payments strategy forum

July 2017

Financial Crime Data and Information Sharing Solution

Proposed Approach and

Outline Project Transfer Document

V1.6 FINAL

Document Context:

This document was finalised in July 2017 as part of the Financial Crime Data and Information Sharing workstream activities. This document will be used as deliverable for handover. This document can be read for further details of the ongoing implementation of this solution.

Contents

1 Executive Summary

The 'Financial Crime Intelligence Sharing' solution to deter and prevent criminal activity in payments systems and to reduce some of the friction affecting non-criminal consumers, as set out in the Payment Strategy Forum November 2016 document '*A Payments Strategy for the 21st Century*', has been reviewed and refined, resulting in a clearer focus and description of 'Financial Crime Data and Information Sharing'.

The detriments have been confirmed and it is accepted by the financial sector, law enforcement and HMG that there is a need for a more holistic view of financial crime data and information to help address these. However this will require a range of approaches – the different types of financial crime (including fraud, money laundering, bribery, corruption and sanctions evasion) will all require potentially significantly different approaches to leverage existing capability.

For example, the sharing of fraud information is already in place and proven to be beneficial in reducing financial crime, but is limited to confirmed cases and held in separate, unconnected, databases. To be fully effective this capability must be expanded and held in an accessible form. FFA UK have undertaken reviews and proof of concept exercises to achieve this which can and should be incorporated into a committed delivery plan.

On the other hand the sharing of money laundering information is currently fettered by the legal requirement to report all suspicions of money laundering to the NCA through the SAR process and there is no industry only accessible database to facilitate further sharing.

The development of a holistic view of financial crime data and information appears to be technically feasible; however a barrier to enhanced information sharing is the current legal and regulatory framework, which fetters sharing of financial crime data and information.

Some of this is for good reason. There will always be a need to balance information sharing with protecting data. However, some of the requirements originate from a silo approach to financial crime and criminals have moved beyond those silos, deliberately working across banks and boundaries to commit financial crime and move illicit funds. The industry needs to be able to evolve its capacity and capability to identify, prevent and disrupt these threats in response.

To achieve this there is an immediate need to engage with HMG, regulators and law enforcement to improve the legal and regulatory framework for sharing data, information and intelligence in relation to financial crime. This will help enable a more holistic view of financial crime to be available to PSPs in order to achieve the solution objectives of protecting customers; disrupting criminals, including greater intervention from law enforcement; and operating within an enabling legal framework.

It is anticipated that this work will be complex and time consuming. However, there is a growing push from HMG, regulators and law enforcement to improve information and intelligence sharing on financial crime so there is a clear opportunity to pursue this agenda. This work will run beyond the closure of the PSF, so it is proposed that this activity is handed over to UK Finance to progress this, not least as it builds on the work of the FFA UK and BBA who have been incorporated into that body.

2 Context and Detriments

The Payments Strategy Forums Strategy publication published in November 2016 (titled '*A Payments Strategy for the 21st Century*') outlined how the payments industry could do more to help tackle, prevent and detect all types of financial crime if the legislative, architectural and IT structures were in place to facilitate and underpin: (a) increased data sharing within the payments industry and (b) increased data sharing between the industry and law enforcement (the 'Financial Crime Intelligence Sharing' solution).

The Payments Strategy Forum believes sharing more financial crime data and information increases the ability to create intelligence to help detect and prevent criminal activity in payments systems. The payments industry is already working in some areas to create a more effective approach to data sharing on financial crime; however there are not yet the right structures or legal frameworks in place to allow a true intelligence led approach to financial crime in the UK.

The *Payments Strategy for the 21st Century* outlined a number of core detriments that could be addressed by an enhanced data sharing solution, summarised in the table below:

Ref	Detriment	Summary of Causes
34	Insufficient reference data and a lack of knowledge sharing amongst users results in gaps in preventing financial crime; fraud, money laundering, terrorist financing, bribery and corruption.	Lack of financial crime data sharing model • The fraud industry has a strategy for data sharing and is developing a future model for data and information sharing • However, there is currently no holistic model in place for sharing data and information on all types of financial crime • The industry needs to play a leading role, plugging into HMG initiatives in order to overcome this issue No single view/source of Financial Crime data • The industry, HMG and law enforcement do not have a single view of the threat or trends on financial crime. With no single source of the truth to interrogate, this leads to inaccurate assessments of threat levels and trends, and missed prevention opportunities. • For example, confirmed fraud data is held in a number of separate databases that are not connected due to exclusive membership requirements for data access. As a result, the sharing of fraud data between PSPs is inconsistent, incomplete, duplicated, untimely, and collected by certain crime types only. • On anti-money laundering, too much of the reporting is low value in terms of outcomes and driven by strict legislative requirements as opposed to a genuine focus of effort and resources on what is high risk. There are also insufficient processes for allowing suspicion to be confirmed or removed by inter-bank sharing.
41	Unnecessary bank secrecy prevents effective control of money laundering	Legal barriers to sharing Financial Crime Data • Clearly there needs to be the right balance between data sharing and data protection, but there is a need to look more holistically at how to both prevent and detect financial crime in a way that is not disproportionate or intrusive. • Much of the current legal framework does not clearly address or articulate how to best manage the tensions between preventing financial crime and civil liberties, and so there needs to be further work to understand and as required develop a stronger legal framework. • This work also has to recognise the impact of future legislation e.g. General Data Protection Regulation (GDPR) and the importance of adequacy on data transfer and data protection to the industry and indeed UK PLC. • The impact of legal liability creates unnecessary bank secrecy preventing effective control of money laundering.

3   Solution Objective

The purpose of this paper is to transfer the following work to UK Finance to take forward with industry, HMG, regulators and law enforcement. The intention should be for UK Finance to deliver the aims and ambition of the PSF recommendation, whilst recognising that scope, timescales, and indeed approach may all need to change as further work is conducted.

The PSF recommendation is the creation of a stronger, more effective cross-industry view of financial crime data through increased information sharing to increase prevention, detection and disruption of financial crime that:

- **Protects customers** - The more that is collectively known about financial crime (trends, types, targets), the more the payments industry can protect customers, and thereby reduce the likelihood of them becoming victims.
- **Disrupts criminals and provides greater opportunity for intervention from law enforcement** - Identifying suspicious activity will disrupt criminals' ability to launder the proceeds of crime and increase law enforcement intervention.
- **Operates within an enabling legal framework** - Creating a legal mechanism for sharing of known, suspected and at risk financial crime data within the payments industry, as well as with law enforcement.

This objective has been developed to address all identified detriments whilst aligning to the data sharing objectives of the payments industry, thus aiding the fight against financial crime.

Resolving the detriments

To effectively address the detriments outlined in *A Payments Strategy for the 21st Century*, the following three areas of work are recommended:

- Create a more effective model and roadmap for financial crime data and information sharing, building on the successful existing fraud data sharing model to look at how this approach could be replicated more broadly to cover the full breadth of financial crime data i.e. fraud, money laundering, terrorist financing, and bribery and corruption.
- Examine options and help establish a stronger industry capacity and capability on financial crime data and information sharing that allows a more strategic and holistic view of financial crime, both within the industry and within law enforcement. This could build on existing systems and work already underway by law enforcement (e.g. the SARs reform programme) and between industry and law enforcement in order to create a capability that supports and allows greater data and information sharing in relation to financial crime.
- Work with HMG to develop a more effective legal framework on data and information sharing for the purpose of detecting and preventing all types of financial crime and support this by advocating strongly for the necessary changes at FATF. Whilst improvements on data and information sharing can be delivered within current and forthcoming legislation, there is a need to look more thoughtfully and strategically as to what is required on legislation in order to maximise the full benefits of data and information sharing.

4   Creating a Financial Crime Data and Information Sharing Model

The creation of a flexible data and information sharing model for financial crime data to identify vulnerabilities and emerging trends employed by criminals, will allow proactive and collective rapid response intervention to prevent this activity with minimal impact on genuine customers.

A more effective model on financial crime data and information sharing will help create a model for what data will be shared, between whom, and when. A fraud data sharing model has been successfully developed by FFA UK, and is being continuously refined and enhanced. The closest corollary on money laundering is the Joint Money Laundering Intelligence Taskforce (JMLIT) which is less developed, albeit different legal requirements apply where all suspicions of money laundering must be reported to the NCA.

Action Required

UK Finance should work with the industry, regulators, law enforcement and HMG to lead work to build on the foundations in place to create and agree a model and approach to data and information sharing on financial crime. The work of FFA UK for fraud data sharing provides a helpful example of what can be achieved and should be used as an exemplar.

