

## The tax administration framework: supporting a 21st century tax system - Call for Evidence

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[Condoc Link](#)

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UK Finance is the collective voice for the banking and finance industry.

Representing around 300 firms across the industry, we act to enhance competitiveness, support customers and facilitate innovation. Our members include businesses that are large and small, national and regional, corporate and mutual, retail and wholesale.

### General Comments

We welcome the opportunity to respond to HM Revenue & Customs' ('HMRC') 'The tax administration framework: supporting a 21st century tax system – Call for Evidence' ('the Call for Evidence').

We support the overarching aims of the Call for Evidence, of updating the legislation underpinning HMRC's administration of the tax system to:

- provide a better experience for individuals and businesses;
- enable opportunities to further reduce the tax gap; and,
- help build greater resilience and responsiveness to future crises.

The Foreword to this Call for Evidence sets out a vision of “a fully digital tax system able to support all the needs of taxpayers [...] It should also work closer to real time.” We assume that this means potential changes to the use of third party data as provided to HMRC by Financial Institutions (“FIs”). We set out below six key principles which should be borne in mind when considering such changes to the tax administration framework:

- A clear legal framework. Under the Common Law, banks owe a duty of confidentiality to their customers, based on the decision of the Court of Appeal in *Tournier v National Provincial and Union Bank of England* [1924] 1 KB 461. In accordance with that decision, it is an implied term of the contract between a banker and a customer that the banker will keep the customer's information confidential except “(a) where disclosure is under compulsion of law; (b) where there is a duty to the public to disclose; (c) where the interests of the bank require disclosure; (d) where the disclosure is made by the express or implied consent of the customer”. FIs are also bound by the Data Protection Act 1998 and the Data Protection Act 2018, and must have regard to the data protection principles, such as the purpose limitation principle. As such, any data required by HMRC needs to be mandated, by law, often as part of a notice, potentially on a 'report if you hold it' basis. If any new mandatory requirements to report information are introduced, it may be necessary to consider not only a mirror requirement to collect certain information but also some consideration about the ability of FIs to collect that information in the absence of any legal compulsion on customers to supply it.

- Balancing the needs of customers and HMRC. UK Finance members are fully committed to helping customers to ensure that they have easy and ready access to the information necessary to understand their tax position. They are also fully supportive of measures to ensure that the right tax is paid, at the right time, to support vital public services. We also understand that customers and citizens want HMRC and FIs to strike the right balance between convenience and their personal privacy. There is, therefore, a need to consider the extent to which changes might fundamentally alter the perception of personal responsibility and self-assessment. This would be of concern if it were to result in displacing the onus of responsibility, and exposure to risks, onto FIs.
- Data security. Aligned with the needs of customers, the data security environment for both the exchange of information and the provision of information through digital tax accounts will need to meet high standards for data security, given the potential for increased exposure to financial crime, particularly in support of protection from social engineering attacks. FIs need to be confident that stringent data security safeguards are met in order to meet their own requirements under applicable regulations, and we encourage early engagement by HMRC digital teams to discuss their intended approach.
- Proportionality. It is important that there is some cost-benefit analysis performed in the process of deciding on an expansion of the reporting obligations falling to FIs. This cost-benefit analysis would need to consider all FIs, ranging from large multi-national banks to small local building societies. In some cases, FIs are already required to report data to HMRC for their entire customer base holding a particular product or products, even though only a very small percentage of them may actually have any further tax to pay. For instance, HMRC's Making Tax Digital consultation document stated in 2016 that fewer than 5% of taxpayers will have additional tax to pay on interest received from banks, a figure which presumably would have fallen in the intervening years. There is therefore a need to make sure that measures introduced are proportionate to the benefit gained by HMRC and by taxpayers. At the same time, any changes in the provision of data are likely to result in significant costs for industry to implement. Many banks will have the current reporting regime built into core customer systems, and changes to those systems require a significant degree of development, lead time and testing. Depending on the scope of changes, many banks will also need to make changes to multiple systems, with millions of customers spread across several platforms and products, alongside changes to processes and procedures, staff training and customer communications.
- Timing. Following provision of detailed requirements, core financial systems typically need a minimum of 18 to 24 months development time to successfully deliver change programmes. That timeframe represents the need to secure a budget and resources for the project, assess changes, design, and deliver the necessary infrastructure developments, including testing changes to ensure they perform as expected and do not have unintended consequences.
- Coherence and consistency. We would strongly urge more emphasis on developing a holistic and coherent approach, that identifies and manages interdependencies as well as resolving inconsistency. We would support the development of a road map to an end state with clearly defined steps along the way, that would allow the possibility of staggering the introduction of further reporting requirements in line with the complexity of the requirements. This would give UK Finance members the opportunity to implement changes in an agile way, which would be appreciated by those members who may be able to 'go live' with changes earlier than others.

