



BRC response to FCA CP21/3:  
Changes to the SCA-RTS, guidance in 'Payment Services and Electronic  
Money – Our Approach' and the Perimeter Guidance Manual  
February 2021

## Introduction

- 0.1 The British Retail Consortium (BRC) is the trade association for the retail industry – the UK's largest employer – with a membership accounting for half of all UK retail by turnover. Our diverse industry spans large multiples, independents, high street, and out of town retailers, from online to bricks-and-mortar, selling goods across all sectors to increasingly discerning consumers.
- 0.2 All BRC members have an interest in the UK payment system as one of the chief end-users. In fact, along with consumers, retailers are the most significant other end-user group, processing more than 50 million transactions per day and around £394 billion per year for products & services sold in store, online, and over the phone. A high priority for the BRC is therefore to seek an innovative, transparent, and competitive payments market for all retail end-users and their customers.
- 0.3 The BRC welcomes this consultation by the FCA and provide comments in this response to questions relating to contactless payments (Q5 & Q6) in the Consultation Paper (CP).
- 0.4 The BRC was one of the primary advocates for the last contactless limit increase that came into effect on April 1<sup>st</sup> 2020, raising the threshold for in-store card transactions from £30 to £45. Whereas contactless transactions are possible above this threshold using mobile or other Higher Value Payment (HVP) enabled devices, the BRC and our members believe this measure was the right response to the coronavirus pandemic for both businesses and consumers to reduce the need for physical contact with PIN-Entry Devices (PEDs) at points of sale and help mitigate transmission of the virus.
- 0.5 We are supportive of a further increase to the contactless limit in principle. However, to do so effectively, we and our members have genuine concerns about a range of aligned practical challenges, most notably the need to first address the harms to the retail industry linked to contactless transactions.

### **Contactless Walk-offs**

- 0.6 The BRC have received feedback our members of a significant number of cases where contactless customers in the self-service area of a store hear a card 'successfully read' chime but are interpreting that as payment having been made and leaving the store unaware that the payment has stalled because they have been prompted to enter their PIN.
- 0.7 Research among affected retailers suggests that approximately 1.8% of contactless transactions receive an authentication request or step-up, and 16% of this 1.8% fail to complete the transaction on the same card, often with customers then leaving the store without having completed the transaction. One major retailer estimates losses of £900,000 (based on their ATV and 60,000 contactless walk-offs).
- 0.8 Another major retailer has tracked the issue month by month, arriving at an average loss of £751,000 per month in contactless walk-offs (£9,009,000/yr). These losses per unit extrapolated for the approximately 65,000 self-service check-outs deployed by retailers across the UK implies that retailers are losing more than £33m per year through contactless walk-offs.



0.9 The BRC wish to work with all relevant parties to resolve this problem as soon as possible as limiting retailers' exposure to these losses will be an essential step in building industry support for further development of contactless payments or increases to the contactless limit.

0.10 The BRC and our members are currently exploring remedies to this problem with self-service check-out and bank equipment manufacturers, as well as the card schemes who's scheme rules prevent changes around the chime that consumers hear at point of sale. The BRC believe that a lasting solution is likely to require a handful of measures including:

- a) **Cumulative limit:** an increase to the cumulative limit to reduce the number of cases whereby step-up is required at the point-of-sale, when contactless walk-offs occur;
- b) **Common technical solution:** such that the 'card read' chime is not confused with the completion of the payment. Relevant payment technology firms have already say that adjusting the beep or chime is easily done, however this must be accompanied by a change in scheme rules (which currently preclude the proposed common technical solution);
- c) **Dialogue Boxes:** work with self-service check-out manufacturers to implement prominent on-screen messaging or pop-up dialogue boxes for customers should a contactless transaction fail or a response code 65 (SCA) is received from the issuer, scheme or acquirer;
- d) **Communication:** banking and retail communications urging customers to take caution when making any contactless payments to ensure transactions go through, and that they are for the correct amount.

#### **Tackling excessive card fees**

0.11 The FCA have identified the payments sector as a priority for the next 3 years in your 2020/2021 Business Plan, to include work intended to make sure, among other things, that "payment firms meet their regulatory obligations while competing on quality and value."

0.12 The priority for the FCA should therefore be to work with the Government and the PSR to address the ongoing abuse of market dominance by the international card schemes behind 98% of all UK card payments, and prevent international card schemes from exploiting British retailers and consumers. Inaction risks higher prices for both struggling retailers and hard-pressed consumers.

