



HMRC: Alternative methods of VAT collection – split payment

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INTRODUCTION

UK Finance is the trade association which was formed on 1 July 2017 to represent the finance and banking industry operating in the UK. It represents around 250 of the leading firms providing finance, banking, markets and payments-related services in or from the UK. UK Finance has been created by combining most of the activities of the Asset Based Finance Association, the British Bankers' Association, the Council of Mortgage Lenders, Financial Fraud Action UK, Payments UK and the UK Cards Association.

Our objective is to work with our members to build a more customer-focused and innovative finance and banking sector, cementing the UK's role as a global leader in financial services for the benefit of the wider economy. The interests of our members' customers are at the heart of this work.

GENERAL COMMENTS

We welcome the opportunity to respond to the HMRC consultation on alternative methods of VAT collection – split payments. This is an issue of close interest to the financial services industry, not least due to the potentially significant impacts that implementing the proposals as they currently stand may have. As we have noted in our previous engagement with HMRC, we are sympathetic to the issues that HMRC are seeking to address. The issue of non-compliant overseas merchants and the resulting VAT-gap is clearly a challenge and one that the industry is supportive of helping HMRC to solve. Nevertheless, as we noted when HMRC consulted on this issue in 2017, we have several significant concerns with the current proposals for a 'split payment mechanism for VAT, which would allow VAT to be extracted from online payments in real time'. These include commenting on the changes already made, regulatory concerns, competition/legal, economic, technical issues, and concerns about the impact of Brexit. We are also concerned that HMRC has not fully considered intermediary solutions that might help to address some of the challenges – in particular, whether an 'information-led' solution in the medium-term might be a better fit given the various issues we describe. A brief overview of each of these issues is provided below, but we also touch on them throughout our response.

Taking account of changes already made: One of our key points is that HMRC has already made some significant changes in this space – changes that correctly identify the merchant as having the primary duty to account for VAT. The rules on joint & several liability for online marketplaces, implemented in September 2016, and the fulfilment house due diligence scheme, implemented in 2018, have not yet had a chance to bed in or show proper results. Furthermore, we understand that HMRC now has in place bilateral agreements with all of the major online marketplaces about their direct and indirect sellers. This could potentially have a big impact on the scale of the issue. We have noted during our engagement with HMRC the importance of having more clarity on the volumes/figures of 'bad actors' that HMRC is targeting. If these other policies/agreements impact significantly on the problem that this Split VAT payment solution is seeking to fix then it again calls into question the proportionality of what is proposed. Taken with a Regulatory Impact Assessment, it is hard to see how HMRC's proposal can pass a reasonableness test; HMRC's starting position would have to take due account of the benefit it receives from its agreements with the online marketplaces – i.e. the cost/benefit of this split payment proposal would be in terms of

the incremental benefit *over and above* that achieved through correct accounting by the marketplaces and the merchants who use them.

Finally, we note that HMRC already has new data gathering powers and these could perhaps be used more effectively. For example, it appears that HMRC data gathering powers cannot be exercised with respect to the top 10 sellers in a marketplace, only with respect to sellers generally. We recommend that a targeted approach would more effectively ensure proportionate HMRC action.

Regulatory concerns: The consultation concludes with some brief references to PSD2 and the barriers presented by the requirement for a PSP to transfer the full amount of a transaction from the payer to the recipient (5.4). UK Finance is of the view that these restrictions do indeed present a significant barrier to these proposals and one that is unlikely to diminish, even post-Brexit. First and foremost, PSD2 has already been transposed into UK law as the Payment Services Regulations 2017; therefore, these rules are UK law (as well as EU law) already. Furthermore, these rules form a core part of the PSD consumer protection proposition. As far as we understand, HMT and FCA are fully supportive of retaining equivalency on these issues and would presumably be hesitant to support the rules changes required to enable this. For reference, the obligation is Regulation 84 of the Payment Services Regulations 2017, which requires PSPs to transfer the full amount of the payment unless they have already informed the merchant of the full amount of the deduction.