5 Strengthening Financial Crime Data and Information Sharing Capability

Industry needs to work with HMG and law enforcement to ensure that, with the support of the regulators, there is the capacity and capability in place to allow improved data and information sharing on financial crime, and that there exists the mechanism(s) to take a more holistic and strategic view of financial crime data. This would enable the industry and law enforcement to identify, prevent and tackle financial crime more efficiently, reducing costs and delivering better outcomes in terms of disrupting criminals and terrorist groups and protecting the public.

A further benefit of this capability will be increased accuracy of threat assessments, earlier identification of crime trends, and more targeted intervention, resulting in reduced disruption for good customers. There will also be a reduction in duplicated information gathering and analysis across the payments industry. Any approach to financial crime data and information sharing must be capable of responding to changes in regulation and legislation.

Action Required

UK Finance should work with the industry, regulators, law enforcement and HMG to lead work to build on the foundations in place and bring together existing initiatives underway in order to help shape, agree and facilitate a stronger capability and capacity within the industry on financial crime which enables a more holistic and joined up view of financial crime data and improved information sharing. This could be achieved in a number of ways, such as through creation of a central capability or more effective integration of existing systems.

6 Enhancing the Legal Framework for Financial Crime Data and Information Sharing

It is recognised by industry, HMG, regulators and law enforcement that further work is required to create a more effective legal framework for sharing data and information to allow the prevention and detection of all types of financial crime, but also to ensure that the right balance is struck between prevention of crime and civil liberties. The Criminal Finances Act is a step closer, but the industry still does not have the right legal and regulatory framework in place to allow effective data and information sharing within the industry and between industry and law enforcement to allow prevention and detection of all types of financial crime.

Action Required

UK Finance should work with the industry, regulators, law enforcement and HMG to lead work to build on the foundations in place in order to help develop, test and to be an advocate for a stronger legal framework for the prevention and detection of all types of financial crime. UK finance should also be an advocate to ensure that UK PLC does not lose the gains it already has in place; and that sensible and proportionate use of derogations under the GDPR are used and that prevention of crime is explicitly addressed. UK Finance should additionally support efforts at an EU and international level to make the necessary changes to FATF requirements to support increased data and information sharing.

7   Financial Crime Data and Information Sharing Capability Delivery

Core deliverables

Financial crime data and information sharing capability should be further developed that:

- Includes data and information sharing for both fraud and money laundering underpinned by a Financial Crime Data and Information Sharing Model
- Enables increased sharing of data and information between industry participants
- Continues to support data and information sharing with Law Enforcement Agencies
- Operates within an enabling legal framework

The Industry can be more effective in detecting and preventing financial crime by increased sharing of financial crime data and information.

Key Activities

These are set out in more detail in previous sections and build on existing work being undertaken by FFA UK and the BBA. It is therefore recommended that UK Finance take responsibility for their planning and execution. In summary, it is proposed that UK Finance should:

1. create a more effective model and roadmap for financial crime data and information sharing, building on the successful existing fraud data sharing model;
2. examine options and help establish a stronger industry capacity and capability on financial crime data and information;
3. work with HMG to develop a more effective legal framework on data and information sharing for the purpose of detecting and preventing all types of financial crime.

Proposed Next Steps

UK Finance to take forward and lead further activity related to the Financial Crime Data and Information Sharing Capability solution, commencing with more detailed planning of work required to achieve the solution objectives.

Whilst specific deliverables and timescales will be established as a result of this detailed planning, an outline of indicative outcomes is included below.

Phase 1:

- A data sharing model developed for wider consultation amongst current and potential participants.
- A high level requirements document, outline design and proposed delivery plan is produced for delivery of enhanced industry and law enforcement financial crime data and information sharing.

- Current legal barriers have been identified, evidenced and clarity provided to key stakeholders and agreement in principle obtained to the changes required to achieve the solution objectives

By Phase 2 (not least dependent on Parliamentary timetable for primary legislation):

- Robust enabling Legal framework implemented. This also needs changes to be made at FATF level as well as amendments to current and forthcoming legislation, or potentially new legislation.
- Industry financial crime data and information sharing capability enhanced, providing a more strategic and holistic view of financial crime

Governance

Once handed over, the objectives, scope and timescales will be managed within UK Finance governance. There will however be an expectation that the PSR will be updated on progress as part of BAU engagement.