0.13 The BRC Payments Survey shows that cards were used to pay for approximately £309 billion worth of goods in 2019 – accounting for 78% of retail spending, across almost 12 billion retail transactions. A range of sources indicate that the pandemic has since gone significantly further to increase the UK's reliance on cards.

0.14 The cost to the retail industry of processing card transactions remains very high, with debit cards are around four times as expensive as cash to process, whilst credit cards are more than three times as expensive to process than debit cards. Credit and Charge Cards account for 35% of payment costs, yet just 12% of transactions.

0.15 Since leaving the European Economic Area, within which interchange fees are capped, Mastercard has decided to increase these charges five-fold for cross-border transactions.<sup>1</sup> Businesses have also received notices in the past year of new scheme fees they will now be

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<sup>1</sup> <https://www.ft.com/content/39f553a0-00c5-48ad-a8ee-0b9fd75554b0>



charged to accept payments online, in addition to card scheme fees increases of 39% in 2017 and 56% in 2018, measured as a percentage of retailers' turnover.

0.16 Rather than the contactless limit, the priority for the UK Government and regulators in the card payments market should be tackle these long-standing harms in card payments, primarily through reform of the Interchange Fee Regulation (IFR). The BRC assert that the following measures are necessary to protect consumer and business end users of the card payment ecosystem:

- a) **Reform the UK IFR – I. Abolish interchange fees:** regulators should use existing powers to abolish card interchange fees in the UK, to bring regulation into line with the decisions of the courts, in particular the 2020 Supreme Court judgment<sup>2</sup>, that Mastercard's and Visa's UK interchange fees are unlawful.
- b) **Reform the UK IFR – II. Bring scheme fees within scope of the IFR:** regulators should use existing powers to bring scheme fees within scope of the IFR, given that rises in scheme fees have now fully negated the intended purpose of the IFR.
- c) **Enforce the IFR:** the BRC and EuroCommerce have raised several complaints about likely infringement of IFR, but have not received timely (or in some cases any) formal response. As recognised in the European Commission's IFR assessment report, there is need for much greater enforcement and monitoring of industry with the IFR.

#### **Unlevel playing field**

0.17 Finally, the FCA should be aware that whilst increasing the contactless limit for card payments can help reduce friction for the consumer at the point of sale, it further ingrains the unfair advantage that payment cards have over other payment channels, such as open banking solutions that require some level of authentication to operate, potentially frustrating the wider objectives of government and regulators for the payments industry.

Q5: Do you agree with our proposed amendment to increase the cumulative threshold of the contactless exemption from £130 to £200? If not, please explain why?

0.1 Yes. Increasing the cumulative threshold for contactless transactions would likely be the most impactful measure for tackling contactless walk-offs – one of the primary harms associated with contactless transactions for the retail industry. A higher cumulative threshold would result in more contactless payments being approved and reduce the number of step-up cases whereby authentication is required, which can lead to contactless walk-offs and significant losses to the retailer.

Q6: What is your view on increasing the current regulatory contactless (single) threshold limit of £45 to £100 (or potentially a maximum of £120). Please explain your rationale, including supporting data and new threshold where applicable. If your response identifies potential risks and benefits, please provide evidence in support of your response.

6.1 Retailers are currently experiencing losses through contactless walk-offs estimated at £33m per year with the contactless card limit at the current (£45) level, which has been in place for less than a year. It is clear that increasing the contactless card limit by any amount would exacerbate this

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<sup>2</sup> Sainsburys v MasterCard, Sainsbury's v Visa, and AAM v MasterCard;



problem by bringing a greater quantity of transactions within the scope of a contactless card purchase, all of which with an even greater potential to cause loss to the retailer of up to £100 or £120 per case, dependant on the new threshold. It is therefore essential that all the remedies set out above in 0.10 are first put in place to addressing harms to the retail industry linked to contactless transactions before a further increase to the (single) contactless card transaction limit is implemented.

6.2 The BRC would be concerned by any proposals to implement a higher threshold for contactless card payments that did not apply universally across the UK. An approach that allows individual merchants to implement unilateral limits is likely to create confusion among consumers at large as to the limit in place at any given store, and expand the potential for moral hazard.

6.3 The BRC wish to work with all relevant parties to resolve the problem of contactless walk-offs as soon as possible. Limiting retailers' exposure to losses will be an essential step in building industry support for any further increase to the limit for contactless card payments.

**For further information**

Andrew Cregan  
Finance Policy Adviser  
British Retail Consortium  
T: +44(0)207 854 8950  
M: +44(0)7970 688 807