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 – 22 August 2024

1. APP Scam reimbursement requirement – consumer communications
2. PSR – APP scams performance data (second annual report)
3. PSR – Expanding variable recurring payments
4. Bank of England approach to innovation in money and payments
5. FCA – Review of FCA requirements following introduction of the Consumer Duty
6. Call for PIF Member Input – topics for FCA Quarterly Liaison Meeting
7. ECB and EBA joint report on payment fraud
8. Other developments

1. APP Scam reimbursement requirement – consumer communications

Member Resources:

psr-app-scams-psp-information-sheet-v2.pdf

APP scams reimbursement requirement – consumer communications

- PSPs must now inform existing customers of their rights under the new reimbursement rules, as outlined in section 5 of the PSR's Specific Direction 20 (SD20). This includes informing consumers of the changes which will be made to their contractual terms and conditions in accordance with **SD20 paragraph 6.1**.
- To facilitate compliance with the amendment, the PSR has published **guidance** which sets out intended outcomes and suggested context to support consumer understanding how the new rules apply to any claim.
- The guidance **allows flexibility** – PSPs are free to communicate with their customers in a way that best suits their business/business model.
- **Intended outcomes:**
  - Consumers should be aware that they can be reimbursed by their PSP for APP scams and should receive consistent and clear messaging about the scope of the protections, e.g., eligibility criteria, time limits, optional excess, maximum claim limit, exclusions, how the rules apply to vulnerable consumers.
  - Consumers should understand what to expect if they fall victim to an APP scam and make a claim for reimbursement.
  - Consumers should be aware of the steps they can take to protect themselves from APP scams, and how their PSP can help them, e.g., how claims will be handled, advice to customers on how to protect themselves from APP scams, the steps PSPs are taking to protect customers and prevent fraud, and encouraging victims to comply with the reporting requirement set out in the consumer standard of caution.

2. PSR – APP fraud scams performance data

Member Resources:

APP fraud performance data | Payment Systems Regulator (psr.org.uk)

PSR – APP fraud scams performance data (second annual report)

- **Key messages:**
  - **Reimbursement** by value increased from 61% in 2022 to 67% in 2023. This improvement has been driven by members of the CRM code. Among banks that are not signatories to the CRM code, the reimbursement rate was 48%.
  - Receiving fraud – **smaller firms have a high proportion of scams** compared to the number of transactions they receive. In 2023, they accounted for 38% of absolute APP scams received by value despite receiving just 17% of consumer FPS payments. Similarly, smaller firms accounted for 53% of absolute APP scams received by volume and 8% of consumer FPS payments in 2023.
- **Headlines:**
  - Data provided by the 14 largest banking groups shows the **value of APP scams sent has fallen by 12% since 2022,** with £341 million lost to APP scams in 2023. 2% of cases were higher value scams with losses over £10,000 and these cases accounted for 52% of the total value lost to APP scams in 2023. The most common scam types in this category were **police and bank staff impersonation scams**, and investment scams.
  - The **volume of APP scam cases sent has increased by 12% since 2022**, with 252,626 cases reported in 2023. 70% of cases in 2023 were **purchase scams**, representing 25% of losses reported by value.
  - **Smaller banks and payments firms** (non-directed PSPs) received the highest value of APP scams in 2023 per £ million of transactions, e.g., for every £1 million received into consumer accounts at Skrill, £18,550 of it was APP scams. [Skrill has contested the inclusion of all APP scams attributed to them as being out of scope of the PSR's reporting].

PSR – APP fraud scams performance data (second annual report)

- **Headlines - continued:**
  - The **absolute value of APP scams received by all non-directed firms has fallen by 10% between 2022 and 2023**. However, scam rates for non-directed firms in the top 20 list of receivers are typically much higher than those of directed firms.
  - The data shows which banks and payments firms received the highest number of APP scam payments per million transactions, e.g., for every 1 million transactions received by consumers at PayrNet, 2,705 were APP scam payments.
  - Although the volume of scams received per million transactions by all non-directed PSPs has increased by 18% since 2022, amongst the top 20 worst performing firms, the scam rate of the worst performing firm in 2023 is nearly 70 times smaller than that of the worst performer in 2022.
  - The four firms of the highest volumes (PayrNet, Modulr, Zempler Bank and Kroo Bank) all have similar scam rates of between 2,000 and 3,000 APP scam payments per million transactions.