We would additionally urge HMRC to resist introducing interim, piecemeal changes that add to the cost, complexity, and fragmentation of the reporting landscape ahead of any large-scale change project. We appreciate that in a constantly evolving environment HMRC favours an incremental approach to change, but this approach needs to be balanced with our members' need to plan. We think it would also be essential for HMRC to involve change management subject matter experts to support the development of a formal project plan and timetable of activity for any large-scale change project.

We note that some of the themes of the Call for Evidence and several of the specific questions overlap with the Office of Tax Simplification's ('OTS') 'Third Party Data Reporting Review – Call for Evidence'. UK Finance's response to this Call for Evidence can be found [here](#). For ease of comprehension, we have incorporated the relevant comments from this document into this response. We would strongly encourage HMRC to collaborate with the OTS on this review.

We note that the Foreword to the Consultation refers to the recent Consultation on Making Tax Digital ('MTD') for Corporation Tax and the opportunities HMRC believe a digital tax system will offer. As stated in UK Finance's [response](#) to this Consultation, we do not believe that the proposals as planned will provide significant benefits for taxpayers or HMRC in relation to large Financial Services taxpayers and consider that the implementation costs would be very significant. This conflicts with stated objective of the revised tax administration framework to "help reduce the cost for taxpayers of meeting their obligations and drive down the costs to the Exchequer," (Box 2.2).

## Specific Questions

### ***Chapter 2: Reviewing the tax administration framework***

**Question 1: Are there reforms which HMRC should focus on for the framework review? Which changes should we prioritise to drive improvements in the taxpayer experience?**

#### General comments

The framework review should focus on consolidation of old legislation into a single source that is clear and easy to follow and written for the digital age. Rules should be enshrined in legislation with guidance further explaining the legislation but not amending or adding to it.

The legislation and guidance should be in a format that can be effectively amended for future changes in a timely manner such that they remain easy to follow and taxpayers can find the information they need. When changes are made these should be tracked to make it easy to see what has been amended and when.

The diverse nature of taxpayers needs to be considered such that the framework works for more unusual, complex transactions undertaken by large corporates as well as for simpler transactions by small businesses and individuals. The interaction of a HMRC Customer Compliance Manager, HMRC clearance system and self-assessment for large corporates also needs to be considered.

There should be integration with the benefits system and the DWP to make it easier for taxpayers to see the whole picture. This would provide natural complimentary benefits for HMRC too.

The framework should aim for the taxpayer to pay the right amount of tax first time and avoid taxpayers having to reclaim overpaid tax as far as possible. For example, withholding tax on

compensation interest can be reclaimed by most taxpayers as it is within their Personal Savings Allowance. For those who do have tax to pay HMRC receive the interest information on the Bank and Building Society Interest or Other Interest returns to populate into the personal tax account so there is minimal risk of tax loss if not withheld as source (especially with the end of Payment Protection Insurance claims).

The framework should provide clarity and consistency regarding penalties across all taxes stating how and when these will be applied. Currently some penalties are very clear in legislation and others are subject to significant HMRC discretion.

### Bank and Building Society Interest ('BBSI') reform

A de minimus approach could be adopted. For instance, reporting could not be required for interest under a certain level. This would allow the banks to spend more time checking the quality of their returns rather than reporting large volumes of data. This does not absolve the taxpayer of the need to report honestly, but reduces the burden on banks and may eliminate a number of trivial enquiries that ultimately result in to change to the tax take.

Overmatching is a problem in banks, but by reducing the volume of reporting and establishing a robust approach to matching it will be easier to see exceptions and 'think before reporting'. We note that the OTS's 'Third Party Data Reporting Review – Call for Evidence' proposed using a National Insurance Number ('NINO') for this purpose. This is possible, but there are a number of considerations to bear in mind. Please see paragraph 61 below for further details.

### Tax codes

HMRC messaging to taxpayers who query their tax code should be improved. There are still instances where advisers tell customers that errors are the fault of their bank, without checking internally first.

It may be sensible to have the option of a 'one off' code, such as when Gift Aid is added to a self assessment. For instance, Members have seen examples of 'one offs' such as a taxpayer recovered a dormant account with compound interest of £3,000 dating back to the 1970s.

**Question 2: Where is the tax administration framework creating challenges to the trust that taxpayers place in the tax system and HMRC's administration of it? How could the framework be reformed to address these challenges?**

### General comments

The legislation is old and complex making it difficult to understand and often does not easily relate to the practical situation. This means taxpayers may take the wrong action by mistake and end up with more tax to pay than they expected and/or interest and penalties when they were doing what they thought was correct.