“84(1) Subject to paragraph (2), the payment service providers of the payer and payee must ensure that the full amount of the payment transaction is transferred and that no charges are deducted from the amount transferred.

(2) The payee and its payment service provider may agree for the relevant payment service provider to deduct its charges from the amount transferred before crediting it to the payee provided that the full amount of the payment transaction and the amount of the charges are clearly stated in the information provided to the payee.

One point to make on the fallback option is that at least if it is the acquirer doing the deduction they could put that information on the monthly statement. The issuer would not be able to put this information on any statement/invoice issued by it or send that information as it does not have any relationship with the merchant.

Furthermore, we note that the safeguarding provisions contained in PSD2 would also likely act as a barrier to the proposal, and would appear to require express legislative amendments to allow the PSPs, subject to safeguarding requirements, the ability to make these deductions from the amounts they are holding on behalf of payment services users.

The changing payments ecosystem: The HMRC consultation document touches on some of the changes underway in the payments ecosystem at present, but it does not do justice to the complexity and the various ‘unknowns’. Over the last few years there have been a raft of new rules and regulation, new players entering the market and the evolution of customer expectations. In the UK, the very heart of the payments infrastructure is undergoing ‘once-in-a-generation’ change as both the BoE RTGS system and the retail payment schemes are fully redesigned. These are hugely challenging, resource-heavy, and complex undertakings. As part of the process to get to the decision to redesign these systems, the Payment Strategy Forum (PSF) ran a two-year process to gather views from all corners of the market, including government, which was represented by the Cabinet Office. The outputs from the Forum now form the core part of collaborative delivery work in the industry. We note that HMRC did not raise the requirements for a split VAT solution during this process and these requirements are therefore not factored into the industry’s delivery profile.

The changing payments ecosystem also impacts on the proposed scope of the HMRC split VAT payments proposals. The current consultation focuses heavily on the cards payments ecosystem (and the flows of card data). By focusing primarily on the role of a merchant acquirer (even with the suggestion of fallback options) HMRC is limiting the solution to the cards payment systems (even if there is an ambition to future-proof the proposals). We estimate that there are currently around 500 alternative payment mechanisms in existence or development. While card payments currently represent the majority of online payments this is likely to evolve. Some reports on the impacts of changes like PSD2 suggests that as much as 30% of ecommerce that is currently transacted on cards may migrate to other payment methods. Ultimately, the whole reason that the Commission and the UK government have backed the kinds of regulatory and policy changes that we have seen over the past few years in the payments landscape is because they want a fundamental change to the market. Therefore, it can be argued that it would be

counter intuitive for government to design, at this stage, a complex technical solution for the market as it exists today.

The UK is keen to promote an environment of innovation and FinTech; there are already alternatives to card schemes for settling transactions (including the nascent 'Pay By Bank App') so it would not be helpful to concentrate only on cards. It is also worth noting that in other EU states, including where some of these online merchants may be located, settlement may be by direct interbank clearing. To apply such a collection scheme only to cards would create a powerful economic incentive for online transactions to migrate to alternative payment methods, in order to circumvent this collection. Those retailers that are deliberately circumventing paying VAT now are probably the most likely to try to avoid paying it if the government introduces a regulatory regime for just one payment type and will likely find ways to use other payment methods to avoid this.

A final point to note is the capacity for change in the industry. As noted above, the industry is going through an unprecedented amount of change. These are critical infrastructure changes that will take 5-10 years to complete. Therefore, for many players in the market, their capacity for further change is very low. There is an integrity issue with trying to fit too much complex change into the same period of time and the industry has an obligation to ensure that resilience, security and continuity are their priorities.

Economic concerns: There are macro, industry and individual firm economic concerns resulting from these proposals. While HMRC has suggested the possibility of a longer implementing period of 3-5 years, the issue of cost and negative business impact have not been adequately addressed. As well as impacts on cash flow and security retentions, firms conducting any payment split will potentially be at greater business risk unless indemnified. At a macro level, we have concerns that these proposals may negatively impact UK acquirers and in particular, smaller players may find it harder to compete. Furthermore, by limiting the split payments to cards, 'bad actors' could simply refuse to accept credit/debit cards as a payment method. This would impact the level of interchange generated through the schemes and reduce income for UK card issuers.

