Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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Payment Systems Regulator
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23 December 2021

By email: appscams@psr.org.uk

Dear Sir / Madam,

Financial Services Consumer Panel response to CP21/10 Authorised push payment (APP) scams consultation paper

The Financial Services Consumer Panel is an independent statutory body. We represent the interests of individual and small business consumers in the development of policy and regulation of financial services in the UK.

The Consumer Panel welcomes the PSR consultation on Authorised Push Payment (APP) scams and supports the two key outcomes it wishes to see – better prevention of APP scams and broader, higher and more consistent protections for victims of APP scams. The Panel is also broadly supportive of the measures proposed by the PSR. As the PSR notes in the consultation, APP scams are a major and growing problem in the UK. Reported APP scam losses continue to grow at an alarming pace but the actual figures, including unreported losses, are likely to be much higher.

The growing nature of the threat requires the regulator and industry to swiftly address gaps which allow APP fraud to occur. Consumers are suffering undue harm because of the lack of industry commitment and coordination to tackle such scams and we therefore particularly welcome the PSR's focus on increasing transparency and enhancing reimbursement requirements. We would stress however that to reduce the risk of consumer harm and ensure long-term consumer trust in digital payments the transparency requirement will need to be extended across the *entire* industry and reimbursements made *mandatory*. Partial implementation of the measures will not be sufficient. Given consumers' increasing dependence on digital payments on the one hand and the rapidly increasing number and complexity of frauds being perpetrated on the other, we would also emphasise the urgency of the introduction of these measures.

The Panel has the following comments on the three measures proposed by the PSR.

Measure 1 Publishing scam data

- The transparency requirements set out under Measure 1 are welcome, however the Panel has misgivings about their being applied only to the largest PSPs. We recognise that the largest PSPs currently account for the majority of incoming and outgoing payment instructions, however fraudsters are quick to adapt to any newly erected barriers they encounter. In addition – and as highlighted by the FCA's July 2020 Dear CEO letter[1] on this topic – there are known weaknesses in

[1] See https://www.fca.org.uk/publication/correspondence/payment-services-firms-e-money-issuers-portfolio-letter.pdf.

the payments sector that may be worse among smaller firms. Should the largest PSPs improve their fraud prevention and detection measures on the back of or ahead of these requirements, we would expect the fraudsters to rapidly switch to those PSPs that are not subject to the requirements, much as we have seen in the case of the CRM code. The Measure aims to improve PSPs' prevention and detection measures, using transparency as an incentive and we see no reason why this incentive should not have useful application across the universe of PSPs. Absent the wide application of this requirement we might either: only see improvements at the covered PSPs; depending on the data, we might see consumers begin to make partially informed decisions about trusting or mistrusting PSPs inside or outside this universe and/or, as mentioned earlier, begin to see fraudsters target their activity on the wider set of PSPs. We recognise that the PSR may not envisage it to be possible to apply the Measure to all PSPs in the proposed timeframe. Rather than delay the introduction of the Measure, we would propose that its application beyond the largest PSPs be introduced in a second stage.

We are supportive of the specific metrics the PSR proposes to require under Measure 1 but would also welcome reporting on sending PSPs' ability to detect and prevent attempted scams. Should this data be something the PSPs could readily collate, we believe it could provide an additional useful indicator positively demonstrating each PSP's duty of care to its customers.

We note that the PSR recommends this data is published by PSPs six months in arrears. We recognise that PSPs need time to repair gaps revealed in their data before exposing identified weaknesses to potential fraudsters, however we believe that three months would be a sufficient time frame within which to effect such repairs given the potential for consumer harm. The purpose of Measure 1 is "to make clear, easily accessible and comparable data about individual PSP APP scam performance available to consumers and other stakeholders". Publishing such data more punctually will also give consumers more up-to-date data with which to make informed decisions about their PSP providers.

Finally, the Panel urges PSR to ensure the metrics under Measure 1 are consumer-tested, as well as tested with PSPs. In particular, it is important to check that stakeholders correctly interpret the information, and after implementation, to test whether the website placing has in fact drawn consumers' attention to the data.

Measure 2 Intelligence Sharing

- The Panel has no particular comments on Measure 2 other than to note its support of the work that is underway and its urgency. Information sharing is key to helping to detect and prevent fraud and the introduction of an industry-wide solution will be essential as consumers increase their use of digital payment methods and fraudsters increase their focus on digital payments. Whilst we recognise this work is at a relatively early stage, the PSR may wish to already begin considering whether and how it might want to make participation in this information sharing mandatory.

Measure 3 Wider Reimbursement

- The Panel believes it is urgent and necessary to bring an industry-wide mandatory reimbursement requirement into force through legislation. As we stated in our response to the PSR's Call for Views, membership of the Contingent

Reimbursement Model (CRM) Code and reimbursement of APP scam losses should be mandatory for all PSPs. The fact that it is not a requirement for PSPs to participate in the Code has led to unacceptable disparities and gaps in consumer protection as well as loop-holes which fraudsters are actively targeting. The Panel believes that the most appropriate and effective way of doing this, once legislative changes are in place, would be for the PSR to write the rule change directing PSPs to reimburse victims. The published data shows that consumers are still experiencing shockingly low reimbursement rates in an effective "lottery" of protections[2] and yet at the same time there are legal efforts underway to limit banks' obligations[3]; this demonstrates that mandatory reimbursement must be in force as soon as practically possible.

We would also wish to see more emphasis placed on those entities that handle the fraudulent funds so that both the PSP sending the money and the one who receives it are equally responsible and subject to scrutiny.

We recognise that PSPs cannot solve these issues alone, and we would therefore also encourage the PSR to prioritise its work with other relevant regulators to prevent fraudsters from targeting victims through social media platforms, text messaging, fraudulent websites and similar means.

Yours sincerely,

Wanda Goldwag
Chair, Financial Services Consumer Panel

[2] See https://www.which.co.uk/policy/money/6249/pushpaymentfraud and https://www.which.co.uk/news/2020/08/bank-transfer-fraud-victims-face-refund-lottery/.
[3] See https://www.edwincoe.com/blogs/main/authorised-push-payment-fraud-the-high-court-restricts-the-expansion-of-banks-duties-to-victims/.