Unclear legislation leads to HMRC opinion being sought to clarify tax treatment. This can be time consuming and subject to change in practice and sometimes inconsistencies can arise with previous agreements. This reduces trust and confidence in the system. It has also led to many cases being decided in court and reliance on case law. This is open to interpretation of the specific

facts of the case and risks relying on precedents which are dated and inconsistent with current times.

Data provided by third parties may be mismatched to the wrong person or used incorrectly, such as being extrapolated to a future tax year's tax code when it is a one-off payment. It is not easy at present for the customer to challenge as little detail is provided in their personal tax account. This could be improved by making a unique identifier such as the NINO mandatory for customers to provide at onboarding and by changes to reporting requirements to provide additional information to HMRC, for example including on BBSI returns information about whether a payment is recurring.

### BBSI reform

Reform to make it easier to match the right taxpayer to the right interest would be very welcome. As discussed above, the use of more robust, combined with an interest de minimis, would likely almost eliminate the reporting of under-16s. If taxpayers are paid the wrong interest then they may not trust the system. If they are 'pushed' between their Bank and HMRC then they may get frustrated.

**Question 3: Do you agree that these are the right overarching objectives to guide this review or do you believe there are others it should consider? Do you feel that some of these objectives are more important than others?**

We broadly agree with the overarching objectives. However, we do not believe that they are complete.

The 'objectives for the tax administration framework' set out at Box 2.2 do not include the need to consider the impact of such changes on third party data providers such as FIs. We strongly believe that a cost-benefit analysis should be undertaken of any revisions to the framework, with an assumed starting point that any additional obligations imposed on FIs are fair and proportionate, including costs. As noted in our General Comments above, HMRC's Making Tax Digital ('MTD') consultation document stated in 2016 that fewer than 5% of taxpayers will have additional tax to pay on interest received from banks, a figure which presumably would have fallen in the intervening years. There is therefore a need to make sure that measures introduced are proportionate to the benefit gained by HMRC and by taxpayers.

The framework does need to be fair and even handed and to this end should allow some flexibility based on the practical situation with inspectors who can make decisions to resolve queries in a timely manner.

**Question 4: How could the review ensure the best coverage of viewpoints and expertise from those who depend upon the tax administration framework? Are there particular models of consultation engagement or collaboration that could work well?**

The review is part of a wider tax administration landscape which includes other initiatives such as the OTS's 'Third Party Data Reporting Review – Call for Evidence', MTD, and Real Time Information (RTI). Each of these reviews has a different focus and different stakeholders, and we believe that considering the responses holistically would be beneficial. It would be particularly beneficial is an overarching road map of what changes are going to be implemented, and when, could be agreed between HMRC, the OTS, and industry stakeholders. This would help minimise the

number of times that changes have to be made and make it easier to implement such changes in a way which is joined up, sensible, and proportionate.

In addition, engagement with industry groups and platform/software providers is important.

**Question 5: Are there other international examples or models of tax administration that could inform this review of the UK's tax administration framework?**

The international examples given in the Call for Evidence include the “pre-population of tax returns in Italy, using third-party information to fill out some of a person's tax return details in advance,” and the South Korean ‘Hometax’ system which “uses third-party data and information on taxpayer transactions to simplify and improve the experience for taxpayers.”

While these are useful examples, we stress the importance of the key considerations which must underpin any changes to the provision and use of third party data. These are set out at paragraph 3 above, and we summarise them below:

- A clear legal framework. Any data required by HMRC needs to be mandated, by law, often as part of a notice, on a ‘report if you hold it’ basis. If any new mandatory requirements to report information are introduced, it may be necessary to consider not only a mirror requirement to collect certain information but also some consideration about the ability of FIs to collect that information in the absence of any legal compulsion on customers to supply it.
- Balancing the needs of customers and HMRC. There is a need to consider the extent to which changes might fundamentally alter the perception of personal responsibility and self-assessment. This would be of concern if it were to result in displacing the onus of responsibility, and exposure to risks, onto FIs.
- Data security. FIs need to be confident that stringent data security safeguards are met to meet their own requirements under applicable regulations, and we encourage early engagement by HMRC digital teams to discuss their intended approach.
- Proportionality. It is important that there is some cost-benefit analysis performed in the process of deciding on an expansion of the reporting obligations falling to FIs.
- Timing. Following provision of detailed requirements, core financial systems typically need a minimum of 18 to 24 months development time in order to successfully deliver change programmes.
- Coherence and consistency. We would strongly urge more emphasis on developing a holistic and coherent approach, that identifies and manages interdependencies as well as resolving inconsistency.

***Chapter 3: Ensuring consistent obligations for people to enter and exit the tax system***

**Question 6: What are the key challenges with the current legislative provisions relating to the identification and registration of taxpayers?**

No comment.