Technical concerns: The technical impacts of implementing these proposals should not be overlooked. These proposals are likely to require technical implementation throughout the payment chain, particularly if the idea of 'fallback' solutions are pursued. There will be knock-on impacts of these changes, some of which are easy to identify, and some of which may only transpire as the implementation process is begun (particularly for smaller/lower volume players). Furthermore, the technical changes required are not limited to the bodies 'in scope' of this consultation. They will rely on changes being made to global systems over which they have no control and which may have more limited incentive to undertake them.

Brexit: In addition to these concerns we draw attention to the overarching issue of the timing of these proposals insofar as they coincide with Brexit. Brexit is likely to have a very material impact on the way these proposals could be implemented and the impact they would have. In short, it is possible that most UK acquirers may have a very different mix of domestic and overseas merchants on their books after Brexit. Indeed, some acquirers may choose not to have any overseas merchants, and in short, we don't agree that HMRC should use the current proposal as a platform to then focus on domestic collection. Given this, the whole premise that UK acquirers would be in a position to carry through these proposals is weakened.

Competition/Legal concerns: Legal representatives at Member firms have raised a number of issues with the proposals. One of the main challenges is that the concept of an HMRC list of approved acquirers creates a restriction on trade (i.e. it might artificially limit the choices about who a firm does business with), potentially contravening WTO rules. It could result in negative competition impacts on the UK acquiring/payments market, despite the fact that the 'bad actor' in this case is an overseas merchant.

Members have also raised issues around the fact that these kinds of rules/measures existing only for UK issued cards will have the effect of rendering them unattractive to foreign merchants. A situation where foreign merchants stop accepting UK issued cards would clearly be a high negative risk of this proposal.

We also believe that there may be some data sharing issues to be explored, as well as challenges around PCI compliance as payment details are currently masked for security. The PCIDSS requirements include:

- Protect Cardholder Data
- Protect stored data (use encryption)

- Encrypt transmission of cardholder data and sensitive information across public net

In practice this usually means hashing out all but the last 4 digits of the PAN and encrypting the details whilst they are in transit. Merchant terms may also have to be amended to ensure that they consented to the use of their data in this way – and there should be a mechanism for merchants to withdraw their consent

Furthermore, the necessary audit trail could entail the creation of very large databases of consent data, specifically for this purpose and in addition to the records kept for a bank's and PSP's own purposes. Presumably HMRC would need to give itself the right and ability to interrogate card issuer and PSP records in order to assure correct payment of VAT.

We are now in a period where across the spectrum regulators are tightening up the rules and policies around the handling of data. In response to this, there has been a great deal of innovation and work underway in the industry around trying to secure the data that resides with all parties in cards transaction. Under HMRC's proposals the industry would effectively need to create a structure for capturing more data and passing it out. This feels contrary to general direction of travel for regulators and in the industry.

The outcomes of the European Commission work on this issue: We note that the work undertaken by the Commission in terms of the 'Modernising VAT for cross-border e-commerce' package and its recent consultation on 'Exchange of data to combat VAT fraud in e-commerce' seem to point to the fact that the Commission has discarded VAT Split Payments as unworkable. It therefore seeks to address the problem via Marketplaces, Postal and Express carriers, and Customs Administrations in terms of placing obligations on them to capture VAT liabilities on the actual import of goods from non-EU vendors into the EU. Those elements appear to be targeted for 2021, which is before any workable VAT split Payments fix could conceivably be in place for the UK payments Industry.

The EC Consultation on Enhanced Information Exchanges from Merchant Acquirers and Payment Services Providers is a precursor to provision of intelligence for VAT enforcement purposes, which in terms of non-EU traders now focuses around the actual physical delivery chain rather than the payments chain. The precise timetable for that, and the implications of Brexit, are not yet clear but if, as is postulated, the UK is bound to EU VAT rules for 5 years post Brexit, it is a given and a UK specific Split Payments solution for VAT appears to be highly impractical.

