

Legal & Regulatory Working Group

Payments Innovation Forum (PIF) 2024



Competition Law Notice

Meeting participants are reminded that this meeting must adhere to competition law rules and as such no confidential or commercially sensitive information must be shared directly or indirectly between competitors.

Please do not share any confidential or commercially sensitive information and please do not ask questions that could lead to other participants to sharing confidential or commercially sensitive information about their organisation.

A written agenda has been circulated in advance and all discussion must keep to the agenda.

Please read our **Competition Law Guidelines** for further information:

[Competition Law Guidelines - Payments Innovation Forum](#)

Agenda – 14 March 2024

1. The Payment Services (Amendment) Regulations 2024
2. Home Office Money mule and financial exploitation action plan
3. HM Treasury consultation on improving the effectiveness of the Money Laundering Regulations
4. FCA/Payments bodies quarterly liaison meeting
5. A.O.B.

1. The Payment Services (Amendment) Regulations 2024

Delaying payments processing when there are reasonable grounds to suspect fraud or dishonesty

[Policy_note.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

The Payment Services (Amendment) Regulations 2024

- **In summary**

- The government has published a **near-final version** of legislation that would allow PSPs to adopt a risk-based approach to payments and allow **further time to assess potentially fraudulent payments**. The draft policy is being published for technical checks and may change before the final statutory instrument is laid before Parliament.
- Currently, the PSRs 2017 require that once an outbound payment order is received, the transaction amount is credited to the payee's PSP's account by the end of the next business day from receiving the payment order (D+1). PSPs can refuse a payment order, and unless it is otherwise unlawful to do so, the PSP must (among other things) notify the payment service user of the reason.
- The amendment allows PSPs to delay the execution of an outbound payment transaction by up to **four business days** from the time the order is received which is currently not permitted in legislation. This will only be permissible where there are reasonable grounds to suspect a payment order from a payer has been placed subsequent to fraud, or dishonesty perpetrated by someone else (excluding the payer), and those **grounds are established by no later than the end of the next business day** following receipt of the payment order. The delay may also only be used where the payer's PSP requires further time to contact the customer or a third party, e.g., law enforcement, to establish whether to execute the payment.
- **PSPs will be required to inform customers of any delays**, the reasons behind their decision, and what information/actions are needed to help the PSP decide whether to execute the order. This will not be required to the extent complying would be unlawful, e.g., where doing so would contravene obligations under the MLRs.

The Payment Services (Amendment) Regulations 2024

- **In summary - continued**

- The thresholds for any delay will ensure that PSPs must have an evidential basis to delay a payment, whilst ensuring suspicious payments are properly investigated and rejected as needed. To help ensure consumers/businesses do not incur any costs due to delays to payments, **PSPs will be liable for any interest or charges** resulting from a delay to payments.
- The legislation **only applies to Authorised Push Payments** executed within the UK in sterling. Small, medium and large businesses, who may have numerous obligations to make timely payments to suppliers, will be able to opt out of these provisions with the mutual agreement of their PSPs.
- The FCA will engage with PSPs over reporting requirements in respect of compliance, i.e., to monitor the impact of the legislation and to ensure that it is used in a proportionate manner.
- The legislation makes **no changes to the PSRs 2017 in relation to inbound payments** because there are already obligations for PSPs to delay inbound payments in certain circumstances.
- The government expects that the policy will impact a very small percentage of overall payments, will prevent payments arising from a scam from occurring, and that consumers and businesses will not lose out from any funds as a result of any delays to payments.

The Payment Services (Amendment) Regulations 2024

- **Next steps**

- HM Treasury intends to lay the policy before Parliament in Summer 2024 and for it to commence at the same time as the PSR's new reimbursement rules, i.e., **7 October 2024**
- Any comments on the policy proposal should be provided to HM Treasury by **12 April 2024**

2. Home Office – Money mule and financial exploitation action plan

Home Office – Money mule and financial exploitation action plan

- **Background**

- The National Crime Agency estimates that over £10 billion is laundered via money mule activity in the UK annually
- In 2022, UK banks identified over 39,000 accounts demonstrating behaviour indicative of money muling
- “Money muling is a complex problem which requires a system-wide response”. The action plan sets out how government, law enforcement, regulators, industry and charities will work together to achieve this
- The government’s action plan covers five key areas:
 - Protecting the public
 - Understanding the threat
 - Safeguarding victims
 - Pursuing criminal gangs
 - Disrupting transactions

Home Office – Money mule and financial exploitation action plan

- **Action to protect the public**

- ❖ Public polling shows that **only 1 in 4 people think money muling is illegal**, and over 30% of young people aged 16-24 surveyed did not realise it was a crime (*Cifas and Opinion Matters survey, August 2022 (survey sample: 2,000 UK adults)*). Much progress has been made to inform the public, e.g., charities focused on improving understanding financial exploitation, but more needs to be done to stop people becoming money mules:

- Guidance on money laundering-linked financial exploitation for frontline professionals → Home Office
- Communications campaign to raise awareness of money mule recruiters → National Crime Agency (NCA)
- New website to host resources for education and support → NCA
- Secure commitments through sector-focused charters from industry to deliver consistent messaging → Home Office
- Build on the national Cyber Project Network to include money muling and related financial exploitation → City of London Police (CoLP)