PSR – APP fraud scams performance data (second annual report)

- **What is PSR is doing to drive better performance?**
  - New reimbursement requirement → Oct-24
  - **Improved scam prevention through data sharing** → The PSR wants to support intelligence-sharing between payments firms so they can improve scam prevention in real-time, e.g., stopping or delaying high-risk payments. **The PSR will consult in H2 2024** on the best way to achieve system-wide protections to prevent APP scams.
  - Confirmation of Payee (CoP) → by Oct-2024, nearly all consumer payments will be covered by CoP.
  - The PSR wants Pay.UK to lead the development of protections for payment system users, in its capacity as the independent payment system operator
  - **Fraud enabler data** → the PSR is carrying out work to understand how **entities outside the payments sector** are enabling contact between criminals and consumers who fall victim to APP scams. The PSR is gathering information that payments firms collect on these companies and **will consult on publishing this data in 2024.**

3. PSR – Expanding variable recurring payments

Member Resources:

[Expanding variable recurring payments - Response to the call for views (CP23/12) | Payment Systems Regulator (psr.org.uk)]

PSR – Expanding variable recurring payments

- The PSR wants to extend variable recurring payments (VRPs) to enable payments between accounts in different names (non-sweeping VRPs). The PSR has published its response to the call for views (Dec-23) on initial proposals on how to expand VRPs into new use cases.
- **The PSR proposed:**
  - A multilateral agreement (MLA) specifying the required functionality along with arrangements for pricing, dispute resolution and liability;
  - Using its powers to set the parameters for a central price for VRPs based on a cost recovery model for the sending firm that applies to the PSR's previously published pricing principles and enables sending firms to cover relevant marginal costs. The PSR provisionally identified the Faster Payments charge as the only relevant cost for the initial rollout, which the PSR proposed to remove for sending firms;
  - Setting at zero the price sending firms can charge payment initiation service providers (PISPs) for access to customer accounts and payment initiation if the PSR determines the Faster Payments charge to be the only relevant marginal cost for sending firms for the initial rollout, and if the PSR subsequently takes action to remove that charge for sending firms, and
  - Mandating the participation of the UK's nine largest banks in the MLA.

PSR – Expanding variable recurring payments

- **Summary of the response to the PSR's call for views:**
  - There was broad support for greater coordination; over half of respondents agreed that participation should be mandatory for some firms, while a quarter disagreed. The PSR still believes an MLA could provide consistency across functionality and dispute mechanisms efficiently but recognises the challenge to the use of the concept of the 'CMA9'. The PSR will continue to consider whether mandated participation may be necessary, and who might be mandated.
  - There was no clear majority either for or against the PSR's pricing principles, but there was broad agreement on the need to establish a sustainable commercial model. The PSR will consider the challenges, and how the principles may interact with the Consumer Duty.
  - Views differed on the need for a central API access price, and on the PSR's proposals for how it should be determined. The PSR remains concerned about sending firms' control over TPP access to sending firms' VRP APIs; the PSR still considers that regulatory action to establish a central access price may be necessary. However, the PSR will evaluate alternative approaches, e.g., prices based on pricing in other payment systems, pricing based on cost-recovery (including models that allow a return for sending firms), and an arbitrated price (including a 'black box' or regulator-led approach).

PSR – Expanding variable recurring payments

- **Next steps:**
  - The PSR is still analysing suggestions contained in responses to the proposals. At this stage, the PSR still thinks that some level of regulatory action is needed to realise the full benefits of VRPs.
  - The PSR aims to publish an updated set of proposals in the autumn, along with a draft cost benefit analysis.

