



## Mastercard's response to the consultation on the Economic Crime and Corporate Transparency Bill

Mastercard welcomes collaboration between Government and industry to nurture trust in the digital economy and foster responsible use of the latest technologies (with the necessary privacy, security, and accountability safeguards). We therefore welcome the Economic Crime and Corporate Transparency Bill. There are two additional areas where the Bill can be strengthened to tackle financial crime:

### *Data sharing*

- Transaction data is central to the development, deployment, and operational use of cutting-edge solutions for combatting financial crime within digital payment systems.
- Advanced analytics solutions rely on data to identify accounts used for fraudulent activity or money laundering. These techniques can also track the flow of money, enable the closing down of mule accounts, enable authorities to prosecute more fraudsters, and ultimately allow for the recovery of funds for the victims of fraud.
- The current industry approach to the exchange of data in interbank payments relies on data sharing agreements. These are often slow, case-specific, and costly to put in place. In contrast, financial crime is a fast-evolving threat.
- A more effective legislative framework that facilitates the exchange of data between industry parties could be established by the Economic Crime Bill.
- Such a framework could encompass all of the relevant industry players – rather than having such players enter into bilateral agreements on a piecemeal basis.
- Other parties, such as telecoms firms and crypto exchanges could be considered for inclusion in such a framework.

### *Repatriation of funds*

- Whilst the technology exists to repatriate funds, a workable legal framework is not currently in place. This might also be addressed in the Bill.
- The present law on the repatriation of funds dates back to the 19th century. This is known as Clayton's case (*Devaynes v Noble*, 1816).
- This rule creates a presumption as to the appropriation of payments into a running account being attributable to the repayment of oldest debits from the account ('first out, repaid by first in').
- The hierarchy established by this rule makes it difficult and hugely complex to return funds to the original victim, particularly when the money is moved through multiple mule accounts.
- The Economic Crime Bill should consider how to address the rule created by Clayton's case and provide legislative certainty for banks to facilitate the repatriation of stolen funds.