concept of cash services

The Committee proposes a requirement for deposit services for business operators. The Committee also notes that it is important for banks to also provide individuals with deposit facilities. However, the Committee has not submitted any proposal relating to deposit facilities for individuals. The reason is that it is the assessment of the Committee that deposit facilities for individuals will increase in the future as a result of banks installing combined deposit and withdrawal ATMs or concluding agreements with payment services agents who normally also accept deposits from individuals.

In the Riksbank's opinion, it is important that the obligation to offer cash services also covers deposit services for individuals. As previously noted, this is a service that consumers can reasonably expect of credit institutions. There must also be symmetry between withdrawal and deposit facilities. In the Riksbank's view, there is otherwise a risk that the possibilities for individuals to make deposits will decrease even further in the future. For most consumers, it would also be difficult to understand why they can withdraw cash from an account but not make deposits. A person wishing to convert cash into a credit balance must be able to do so via their bank account. In other words, it is part of a bank's role to exchange central bank money for commercial bank money and vice versa. In addition, the need to make deposits will probably grow as business operators and others cease to accept cash.

The Riksbank also wishes to highlight that the Committee's proposal does not involve any obligation for the Swedish Post and Telecom Authority (PTS) to monitor and report on the facilities available to individuals to deposit cash. If deposit facilities for individuals are not included in the obligation to offer cash services, it is, in the opinion of the Riksbank, important that the PTS is tasked with monitoring the facilities available for individuals who wish to make deposits. Further, it must immediately be safeguarded that measures to ensure individuals' access to deposit facilities can be implemented at short notice in case the Committee's assessment proves to be incorrect.

The legal status of legal tender needs to be clarified

The Riksbank notes that the Committee does not propose the introduction of any general obligation for business operations and others to accept cash (see the interim report p. 143 ff.) It is the Committee's view that such a proposal would impede technological development and be associated with high costs, and that it would be a disproportionately large encroachment on the freedom to conduct a business.

The Riksbank considers that, by taking this view, the Committee is not fully taking into account the complexity surrounding the issue of what is legal tender. The question of the existence or non-existence of cash covers more than just its physical prerequisites. It is about the basic needs of society and its citizens for the presence of means of payment on the payment market that are issued by the Riksbank, i.e. guaranteed by the state. There is hence reason to adopt a stance on the legal status of legal tender. As regards cash, provisions are required stipulating that operations important to the public good shall be included in an obligation to accept cash. Any legislative proposals could both clarify current practice (for example regarding fees for public medical care, vehicle parking, childcare and special transport services)², and impose requirements stipulating that activities that are important from a citizen's perspective shall be obliged to accept cash (for example pharmacies, special transport services, food shops, petrol stations).

Central bank money is the linchpin of the payment system and constitutes a guarantee for the general public's confidence in commercial, private bank money. As cash use is declining rapidly, the Riksbank considers it important that legislators adopt a position on the issue of what constitutes legal tender in Sweden and its connection to the Swedish krona as a currency. Any legislation should be as technology-neutral as possible in order to also be applicable to any future means of payment issued by the Riksbank.

PTS shall monitor access to cash services

The Riksbank supports the Riksbank Committee's proposal that PTS shall be responsible for monitor access to cash services in Sweden on an overarching level, and that PTS shall be authorised to issue provisions on, for example, what is to be considered reasonable access as regards fees, opening hours and other factors. As stated above, the Riksbank is of the opinion that it shall be part of PTS's remit to also monitor access to deposit facilities for individuals.

Like the Committee, the Riksbank considers that provisions on, for example, reasonable access shall be drafted in consultation with the Riksbank and other actors. The Riksbank proposes that the obligation to consult be included in the legislative wording.

PTS shall also, via a written communication to the Government every second year, provide an account of how the access to and demand for cash services has developed. If there is due reason, this communication shall also include an assessment of the need for amendments to the regulation now being proposed. The authority shall consult with the Riksbank and the county administrative boards before such an assessment is performed. The Riksbank is positive to the Committee's proposal on the obligation to consult and recommends a restrictive approach as regards the phase-out or softening of the requirements for credit institutions to provide cash services.

Interventions and sanctions need to be clarified

The Riksbank supports the Riksbank Committee's proposal that Finansinspektionen (FI) shall have the option to order institutions to implement rectification and to, where necessary, take action against institutions and impose financial sanctions. FI already exercises supervision of banks and other credit institutions and therefore, in the Riksbank's view, has the skills needed to take decisions on sanctions, etc. The Riksbank considers that the division of tasks between

² According to applicable court practice, public care institutions may not refuse to accept cash when patients pay their fees. Patient fees are governed by public law and legislation is therefore required before a public sector activity may abandon its obligation to accept cash. Fees for transport, childcare and parking are, on the other hand, considered to be governed by private law and it is therefore possible to waive the obligation to accept cash.



PTS and FI is well balanced and that the skills of the two authorities are being utilised in the best way.

The proposed sanctions system is complicated, however. Guidance and clarification will therefore be needed from the Riksdag as to how the sanction provisions are intended to work in practice. The system must be clear, not only for the appointed authorities, but also for the market and the general public. For example, it must be clarified that an institution not fulfilling the requirements for offering cash services – and having received a financial sanction to this effect – may receive another financial sanction for the same shortcoming if it is not rectified.

The Riksbank also notes that a third of the institutions that the Committee proposes shall be covered by the requirement to offer cash services are branches from European Economic Area (EEA) countries. This means that FI shall notify the supervisory authority in the institution's home country in the event of the institution not fulfilling its obligations. It is then the responsibility of the home country authority to take action against the institution. There is therefore reason to clarify what the intervention and sanction options are of supervisory authorities in other EEA countries in the event of such a branch not living up to its obligations to offer cash services to its customers. Sanctions should not be designed so that they risk putting credit institutions under the supervision of FI in an inferior position to branches from EEA countries under the supervision of their home countries. The starting-point must be that institutions active on the Swedish market are able to operate under the same terms and conditions regardless of their country of residence.

Central government efforts

The Riksbank supports the Riksbank Committee's proposal to extend the scope for government support to companies that enables another company to provide basic payment services. The Riksbank also supports the proposal to increase information and marketing efforts as regards the possibility to apply for government support for the provision of basic payment services.

On behalf of the Executive Board

Stefan Ingves

Katarina Grönvall

Taking part in the decision: Stefan Ingves (chair), Kerstin af Jochnick, Per Jansson, Martin Flodén, Henry Ohlsson and Cecilia Skingsley.

The rapporteur was Monika Johansson.