4. Bank of England approach to innovation in money and payments

Member Resources:

The Bank of England’s approach to innovation in money and payments | Bank of England

Responses due by **31 October 2024**

Bank of England approach to innovation in money and payments

The Bank of England's proposed approach to innovations in the payments landscape:

- The Bank has set out its financial stability risk appetite for wholesale settlement in central bank money:
  - → Confidence in the underlying technology used to transfer money; if central bank money was unable to interact with new technologies, there could be a risk of settlement activity moving away from central bank money to private settlement assets that could interact them, and this could weaken financial stability. The Bank considers that there is a strong case for policymakers to take steps to preserve the role of central bank money as 'an anchor of confidence' in the financial system. The Bank is exploring options to enhance access to settlement in central bank money. Further, the Bank's initial analysis notes significant financial stability risks from the use of stablecoins for wholesale transactions.
- The Bank's approach to exploring innovations in wholesale central bank money:
  - → As part of the Future Roadmap for the Real-Time Gross Settlement (RTSG) service, the Bank is working with industry to design functionalities that support industry innovation, e.g. extending RTGS settlement hours and a synchronisation interface that would allow RTGS to connect to external ledgers, including those based on programmable platforms, and settle assets in central bank money. The Bank also considers that central bank money could interact with programmable platforms through the use of 'wholesale central bank digital currency' (wCBDC) technologies. To inform this work, the Bank proposes a programme of experiments to test use cases, functionalites and prospective designs of syncronisaton and wCBDC.

Bank of England approach to innovation in money and payments

Proposed approach to innovations in the payments landscape - continued

- The outcomes the Bank seeks in the retail payments landscape to deliver trust and confidence in money:
  - → The Bank seeks a payments landscape which maintains the singleness of money and promotes sustained innovation, with infrastructure and a wider ecosystem that is resilient and has sustainable governance and funding models.
  - → The Bank considers that meeting these outcomes will require clear and renewed leadership by the UK authorities in this space; the Bank will work closely with the HM Treasury, the PSR and FCA to deliver them.

Bank of England approach to innovation in money and payments

Call for views:

- Are there areas in which programmable platforms, including those enabled by DLT might bring significant benefits and risks in payments and settlements?
- How likely are programmable platforms, including those enabled by DLT, to be taken up at scale by wholesale financial markets?
- What are your views on the pace of innovation in private money – in particular, commercial bank money – used in retail payments?
- What are your views on the wholesale infrastructure that might support retail payments innovations, including to ensure that singleness of money can be maintained across stablecoins and tokenised deposits?
- What are the risks and benefits of from the use of a) tokenised deposits; and b) stablecoins for wholesale transactions?
- Are there innovations that could support central bank money being equipped with the requisite functionality to ensure safe settlement in light of technological advances in financial markets?
- What are your views on potential functionalities of a wCBDC and how might these inform wCBDC design?
- Will the proposed programme of experiments help to assess these potential functionalities for central bank money?
- What are respondents' views on the outcomes that the Bank seeks in retail payments and how can they be reflected in practical questions currently facing policymakers and industry?

5. FCA – Review of FCA requirements following the introduction of the Consumer Duty

Member Resources:

Review of FCA requirements following the introduction of the Consumer Duty | FCA

Call for Input closes: **31 October 2024**

FCA – Review of FCA requirements following the introduction of the Consumer Duty

- **Background:**
  - → The FCA wants to see where it can simplify its retail conduct rules and guidance to address **potential areas** of **complexity**, **duplication**, **confusion**, or **over-prescription** which **create regulatory costs with limited or no consumer benefit**.
  - → The FCA recognises that small firms and new entrants, in particular, benefit from a clear understanding of regulatory expectations to run and grow their business; the FCA wants to understand how different firms might be affected by changes to the FCA's approach, to avoid any damage to competition.
  - → The FCA has a secondary objective to facilitate the competitiveness of the UK economy, including the financial services sector. The FCA will consider policy options that a) advance its primary objectives, and b) better enable firms to innovate and thrive in the UK, and to compete internationally.
  - → The Call for Input is primarily focused on the FCA's retail conduct rules, but views on wider rules and guidance are also welcome. The FCA **is not** seeking views on any suggested changes to the Consumer Duty.
  - → The FCA will carry out an extensive programme of engagement with 'interested parties' over the coming months.