**Question 7: What benefits of the current legislation should be preserved?**

No comment.

**Question 8: What likely changes and developments will the framework need to handle? What are the key priorities for framework reform in the area of identification and registration of taxpayers?**

No comment.

**Question 9: Are the current approaches to the timing of registration still appropriate, or are there opportunities for reform?**

No comment.

***Chapter 4: Improving the way tax liabilities are calculated and assessed***

**Question 10: What key issues relating to the way tax liability is established arise within the existing legislative provisions?**

No comment.

**Question 11: What benefits of the current legislation should be preserved?**

No comment.

**Question 12: What likely changes and developments will the framework need to handle? What are the key priorities for framework reform in the area of calculating and assessing tax liabilities?**

**Question 13: How could tax return obligations and processes be updated? What should a 'tax return' look like in a digital tax system?**

The Call for Evidence states that “[s]marter use of data about taxpayers and their activities could create opportunities to change the way in which assessments are carried out. The role and responsibilities of the taxpayer, HMRC, and third parties may need to evolve as well.” While it is hard to comment on this specifically without knowing more granular details, there are several high level considerations relevant to the “smarter” use of third party data to make assessments on a taxpayer:

1. It is important to ensure HMRC can match the records reported to the correct taxpayer.
2. In some cases, the customer, who is the legal ‘account holder’ with an FI, is not the beneficial owner and may not therefore be the person subject to tax on income/gains arising in relation to the account.
3. FIs may not hold certain items of data for some or all of their customers.
4. Some information that is currently held may not be held under easily electronically searchable data field.

5. Any requirement to obtain additional data from customers would impact account opening processes, potentially across multiple products and systems and may necessitate the development of automated and/or digital data capture processes in addition to postal outreach. Any requirement to collect new data from existing customers would take time, be costly and depend on customers responding voluntarily, in the absence of any legal compulsion. In our experience a fair proportion of customers do not voluntarily respond to follow up requests for additional information.
6. Many legacy systems are old and were not built to record the data or support the types of reporting and data interrogation that would be needed. The costs involved would be significant as would the lead times needed to adapt systems, assuming this were possible. Increasingly organisations are using external parties for the provision of their operating platforms, and therefore we would recommend early engagement with that sector.
7. Data frequency is an important consideration. Real time or monthly reporting may require the use of Application Programming Interfaces ('APIs') which inevitably would require significant lead times. Annual reporting may provide flexibility for manual intervention/reporting, which whilst less efficient, may not have the same impact on lead times.
8. It should be clear that data is reported by the source payer/receiver only and not based on transactional activity. For example, amounts of interest paid by a bank from an in-scope bank account would be reported by the bank. They would not report a dividend received from a third party into that same bank account, nor would they be in a position where they could legally or accurately do so.
9. Data security and confidentiality would need to be considered, including ensuring that FIs only provide customer data to HMRC where they are legally obliged to do so.
10. Reporting certain new types of information (e.g. CGT-related information, dividends, and fund distributions) may require FIs to undertake a resource intensive process to ensure transactions are categorised correctly. Not all banks provide an assets management service. There would be an unwelcome risk that such categorisation may not be entirely accurate in all circumstances and would give rise to legal and reputational consequences. Where banks currently provide tax packs they are prepared on a best-efforts basis and typically caveated to reflect the fact that FIs will not have complete information regarding their customer's investments. Market analysis of various tax packs shows that these packs are not perfect and accountants still have to apply their own judgement to ensure returns are correct.

**Question 14: How could HMRC better establish tax liability in future, to help build trust in a tax system that people see as fair and even-handed?**

If HMRC is using third party data to help assess tax liabilities it is vital that HMRC understand the limitations of such data and exercise due caution. We draw your attention to the considerations set out in response to Questions 12 and 13 above.

Members have noted frustration that the Department of Work and Pensions will not operate PAYE on State Pensions where they are taxable, while all other non-governmental pension payers are required to do so. The consequence of this failure is that many pensioners do not pay the right amount of tax through either ignorance or a belief that this is being dealt with appropriately by Government.

**Chapter 5: Using data and information to make tax compliance effortless for the majority**

### **Question 15: What key issues do the current legislative provisions relating to the provision and use of data and information present?**

Complexity and lack of clarity in the legislation makes it difficult for systems (including HMRC's) to be designed to meet the requirements and provide meaningful information that can be used correctly by taxpayers and HMRC. Legislation was not written to reflect current digital processes and so it can be difficult to apply it in practice or can restrict the service that can be offered.

The lack of a unique identifier makes data matching more difficult. This means that the data received by HMRC from third parties can be used and shared less effectively.

FIs currently provide HMRC with a wide variety of taxpayer data. Please see the Appendix for further information on this.