The Marketplaces, Freight Industry, Postal Services etc., will have to be making these changes for the whole of the EU so it would be an incremental obligation for their UK operations. If there were a UK VAT Split Payments scheme on top of that, there are yet more parties (this time in the delivery chain) who might be obliged to account for VAT at some point with no articulated mechanism of knowing if some VAT element has (or has not) been accounted for upstream in the payment chain by the Card Issuer, Marketplace, Merchant Acquirer or payment Initiator.

Indeed, we note that this month it is being reported that HMT are planning for the UK to remain in the EU VAT area after the Brexit transition. Mel Stride MP has been quoted as stating that "The government aims to keep VAT processes after EU exit as close as possible to what they are now". One such aspect would presumably be the proposed post 2020 EU VAT one stop shop for e-commerce VAT collection, which prescribes that VAT will be collected at the rate in the country of purchase for online sales, with a "warehouse" mechanism to allocate tax revenues to the correct country in the background. Again, this would seem to support the EU's opposition to split VAT payment regimes, and would render it extremely challenging to proceed with the UK VAT split payment proposal.

Inaccuracies in the consultation paper: Notwithstanding that this was a comment raised during last year's call for evidence, we still believe that the description of the payment cycle in the current consultation paper lacks clarity. Under the IFR, card schemes are required to ensure separation between the scheme and the processing parts of the business. HMRC's definition appears to combine the scheme itself (the rules and regulations) and the processing operation. In the diagrams explaining the potential scenarios, there is no mention of a separate 'card scheme' and the diagrams refer to the 'Payment Company' as the Merchant Acquirer, a PSP or a PISP – which again seems to conflate terminology.

An alternative approach: In our previous consultation response, we proposed that in light of the challenges in timing and complexity of the split payment solution, HMRC might consider exploring a short-to-medium term

solution (perhaps as an interim measure with a view to a split payment solution in the longer-term). This short-to-medium term solution could focus on an information-led approach and HMRC could explore with firms what data could be provided on non-UK based online retailers to help them to enforce tax compliance. There are some challenges to a data approach (retailers may not be contracted to UK acquirers, especially after Brexit; and acquirers may not have information on the merchants where an online market place is acting as an intermediary), however, there are several possible advantages. HMRC would have access to the information needed to accurately identify the non-compliant merchants that it needs to pursue. It would also allow industry and HMRC to work closely together on a solution that would more clearly target 'bad actors' in a way that will not simply push them 'out of sight'. Ultimately, information solutions can be delivered more quickly and give value to the taxpayer sooner. If, instead, the government requires a complete redesign of the payments architecture it will be lengthy, complex and likely to run into challenges that it is hard to anticipate at this early stage.

As noted above, the outputs from the Commission and OECD on these issues have concluded that split VAT payments solutions are not appropriate and are instead advocating data sharing/data provisioning. Other solutions focused on the supply chain seem to be the preference. We would argue that some clarity around the European direction of travel would be valuable before any decision on a UK solution is made (whether data driven or otherwise) given the need to avoid duplication.

We are supportive of other options to incentivise merchants to be compliant with VAT requirements. For example, the agreement that HMRC now has in place with Amazon to help to enforce VAT rules on sellers. This seems like a practical and effective way forward.

We also still believe that issues around VAT need a multi-country solution; creating specific rules and process for the UK will be less effective and more difficult for industry to implement. We note that the Deloitte report that was published for the Commission in December concluded that the costs of implementing a Split VAT payment system outweighed the benefits and we urge HMRC to consider these findings carefully.

Please note that UK Finance would be pleased to facilitate further engagement between HMRC and industry on this topic and look forward to discussing these issues with you further. In particular, we would be pleased to discuss our proposals for an alternative approach in more detail.

RESPONSES TO SPECIFIC QUESTIONS

Question 1: Do you agree that the merchant acquirer is the best placed party to effect the split of VAT from the gross payment? If not, who do you think would be best placed and why?

Question 2: Do you think the government's emerging thinking on a mechanism for split payment is workable? If not, how would you improve it?