Home Office – Money mule and financial exploitation action plan

- **Action to understand the threat**

- ❖ Work is underway to improve how intelligence is shared, e.g., for the first time, the NCA has shared an intelligence assessment on money muling with the banking and tech sectors to inform decision making, and the Online Fraud Charter will see industry take measures to educate users and improve the speed at which fraudulent content is taken down from online platforms. The Online Safety Act will require these platforms to address fraud and money laundering and increase transparency reporting.
 - Pilot project to share data on money mule prevalence → Cifas and CoLP
 - Intelligence reporting in collaboration with cross-sector partners → NCA
 - Explore options for research to develop a deeper understanding of involvement in money mule networks → Home Office
 - Quarterly data insights shared with banking industry and law enforcement → Cifas

Home Office – Money mule and financial exploitation action plan

- **Action to safeguard victims**

- ❖ The Home Office has united a coalition of partners to ensure that victims are recognised and receive the appropriate response. There is still much left to do.
 - Creation of new specialist post at The Children's Society covering money laundering-linked financial exploitation – Home Office
 - Support service pilot for victims of money laundering-linked financial exploitation – Home Office
 - Investigate a data sharing solution to make it harder for mule recruiters to operate between banks – Cifas
 - Work with banks and local authorities to ensure victims are not removed from the banking system – Home Office

Home Office – Money mule and financial exploitation action plan

- **Action to pursue criminal gangs**

- The NCA estimates that at £10bn of illicit funds is moved through mule networks each year. Law enforcement has now published additional guidance on how to tackle lower-level money mules through a cease-and-desist approach; the NCA and financial sector continue to trial new approaches to identifying mule recruiters and controllers.
 - Work with industry to trial new ways of disrupting money mules – NCA through the NECC
 - Update money laundering prosecution guidance to recognise financial exploitation, culpability and public interest considerations – Crown Prosecution Service
 - Creation of a new law enforcement unit to improve the police response to money mules - CoLP

Home Office – Money mule and financial exploitation action plan

- **Action to disrupt transactions**

- The government recognises that industry already disrupts considerable amounts of money mule activity, but **more work is needed**, with more financial institutions involved
 - Establish a unit to strengthen the public-private response to crypto illicit finance → National Economic Crime Centre (NECC)
 - Creation of best practice guidance for how the financial sector should respond to money mules → UK Finance
 - Develop work on firms' fraud controls, including deep dives into money mule controls → FCA
 - Publish FCA findings on money mules, setting out good practice and areas that need development → FCA
 - Implement a data sharing approach to enable both sending and receiving banks to detect high risk payments and prevent fraudulent transactions → FCA and Pay.UK
 - Pilot the Fraud Overlay project, applying new technology to disrupt networks of fraudulent payments → Pay.UK

1. HM Treasury consultation on improving the effectiveness of the MLRs

[Improving the effectiveness of the Money Laundering Regulations - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/improving-the-effectiveness-of-the-money-laundering-regulations)

Closes **9 June 2024**

HMT consultation on improving the effectiveness of the Money Laundering Regulations

- **In summary**

- The government is consulting on potential changes to improving the effectiveness of the MLRs 2017 in line with HM Treasury's commitment to consulting on changes to the MLRs as part of a wider programme of work aimed at reducing money laundering.
- The consultation covers issues with the MLRs already identified, e.g., the government's 2022 review of the UK's AML/CTF regulatory and supervisory regime found that a number of technical changes could potentially be made to improve the effectiveness of the MLRs in tackling financial crime whilst ensuring proportionality for firms and customers. The consultation covers four themes:
 - 1) Making customer due diligence more proportionate and effective
 - 2) Strengthening system coordination
 - 3) Providing clarity on the scope of the MLRs
 - 4) Reforming registration requirements for the Trust Registration Service
- Not all of the options contained in the consultation will involve legislative change and given the diversity of sectors covered by the MLRs, the government may address sector specific issues via guidance or engagement with supervisors.
- The government is also conducting a **survey on the cost of compliance** with the MLRs to help assess the impact of future changes to the MLRs

HMT consultation on improving the effectiveness of the Money Laundering Regulations

- **Cost of Compliance Survey**

- The government will use the information gathered to improve its understanding of costs and inform future policy development.
- The government may publish aggregated data or use resulting cost estimates in future regulatory impact assessments, but will not publish identifiable/firm-level data
 - [Introduction and survey questions | Cost of compliance with the Money Laundering Regulations - HM Treasury survey for regulated businesses \(smartsurvey.co.uk\)](#)

FCA/Payments bodies quarterly liaison meeting – 25 March

- **Agenda topics submitted by the payments bodies for consideration**

- **Safeguarding**

- Update on safeguarding regime policy development and timeline for consultation
 - Does FCA have any plans to support firms, e.g., by providing emergency safeguarding facilities (Nvayo case)

- Update on **SCA** replacement policy development; and scope/timeline of other changes to the RTS (e.g. Open Banking)

- FCA proposal to amend their **Enforcement Guide** to publicise their enforcement investigations against a firm, even where they do not end up enforcing against them

- **UK Fraud Strategy**

- What is the FCA view on how well this is being progressed – focus seems to be singularly on the reimbursement policy and the primary objective of reducing fraud seems to have taken a back seat
 - FCA Dear CEO letter from March 2023 highlighted “lack of engagement with industry information sharing bodies” but has never clarified who these bodies are

- **Operational Resilience** – will the FCA be providing any industry update or guidance on best (or poor) implementation practices they have observed as the end of the transition period is just 1 year away

Any questions?