#### Reporting format

Generally, data is provided electronically where there is a regulatory requirement to do so, however, there are certain data submissions that can be done using paper such as chargeable event reporting. It is also worth noting that following the reporting of pension contributions that have received Relief at Source, a residency file is received back from HMRC.

How the above are reported (and the required format) varies, but each information type has its own reporting requirements, typically covered in detail in HMRC guidance and supporting reporting specifications outlining the schema rules that FIs must follow. There are a number of different ways that FIs currently exchange information with HMRC, including Secure Data Exchange Service ('SDES'), XML file, and Excel spreadsheet submissions. This is symptomatic of the evolution and improvements in technology over time when reporting has been implemented. We believe that any future solution should be based on a holistic view, which either supports a single method or allows conversion of existing practices

#### Correcting returns

In general, if there is a need to update customer information, it results in a full re-submission of the file to HMRC, although based on the circumstances, HMRC may also accept supplementary returns being filed to rectify certain errors. For Foreign Account Tax Compliance Act ('FATCA') and Common Reporting Standard ('CRS'), a customer's individual account record in a prior return can be voided if no longer correct, with a subsequent filing of the amended record. However, it is not clear whether currently any corrections FIs make to prior year BBSI returns are also amended on a customer's digital tax account.

The preparation of returns for submission to HMRC is time consuming and there may be instances where, due to data quality issues, and despite a high degree of testing, the returns are rejected thereby requiring analysis, amendment and re-verification before resubmission. Elements of the returns process require manual intervention and so can be time consuming.

On the evidence and experience to date from BBSI, OI, and FATCA and CRS returns, we anticipate that in future, should more information be made available to HMRC, it is likely that the number of queries from customers will increase. This is based on members' experience of receiving queries

from their customers who do not recognise the information that HMRC has presented to them in their outreach activities based on HMRC's matching and use of information provided in the returns mentioned above. We note that FATCA and CRS information received by HMRC from other jurisdictions can potentially be misleading in respect of a UK taxpayers' tax position. For instance, joint accounts are reported in full for each account holder, potentially inflating the balance and payments.

**Question 16: What benefits of the current legislation should be preserved?**

The automatic completion of the personal tax account with PAYE information is a benefit of the current approach that should be preserved.

**Question 17: What likely changes and developments will the framework need to handle? What are the key priorities for framework reform in the area of data and information?**

In responding to this question it may be useful for HMRC to consider the implementation of Real Time Information ('RTI') reporting for Pay as You Earn ('PAYE'). This is generally considered to work well. Whilst there were teething problems and there will be instances where errors are found, it has settled down relatively well with the pre-population of Self-Assessment ('SA') returns and information feeding into Personal Tax accounts generally a success. However, it should be remembered the number of employees of any single organisation is only a fraction of the number of customers of most FIs.

Given this, it might be useful to consider the data that currently gets reported to HMRC by UK FIs on their FATCA and CRS returns. Although such returns are submitted primarily in relation to overseas tax obligations the underlying account holders may have, some of the data items included in the reporting schema are also relevant to the account holder's UK tax position. For example, aggregate amounts of dividends are reported, as are aggregate amounts of the sale proceeds of investments.

Developments in technology mean taxpayers and third parties want to interact more digitally and in a timelier manner. This will include an expectation from taxpayers to see more data in their digital tax account with an ability to correct/update this or to make claims/elections in real time. The speed at which this can progress will need to take into consideration older platforms especially for long term products such as pensions, and less digitally able taxpayers. No paper-based returns or requirements for wet signatures should remain.

We also note that there are changes to income and chargeable gains sources, for example crypto currency and e-money, where the legislative requirements have not kept pace with the explosion in growth and acceptance. Regulatory requirements should be the same for all providers to create a level playing field. If the fintech industry is less regulated than traditional providers for the same product this allows them lower overheads and hence a competitive advantage.

A key priority should be for the framework to be flexible so that it can keep pace with these changes in technology, customer behaviour and income sources.

It may also be worth considering if some of the FATCA and CRS reporting requirements could be merged or aligned with 'domestic' reporting obligations, albeit the difference in reporting period (calendar year versus UK tax year) might be problematic in that regard. Additionally, the FATCA and CRS regulations are quite different their closest 'domestic' equivalent, BBSI.

We also note that the minority of taxpayers who are not within automatic data provision need to be made aware of this fact. As stated in our General Comments above, there is, therefore, a need to consider the extent to which changes might fundamentally alter the perception of personal responsibility and self-assessment.

Finally, we note that it is important for HMRC to have a back up plan to collect and process taxpayer data if there is an internet or software outage for a prolonged period around reporting deadlines.