For the various reasons given in the opening statements, UK Finance does not believe that the split VAT payment proposals are the right way forward. Our first preference is to continue to work with HMRC to consider different ways of meeting their policy aims. If a decision was made to go ahead with the current proposals, then we agree that broadly speaking the 'merchant acquirer' is best placed to perform the split (again, with the disclaimer mentioned above). However, there are some important caveats to this: first, that for this to work the acquirer would need to have access to the right information from the merchant that it needs. Second, UK Finance believes that HMRC would need through legislation to provide some form of indemnity to acquirers in order to ensure that they are not held liable for incorrect VAT splits and to oblige acquirers to make such split VAT payments on behalf of the relevant merchants so as to override their contractual obligations and provide clarity as to the basis on which payment is being made, i.e. for the merchant and not for the acquirer. This would probably mean that each acquirer would need some form of contract with HMRC. And finally, we do not believe that the firm doing the split should need to make any complex decisions about what amount to split. The system would need to be very simple to execute, with a single flat rate. Timing of payments to HMRC would also need to be simplified, i.e. not daily or weekly but perhaps monthly (consistent with the typical VAT reporting cycle). This is critical.

As noted in our opening statements, there are a range of issues that we have identified with the proposals. On the concept of a 'whitelist', we note that firms' legal advisors have indicated that this may constitute a restriction of trade under WTO rules. We are also unclear how this list would effectively be kept up to date and who would have responsibility / liability for the information. This would also be a potential breach of PSD2 with respect to payment initiation services providers, given that account servicing payment service providers are not permitted to make access to data contingent upon entering into a contract.

We also note that HMRC considers that this should operate in real-time. There may be options to run this system more effectively in non-real time, allowing more time for information and reconciliation flows, but there is no current infrastructure that allows for this kind of real-time information exchange

In addition, HMRC seems to have made some assumptions about the kinds of information available in a payment flow. While it is true that there is a larger range of data with card transactions not all of this is available in the payment flow. To include it would require significant re-engineering and possibly breach existing PCI standards regarding the availability of data.

Another issue with using the merchant acquirer is that most, if not all, foreign merchants will not transact through a UK acquirer so how would non-UK acquirers be made to implement the split?

There are other practical scenarios where the distribution of funding to a merchant is more complex than perhaps the normal rules of acquiring suggest. For example, would Payment Facilitators be captured under the definition of acquirer as that is the role they perform for sub-merchants they service? The changing exemptions to regulation under PSD2 are also forcing entities such as marketplaces to look at outsourcing settlement activities. Such entities will invariably be regulated but it needs to be recognised that the concept of acquirer may now embrace multiple entities. There must be absolute clarity on scope and perimeter (as to who is caught or not) and ideally consistency between the different regimes.

Question 3: Do you think the use of the card issuer as a fall-back option would provide an effective safeguard for the mechanism by creating sufficient incentive to encourage merchant acquirers or PSPs to register with the scheme?

As noted in our answer above, while we don't believe that these proposals are the right way forward, if they were being implemented then the 'acquirer' would be best placed to conduct the split. However, we do not feel that the introduction of fall-back options as defined is feasible. The proposals would already be complex and costly to implement for acquirers, but they have the slight advantage of (usually) having access to the merchant information.

There are some further practical difficulties with this proposed fall-back option, notably that Issuers and other PSPs as outlined in the consultation proposals do not have contractual relationships with either acquirers or merchants (and in the cases of some schemes, the Issuer would not know who the acquirer even was as the Issuer and Acquirer only have relationships with the Network Operator, rather than each other)). Even if an issuer were only deducting a flat rate (and therefore not relying fully on any information from the merchant) that relationship would still be necessary. Furthermore, it is not clear how the issuer (or another PSP in the chain) would know whether a split has or has not already been carried out by the acquirer (or another party), creating a risk that the split may not be done or, worse, that it might be done more than once. At a principles level we think that the concept of a 'fall-back option' is disproportionate in terms of cost and investment. Ultimately, if the government were to go ahead and set up this system with some kind of statutory footing, then there should be measures to enforce it. To simply say that if the rules are not followed, there will be a fall-back in place is ineffective.