6. Call for PIF Member Input – FCA Quarterly Liaison Meeting

The next FCA/Payments trade bodies liaison meeting will take place on **19 September**. Do members have any issues or concerns they would like us to raise with the FCA?

7. ECB and EBA joint report on payment fraud

Member Resources:

[EBA_ECB 2024 Report on Payment Fraud.pdf (europa.eu)]

EBA and ECB joint report on payment fraud

- The European Banking Authority (EBA) and European Central Bank (ECB) have published a joint report on payment fraud data, which is based on payment fraud reported by the industry across the EEA.
- The report assesses that payment fraud amounted to €4.3bn in 2022 and €2.0bn in H1 2023 and confirms the beneficial impact of SCA on fraud levels. The report examines the total number of payment transactions and a subset of fraudulent transactions by value and volume, sorted by payment type, e.g., credit transfers, direct debits, card payments, cash withdrawals and e-money transactions.
- SCA-authenticated transactions featured lower fraud rates than non-SCA transactions, especially for card payments, Fraud rates for card payments were around ten times higher where the counterpart is located outside of the EEA and where SCA may not be requested.
- The highest fraud levels between H1 2022 and H1 2023 were reported in credit transfers and card payments. In H1 2023, the total value of fraudulent credit transfers sent from PSPs in the EU/EEA and received worldwide amounted to €1.131 billion, which was 14% lower compared to H1 2022. Card fraud using cards issued in the EU/EEA amount to €633 million in H1 2023. In comparison, the value of total fraudulent card payments acquired by EU/EEA PSPs was higher, at €826 million in H1 2023.
- **Fraud rates appear noticeably higher for card payments and e-money transactions**. For the former, the value of fraud as a share of the total value of card payments using cards issued in the EU/EEA slightly increased over the three reporting periods, from 0.026% in H1 2022 to 0.031% in H1 2023. The increased fraud rate for card payments in the last two reference periods compared with the H1 2022 is the result of a decline in overall card payments of -12% year on year in H1 2023 that coincided with an increase in the value of card fraud per se of +4% year on year in the same period.
- For e-money transactions, the corresponding fraud rate in H1 2023 was at 0.022%, which is significantly lower than in the previous two reference periods.

8. Other international developments

Other international developments

- **EU Artificial Intelligence Act comes into force** – the world's first regulation on AI is designed to ensure that AI developed and used in the EU is trustworthy and has safeguards to protect the fundamental rights of EU citizens. It aims to establish a harmonised internal market for AI in the EU, encouraging the uptake of AI and creating a supportive environment for innovation and investment → EU AI Act: first regulation on artificial intelligence | Topics | European Parliament (europa.eu)
- **EBA consults on ITS under SEPA regulation** – The European Banking Authority is consulting on its draft implementing technical standards (ITS) for uniform reporting templates in relation to the level of charges for credit transfers and the share of rejected transactions under SEPA regulation. The proposal is for PSPs to report the level of charges for regular credit transfers and instant credit transfers, broken down by type of transfer (domestic or cross-border), type of payment service users, type of payment initiation channel, and the party subject to the charge. The consultation also sets out a proposal for PSPs to report charges for payment accounts, as well as the share of instant transfers (domestic and cross-border), that were rejected due to the application of EU-wide restrictive measures. The consultation closes on **31 October 2024** → Consultation paper on ITS under SEPA Regulation EBA CP 2024 19.pdf (europa.eu) [a public hearing will take place on **9 October** → Public hearing on the technical standards for uniform reporting under the Single Euro Payments Area Regulation | European Banking Authority
- **US regulators scrutinise bank-fintech partnerships** – Three federal regulatory agencies have issued a statement about the potential **risks associated with arrangements between banks and third parties** to deliver bank deposit products and services to consumers and businesses. In a separate Request for Information, the agencies are seeking input on the nature and implications of bank-fintech arrangements, including those related to payments, deposits, and lending products and services → Federal Register :: Request for Information on Bank-Fintech Arrangements Involving Banking Products and Services Distributed to Consumers and Businesses