**Question 18: What principles should govern HMRC’s collection, use and onward transmission/sharing of taxpayer data?**

All data to be provided by third parties must be required by legislation and must comply with data protection laws. HMRC should ensure that data is only used and shared when it is confident that the data is accurate, and its nature understood, for example, who is the beneficiary.

Sufficient detail should always be provided to allow the taxpayer to challenge any data that is prepopulated. It should remain the responsibility of the taxpayer to declare and pay the correct amount of tax.

**Question 19: What additional safeguards would be needed for taxpayers and third parties if the role of third parties/intermediaries was expanded?**

We welcome the reference in the Call for Evidence to the OTS’s review of third party data. We note specific mention of

- “[g]reater use of real-time information,”
- “opportunities to simplify the ways in which HMRC requests data from third-parties, rather than relying on year-on-year information requests;”
- “building a set of principles to govern HMRC’s collection, use and onward transmission, or sharing, of taxpayer data;”
- “setting standards for the quality and formatting of data received from taxpayers and third parties;” and,
- “[the] aim of being able to provide taxpayers with a joined-up service and confidence in its accuracy and reliability.”

We reproduce below our responses to the OTS’s Call for Evidence which address these specific areas. The full document can be found [here](#).

Third party data principles

The relevant governing principles as established by UK Finance are set out at paragraph 3 above, and summarised below:

1. A clear legal framework. Any data required by HMRC needs to be mandated, by law, often as part of a notice, on a ‘report if you hold it’ basis. If any new mandatory requirements to report information are introduced, it may be necessary to consider not only a mirror requirement to collect certain information but also some consideration about

the ability of FIs to collect that information in the absence of any legal compulsion on customers to supply it.

2. Balancing the needs of customers and HMRC. There is a need to consider the extent to which changes might fundamentally alter the perception of personal responsibility and self-assessment. This would be of concern if it were to result in displacing the onus of responsibility, and exposure to risks, onto FIs.
3. Data security. FIs need to be confident that stringent data security safeguards are met to meet their own requirements under applicable regulations, and we encourage early engagement by HMRC digital teams to discuss their intended approach. This includes consideration of the provisions of the Data Protection Act 2018.
4. Proportionality. It is important that there is some cost-benefit analysis performed in the process of deciding on an expansion of the reporting obligations falling to FIs.
5. Timing. Following provision of detailed requirements, core financial systems typically need a minimum of 18 to 24 months development time in order to successfully deliver change programmes.
6. Coherence and consistency. We would strongly urge more emphasis on developing a holistic and coherent approach, that identifies and manages interdependencies as well as resolving inconsistency.

### Third party data project plan

FIs already provide a large amount of third party data to HMRC. Please see the Appendix for further details. It is important therefore that a project plan is put in place for the implementation of any changes to such reporting. Below we set out an indicative plan which includes the five key areas that we would expect to see when implementing such an initiative:

#### **a. Defining the dependencies:**

1. *Format for reporting*  
There are several existing reporting standards in use. Given the Call for Evidence states that “The review will consider alternative ways for HMRC to receive and use information that is already provided in some form either by individuals or third parties, rather than considering the provision of new types of information,” reusing existing formats would be the most cost-efficient delivery method.
2. *Data requirements*  
FIs already exchange customer data with HMRC under several different regimes. Requirements for new data fields, or the reformatting of existing data fields, would add cost and complexity. Careful consideration is needed for changes, including any changes to the frequency of reporting.
3. *Data Transfer mechanism*  
Any changes to existing mechanisms for data exchange mechanisms need to be defined early in the process to allow development work to happen in conjunction with other developments.
4. *Timeline for delivery*

A realistic timeline for delivery is critical, and communication with taxpayers needs to be central to the delivery timeline.

5. *Data security standards*

The move to digital tax accounts and pre-population of taxpayer information represents a shift in the volume, quality and use of data and for the transfer and storage of data. FIs need to be sure that customer data is protected before they can report.

6. *Customer experience*

Accurate data matching and easy query resolution are key to customers' experiences.

7. *Customer engagement details*

The nature and aims of any changes to the use of customer tax data need to be communicated clearly and prominently to customers, prior to their implementation.

**b. Mapping the flow of information and the need for changes**

The current flow of customer data should be mapped in order to determine whether the proposals will require changes.

**c. Gap analysis of dependencies to existing requirements**

FIs already exchange customer data with HMRC under several different regimes. A gap analysis between this data and the proposals would help align the new third party information requirements with FIs' current circumstances.

**d. Minimum viable timeline for implementation**

Typically core financial systems need a minimum of 18 months development time in order to successfully deliver change programmes.

**e. Practical timeline for implementation**

A realistic implementation timeline which considers the relevant circumstances is important.