We also encourage HMRC to ensure it has considered whether all issuers would be in scope or whether there would need to be a volume *de minimus*. This would be beneficial for proportionality and to avoid unduly impacting small players. However, there would also be a risk around competition and this would need to be considered. Given these rules would only apply to UK-based acquirers (and issuers, if the fall-back is implemented) there is also an overarching issue around competition to be considered – there is a risk that the implementation of these rules would put UK firms at a disadvantage, which goes against the overall technology/fintech policy narrative of the UK government.

It should be noted that the Issuer cannot withhold amounts to pay HMRC in isolation, there would need to be development by the Network Operator and Acquirer in order to recognise that the Issuer is withholding funds for this

reason. The Network Operators calculate the settlement amount for Issuers and Acquirers and there is a contractual obligation for this to be paid. In most cases the payment from the Issuer is to the Network and the Network separately pays the Acquirer who pays the merchant. If the Issuer withheld funds in isolation, then separately the Network will have settled in full to the Acquirer who will pay the merchant in full. Meanwhile the Network Operator is out-of-pocket and the Issuer in breach of contract.

Further, for some card schemes, the Issuer withholding amounts to pay HMRC would impact the revenues of the Issuers, in that they are remunerated in proportion with the amounts paid to the network operator. If sums need to be withheld, and hence the payments reduced, the revenues would be affected. The same issue could impact the remuneration of the network operator (reducing the payment and therefore reducing their fee to the acquirer).

Question 4: Do you think that marketplaces, when they are involved in a sale, could have a role to play in effecting the split?

Broadly speaking we believe that online market places should be the focus of HMRC's efforts to identify and capture 'bad actors'. While we recognise there are challenges in terms of jurisdiction issues and different operating models, at a practical level it clearly makes sense to target the market places that these online sellers are using.

Question 5: Do you agree with the government's assessment of these options for determining how much should be split from the gross payment?

We do not agree that option three is the best way forward. This is because it is not simple for industry to execute and adds complexity by having different rates for different firms. It also puts an additional administrative burden on the party carrying out the split on engagement with the retailer about the appropriate rate, communicating changes etc. It also places additional audit risk on the party doing the split. Our preference is for a flat rate (which would probably be just the actual rate). Again, as previously stated we believe there would need to be some kind of indemnification for the party undertaking the split, who would be held harmless if there was an issue with the split amount.

Question 6: Are there any other options you would suggest to further simplify the process of calculating the amount to be split?

Question 7: Do you think the scope of split payment should be limited to overseas sellers, or should HMRC expand the scope to include online UK businesses?

The proposals as outlined are already complex. We do not think that the scope should be expanded to include online UK businesses. Furthermore, the MI that HMRC collects today provides them with a lot of the information that they need today to identify 'bad actors'. There are economic and business issues with expanding the scope, for example, for many high volume low margin merchants this kind of approach would significantly alter their cash flow and have negative effect on their margin.

Question 8: What changes do you anticipate as a result of PSD2? Will the existing parties, such as merchant acquirers, PSPs, or PISPs, continue to have a role to play in the future?

The advent of PSD2, as well as a whole host of other changes, are altering the payments landscape. Therefore, it certainly makes sense to be cognisant of new players, e.g. PISPs, to ensure that the proposals are future-proofed. Ultimately a view of this issue should not be limited to cards payments only.

However, the industry is not able to predict how exactly the landscape will change, given the high complexity and interrelation of all the changes in play - and the fact that these new regulations are expressly designed to foster innovation and new products. By attempting to introduce these new processes and requiring PSPs to build the complex architecture needed to facilitate them, it is likely that innovation will be hampered, rather than allowed to grow as intended. In our view, these proposals are risky and expensive and likely to lead to a situation where bad

actors can simply move to another payment type. They also do not seem to align with the overall regulatory trend towards payment instrument neutrality in legislation. Furthermore, the requirements implied in the fall-back solution could be a further barrier to entry for merchants who wish to create their own PISP. This would therefore limit the competition that Open Banking is meant to introduce.

