Payments Innovation Forum
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By email to: appscams@psr.co.uk

17 September 2024

Non-Confidential

Dear Sir/Madam,

Re: CP24/11 – Faster Payments APP scams: Changing the maximum level of reimbursement

We welcome the opportunity to respond to the Consultation published by the Payment Systems Regulator ("**PSR**") in September 2024: "Faster Payments APP scams: Changing the maximum level of reimbursement" (the "**Consultation**"). We would be pleased to discuss our response with you in more detail.

The Payments Innovation Forum (**"PIF"**) is a not-for-profit trade association representing firms that are regulated under the Payment Services Regulations 2017 (PSRs) and Electronic Money Regulations 2011 (EMRs). Our members include issuers, issuer processors, BIN Sponsors and Sponsored Program Managers, providing digital and online payment products and services, card-based accounts and payments and mobile payments to consumers, businesses, government and local government authorities. It is in this capacity that we submit our response.

We would like to thank the PSR for taking our comments into consideration.

Yours faithfully

Diane Brocklebank
Director
Payments Innovation Forum Ltd

1. Introduction

PIF and its members recognise the vital importance of tackling all types of payment-related fraud, including Authorised Push Payment (APP) scams. APP fraud in particular can result in severe and lasting consequences for consumers and pose a serious challenge for the payments and e-money sector. Innovation and competition in payments can only thrive if payment service providers earn the confidence of payment service users. Our members are, therefore, deeply committed to ensuring that their payment products and services are not used for illicit purposes.

2. General Observations

PIF and its members support the regulatory goal to promote and protect the interests of consumers and we believe that the Faster Payments APP scams reimbursement requirement is a well-intended step by the PSR to tackle the growing problem of APP scams. Whilst we welcome the PSR's proposal to change the maximum level of reimbursement, (please see our comments on the consultation questions in 3. below), we stand by our belief that making reimbursement mandatory will lead to very poor outcomes for consumers and negative implications for innovation and competition in UK payments, which we expand on in the section below.

The most vulnerable consumers will be left behind:

For PSPs that serve vulnerable consumer groups, such as those who work with charities and local government authorities to disperse vital aid and benefits, the consumer standard of caution will rarely, if ever, apply. This means that these PSPs will be required to reimburse every single APP claim they receive, no matter the circumstances. Even one or two claims at the revised maximum level of reimbursement could result in the PSP's products and services no longer being commercially viable. As a result of such services being withdrawn, the reality is that vulnerable consumers would be left without access to vital support, particularly in the likelihood that they fall foul of the risk appetites of the UK's larger banks. We would like to understand how the PSR intends to address the impact that the reimbursement requirement will have on vulnerable consumers in this context.

Fraud will go up, not down:

We remain extremely concerned that mandatory reimbursement will encourage, rather than tackle, APP scams and we can already see scammers taking advantage of the new rules. Which? has already published a warning to consumers to watch out for fake messages purporting to be from high street banks (e.g. NatWest bank) about this reimbursement scheme which are already circulating[1]. We are also aware of an email, purporting to be from TSB, that attempts to trick the recipient into divulging their card details and PIN number to ensure they receive suspicious activity notifications under the "New UK consumer protection rules against fraud." We believe that this is just the tip of the iceberg and in addition to making the sector more attractive to organised criminal gangs, there is a very real possibility that mandatory reimbursement will result in materially increased levels of first-party fraud.

Consumers must understand their responsibility:

We maintain that the reimbursement requirement expects the bare minimum from consumers and trivialises their own responsibility and the vital role they can, and should, play in preventing APP scams from happening in the first place. In our view, **<u>consumers need to understand that they are their accounts' first line of defence</u>**. Despite the implementation of robust warnings at the point of making a payment, the reality is that consumers may still voluntarily transfer money even when they have been repeatedly warned by their payment service provider (PSP), or family members or friends, of potential fraud. In these situations, there is very little a PSP can do, no matter how much the PSP invests in advanced fraud prevention and detection technologies, to prevent a customer from falling victim. It is therefore unreasonable that PSPs should bear the full burden of APP scam-induced fraud losses. As part of its APP scam strategy, we believe that the PSR should initiate a campaign to clearly emphasise the responsibilities that remain with consumers, ensuring they understand the types and risks of fraud and offering guidance to ensure that consumers understand their own role and responsibility in preventing fraud.

[1] https://www.finextra.com/newsarticle/44739/which-warns-consumer-to-watch-out-for-fake-messages-about-the-new-fraud-refund-scheme?utm_medium=newsflash&utm_source=2024-9-17&member=134665

Placing the full burden of APP scam-induced losses on PSPs is not the answer:
Regulatory measures to halt the exponential rise of APP fraud place the onus squarely on PSPs. This is despite full view of the fact that social media companies are the primary originator of APP fraud and have become fertile ground for criminals to carry out increasingly sophisticated scams, often with catastrophic consequences. As long as PSPs bear the cost of APP fraud, social media companies will have no incentive to build and implement counter-fraud mechanisms to stem the origination of APP fraud. If there is to be any hope of neutralising APP fraud, measures need to be rigorously enforced at source. If social media companies remain comfortable in the knowledge that all burden will be absorbed downstream by PSPs, who have no control or even visibility of what is happening upstream, sophisticated APP scam perpetrators will always remain one step ahead of PSPs, despite best efforts, and APP fraud will continue unabated, with all the associated negative consequences for consumers.