Timing of data delivery

The frequency of data transmission is dependent on several variables but primarily would be driven by the product in question and when the FI would normally provide the customer with the linked information. Any changes to frequency would need to be implemented in a considered, controlled, and realistic timeframe to allow the adaptation of systems to take place after a thorough industry consultation. In particular, moving to reporting in real time, or close to real time, would be a huge exercise on a scale completely different from RTI for payroll, for example.

The variety of information that FIs report to HMRC at the moment (see answer to Q15) collectively covers information submitted in real time, monthly, quarterly, annually and ad-hoc on the occurrence of a specific event during the lifetime of a product or as a result of an information notice request from HMRC.

Under the MTD initiative HMRC consulted on changing the frequency of BBSI reporting from annual to monthly or even real time, as well as proposing numerous other potential changes to the data

items required under BBSI with a view to improving tax administration. The British Bankers' Association's (a predecessor organisation to UK Finance) conclusions were as follows:

- That reporting should continue in the existing Electronic Flat Text File format, which provides structured data to HMRC and in widespread use across the industry.
- There should be no changes to the existing data reported by banks on individual customers; we believe the current data set provides all of the information needed by HMRC. The current data set should be provided for all joint accounts, recognising the limitations of current reporting in this respect.
- A full impact assessment to be carried out on the cost to industry once HMRC have determined the changes that are needed to ensure that changes are proportionate, including an assessment of the costs of more frequent reporting against the benefits to HMRC and taxpayers.
- Detailed discussions on the security of both the data transfer and HMRC's customer facing platform, to ensure that sensitive customer information is secure.
- A collaborative approach looking at the matching of data received to customer records and supporting customers with adopting the new Digital Tax Accounts.
- A campaign led by HMRC to raise awareness of the changing approach to taxes.

#### Unique customer identifier

A single customer unique identifier, for example a digital ID or use of the NINO (made available for all ages), would be required to ensure accurate matching of taxpayer data. However, the collection of this unique ID would remain a significant challenge. For instance, FIs only collect customer data where there is a requirement by law to do so. They may therefore collect one "unique identifier" in the form of National Insurance Number ('NINO') for Pensions and ISAs, but not for everyday current or savings accounts which do not require a NINO as they are not required for UK tax residents under FATCA and CRS. 30. Each customer is likely to have an internal digital ID, but that would be unique to the FI and not one that would be used universally, especially where a customer holds products with more than one FI.

As long as a unique identifier is common across all data providers (i.e. government issued), this would facilitate a customer with a bank account held with Bank "A" being correctly matched due to having the same unique identifier as a pension policy with Provider "Z".

#### ***Chapter 6: Tax payments and repayments***

**Question 20: What key issues do the current legislative provisions relating to payments present?**

No comment.

**Question 21: Are there any particular benefits of the current legislation that should be preserved?**

No comment.

**Question 22: What benefits could a single/reduced set of payment rules, applied across the taxes, bring?**

No comment.

**Question 23: What likely changes and developments will the framework need to handle? What are the key priorities for framework reform in relation to payments?**

We note from our review of the separate Timely Payments Call for Evidence that consideration is being given to the possibility that individual taxpayers might need to pay income tax and/or CGT more frequently than they need to at present. It is not entirely clear if this might extend to taxpayers needing to pay tax more frequently in the future on income and/or gains arising on products held with financial institutions, such as interest on savings accounts, and/or dividends and capital gains arising on investment based products.

If the answer is that more frequent payment of tax by taxpayers might be required for income or gains arising on such products, then the question arises as to whether third party information providers (such as banks and other financial institutions) might be required to provide information directly to HMRC about such income or gains. This might mean totally new reporting requirements for some types of income or gain where no reporting currently takes place, and/or require existing reporting to be done more frequently than is currently the case. Quite a lot of existing reporting is currently done on an annual basis, e.g. that relating to interest on savings and other financial accounts held by the taxpayer/customer.

The Call for Evidence does not appear to cover this aspect in any detail. Hence it is important for us to request that before any decisions are made to require financial institutions (as third party data providers to HMRC) to undertake either totally new reporting obligations or make significant changes to existing reporting obligations that a thorough consultation and cost/benefit analysis is undertaken, taking into account the potential costs to financial institutions among other things. In addition it is essential that any such changes, once finalised, are introduced with sufficient lead times for financial institutions to implement.

***Chapter 7: Building in effective methods of verification, sanctions and safeguards to promote compliance***

**Question 24: What key issues do the current legislative provisions relating to powers, sanctions and safeguards present?**

We note that Finance Bill 2021 introduces new Financial Institution Notices ('FINs'). These Notices allow HMRC to demand taxpayer information from a third party, such as a bank, without seeking Tribunal approval. One of the reasons given for introducing these notices was to allow HMRC to satisfy requests from other tax authorities submitted in relation to FATCA and CRS data.