Ultimately, making the 'acquirer' responsible for the split may be a solution from a cards payments perspective, but from a policy perspective the solution needs to look more widely. Acquiring is linked to only one part of the payment market. In a conventional model the 'acquirer' may potentially be best-placed as they have the relationship with the merchant and undertake settlement. But our anticipation is that all of this may begin to change: there will be new models and new players. We simply can't predict the market at this stage and we believe that implementing something now or beginning the process to implement (recognising the various challenges that we identified in our introduction) risks creating poor outcomes. From a practical perspective we also note that there is no 'acquirer' in non-cards payment contexts, so this is not a neutral term.

PSD2 also brings in clear requirements that fees and charges cannot be deducted from amounts transferred, so in order to implement any form of these proposals the PSD regulations would have to be updated. As PSD is a maximum harmonisation directive, this would have to wait until we have exited the EU.

Question 9: Do you agree with the government's thinking regarding how errors, adjustments, and refunds could be handled? Do you think there are better ways of resolving these issues?

We do not think that the full scale of the challenge on errors, adjustments and refunds has been captured in the HMRC consultation document. This is an area of particular concern given the potential impact on business-critical cash-flows, consumer protections, and acquirer liabilities. Anything on this issue needs to be done in the simplest way possible, with as much onus on 'decisioning' removed from the party conducting the split as possible.

The full range of challenges is hard to describe fully at this stage, however in essence the proposal would introduce a disconnect between the transactional data flowing between the payment parties i.e. the issuer, acquirer, schemes etc. and the settlement made to the merchant. Chargebacks will be at the un-split level; depending on when monies are paid away to HMRC against when the chargeback is raised, then any chargeback debit will need to be split too or would should it be gross with any recovery falling to the merchant? One-way flows to HMRC are much easier to cope with, than two-way flows from HMRC. Any flow-backs should be to the merchant direct. Is some form of quarterly or annual 'trueing up' proposed?

Question 10: If you or your organisation is involved in the development of new payment technology, how long would you estimate it would take to create a system?

We cannot give a clear view at this stage because the answer on timing would be highly dependent on what the solution actually was. Most firms we asked were of the opinion that a solution as described in the consultation document would take around five years to build.

The consultation doesn't address the issue of cost and we think that this needs to be carefully considered. We think that HMRC would need to consider whether a cost-recovery model would be appropriate for this solution. However, it should be noted that most firms expect there will be significant costs involved in developing the technology to support the proposal and that cost will not be recoverable simply from the target population the proposal seeks to address but more generally will be ultimately borne across the customer base.

In terms of how this might be implemented, one [significant acquirer] firm has indicated that it:

1. Would require a detailed platform change to enable it to identify and flag relevant transactions
2. Changes would be needed to merchant statements to be able to illustrate breakdown of transaction to conform to EU Regs
3. Platform and billing system would need updates to reflect what elements of transaction get charges applied to

4. Settlement system would need updates to enable splitting the transaction between more than one party

All of these would be needed for both initial sale and any relevant refund as some transactions would include multiple items purchased and a refund may be part value. It is also worth noting that some Merchant Acquirers will operate on more than one platform (maybe due to customer location, currency requirements etc..) so changes would be needed to be applied to all platforms, increasing the costs and development/testing time. Furthermore, many merchants are multi-acquired. This is a significant complexity in itself, but the principle should be that the acquirer is only responsible for what it sees.

Question 11: Is there anything else the government can do to enable the implementation of split payment?

We think that HMRC should continue discussions with their EU and global counterparts to determine appetite at a global level for this kind of change. We do not believe it can be as effective if only the UK implements these requirements and indeed there may be several negative consequences of doing so.

It is also disappointing that there is no reference to using new and emerging technologies. Updating the payment scheme requirements is not the most efficient or scalable model for sharing information. For example, the use of APIs built into payment gateways would be far simpler and cheaper to implement and be more future-proof. The open banking type technology could be far more effective and should be investigated.