Equitable burden between account providers in instances of APP Scam:
Currently, the proposed regulation envisages the equal sharing of the burden to reimburse victims of an APP scam between the sending PSP and the receiving PSP. This, in itself, is inequitable. Each account provider ‘knows their customer’ and is obligated to verify them and monitor source of funds as part of its KYC procedure. A victim with an account at a PSP will have passed all appropriate KYC procedures in order to have opened and operated their account. In most cases, the sending PSP will also have carried out Confirmation of Payee (COP) to alert and encourage the victim to double check and confirm that the payment they are making is to a legitimate party, especially where COP has triggered a warning. The sending PSP obviously has no control over accounts provided by the receiving PSP.

The receiving PSP also should have undertaken appropriate KYC procedures on its account holder (the scammer) and be monitoring source of funds. In this instance the receiving PSP’s fraud systems should detect funds being received into the account and be able to flag and manage suspicious income to the sending PSP to investigate as appropriate. If the receiving PSP is operating its fraud and risk systems effectively, it should be able to flag suspicious inbound funds for investigation and if necessary, ultimately close the account, thereby reducing opportunities for scammers to operate.

It is clear that the scammer's PSP is in a significantly stronger position to clamp down on APP scams and therefore the sharing of the burden between the sending PSP and the receiving PSP should weigh significantly heavier on the receiving PSP rather than the sending PSP.

3. The Consultation Questions

Question 1: What are your views on the proposal to change the maximum level of reimbursement from the outset of the policy, to set it to the FSCS limit, which is currently £85,000?

The proposed change to the maximum reimbursement level from £415,000 to £85,000 is welcomed by PIF and its members. However, some of our members feel the limit is still too high. We are keen to understand the rationale for setting the limit at £85,000, which is the same limit as that for the Financial Services Compensation Scheme (FSCS). If the limit has been based solely on being a number that consumers are familiar with, then this is potentially confusing for consumers because FSCS and the Faster Payments APP scams reimbursement requirement are two very different types of consumer protection. We would like to understand the extent to which the £85,000 limit is aligned with the average APP fraud amount, and the basis for setting the limit at £85,000. We believe that it would be more appropriate to set a limit that reasonably reflects the amount of loss that actually occurs. In addition, we believe that the PSR should consider a tapered approach to reimbursement, in line with some other regulators. Currently, the PSR's suggestion is that the PSP's APP scam liability remains at 100% of the maximum amount for 13 months after a transaction. The longer the fraud goes undetected the lower the chance a PSP and any crime authority has of recovering the fraudulent payment amount. It would be reasonable to taper the liability over time such that consumers are incentivised to report issues as soon as possible, which would both encourage more responsible behaviour by the consumer and aid the PSPs and crime authorities in addressing APP scam fraud and recovering the fraudulent payment amount.

Industry readiness for the reimbursement requirement:

The PSR has made clear that no other changes to the policy are proposed. However, several of our members believe that the implementation of the requirement should be delayed for the following reasons:

- Lack of clarity around the readiness of Pay.UK's Reimbursement Claims Management System (RCMS) means that PSPs are unlikely to be ready to test and train using the RCMS before the go-live date.
- APP scam claims management will be disorderly from the outset because most of the larger PSPs will continue to use the UK Finance Best Practice Standards (BPS) platform whilst others, including smaller PSPs who cannot use the BPS, will settle claims manually. This lack of alignment between RCMS, BPS and manual processes will lead to negative implications, including additional costs for firms to settle claims manually. It will also limit the opportunity for PSPs to share data in real-time, which is vital in helping to spot and stop fraud.

Question 2: What are your views on the impacts (including costs, benefits, and risks) of operationalising an initial maximum limit of £85,000 from 7 October 2024?

Implications arising from any planned or already completed consumer communications activities, that would result from a change in the maximum level of reimbursement:

We believe that the administrative impact will be low as many of our members are still in the process of drafting policies, procedures and consumer communications in respect of the new requirement. The key messages remain the same, no matter the limit. However, if members have already communicated out to consumers, then this could cause considerable confusion for their customers.

Question 3: Do you agree with or otherwise have views on our proportionality assessment and our cost benefit analysis? Do you have any further evidence to provide that is relevant to this analysis?

The implementation of the new reimbursement requirement will come at great cost to our members, not only in the reimbursement of fraud, but the time and resources required to manage the reimbursement process, particularly in view of the lack of alignment in the claims management platforms we cite above.

The implementation of advanced technologies to detect and prevent fraud is of paramount importance. However, for some of our members, whose fraud rates are extremely low, the prospect of investing vast sums of money under the reimbursement requirement will force these firms to implement fraud controls that are disproportionate and certainly not commensurate with the risk.

We believe that whilst the reimbursement requirement is well-intended, and guarantees consumers repayment of virtually all losses, the cost benefit analysis for PSPs is unjust. This is especially true of PSPs who provide products and services for vulnerable consumers.

Please provide your views on the Bank's proposed approach to change the maximum level of reimbursement for CHAPS to align with our proposal for Faster Payments (which is to set it to the FSCS limit, currently £85,000).

We do not have any views on this question.

In closing, we would like to reiterate our concern about the efficacy of the reimbursement requirement in slowing down APP fraud and the implications for consumers and under-served SMEs who have come to rely on the innovative payment solutions provided by regulated e-money and payments firms. These regulated firms are supporting many thousands of UK businesses, addressing major societal challenges – from climate change to scientific research, and ensuring that the most vulnerable people in the UK – from those on very low incomes to those with disabilities, are not left behind.

Payments Innovation Forum Ltd