FIs are restricted from sharing any customer information where there is not an appropriate legal framework. It is therefore important that the legally-mandated approval processes are followed for such Notices, and that FIs have confidence that such processes have been followed.

If this style of Notice is to be used more widely in future, it will be important that these considerations are borne in mind.

**Question 25: What benefits of the current legislation should be preserved?**

No comment.

**Question 26: What likely changes and developments will the framework need to handle? What are the key priorities for framework reform to support taxpayers to get their tax right and deter non-compliance?**

No comment.

**Question 27: What principles should govern HMRC powers, sanctions, and safeguards, to build trust in the tax system?**

We believe that it is appropriate to mention HMRC's approach to the introduction of FINs in answer to this question. It was felt by UK Finance Members and others, including the House of Lords Finance Bill Sub-Committee, that the case for removal of safeguards such as First Tier Tribunal ('FTT') approval of notices and FIs' rights of appeal was not well made by HMRC in the consultation, particularly in relation to notices relating to UK taxpayers, and that subsequent industry and other representations were not implemented. This arguably gave the impression of a 'done deal' rather than a proper consultation and could adversely impact trust in the tax system. We would ask that HMRC consider the lessons of the approach to the introduction of FINs for future consultations.

**Question 28: How should the framework maintain consistency and fairness between taxpayers and groups of taxpayers, while also providing HMRC with appropriate discretion to enable them to take account of individual taxpayers' circumstances and wider concepts of fairness?**

No comment.

### ***Chapter 8: Further Suggestions***

**Question 29: Are there any further suggestions that you have for how the Tax Administration Framework could be reformed?**

There are certain 'blue sky' ideas that could be considered in this context. For instance, if there was a desire to align UK taxation with international taxation HMRC could consider moving to a calendar year basis. This would align better with VAT quarters. We stress that there are many potential consequences of this suggestion which would need to be examined in detail.

If you have any questions relating to this response, please contact Mark Schofield ([mark.schofield@ukfinance.org.uk](mailto:mark.schofield@ukfinance.org.uk))

**Mark Schofield**

Taxation Policy

## Appendix

### Examples of third party data currently provided by FIs to HMRC

UK Finance members provide HMRC with periodic data in respect of a variety of information reporting requirements. These include:

- i. **Bank & Building Society Interest ('BBSI')** returns. These primarily relate to credit interest earned on deposit accounts (paid gross) and compensatory interest payments made to customers (paid net of 20% withholding tax when paid to an individual). Please see paragraphs 9 to 12 above about our suggestions for the potential alignment of the taxation of savings and compensatory interest;
- ii. **Other Interest ('OI')** returns. These primarily relate to wealth products where the FI is acting in a nominee capacity holding the legal ownership of interest paying/distributing investments (e.g. corporate bond funds), but their customer is the beneficial owner;
- iii. **Automatic Exchange of Information ('AEOI')** returns. These are Foreign Account Tax Compliance Act ('FATCA') and Common Reporting Standard ('CRS') returns which report the account balance and transactional data of certain accounts of an investment nature such as interest income, dividends, cash value insurance redemptions and gross proceeds of disposals for overseas tax residents. As such the scope is broader than the traditional domestic information returns for similar products allowing for greater analysis in the hands of the recipient.”;
- iv. **Personal pension product** returns. Many of these relate to the accumulation period during which the general exemption from income tax and Capital Gains Tax ('CGT') on income and gains within the pension fund applies, e.g. information relating to contributions made etc. But once customers start taking their benefits, FIs need to report details of such amounts to HMRC. This is largely achieved by the pension product provider being treated as if it is an 'employer' under the HMRC Pay As You Earn ('PAYE') Real Time Information ('RTI') reporting requirements. There have been issues in this area, as highlighted in some of the HMRC Pension Schemes Newsletters in recent years, in some respects complicated by the 'pensions freedoms' introduced a few years ago.
- v. **Chargeable events** reporting. Life insurance manufacturers report details of certain chargeable events directly to HMRC in line with relevant legislation.
- vi. **Individual Savings Accounts ('ISA') and Child Trust Fund ('CTF')** reporting. FIs report details of these accounts to HMRC in accordance with the requirements of the ISA Regulations and CTF Regulations respectively. As both of these products are exempt from UK income tax and CGT, the data primarily relates to subscription amounts to enable HMRC to check that annual limits are not being exceeded across multiple products/providers, as well as aggregate statistical data about volumes of accounts, funds under management, aggregate income amounts (by income type) etc, which helps HMRC to establish the amount of tax relief being given.
- vii. **HMRC notice** response. FIs provide customer data to HMRC in response to specific notices served by HMRC, for example using their powers under the Direct Recovery of Debt ('DRD') legislation or under Schedule 36 of the Finance Act 2008.

