

Telephone: 020 7066 9346  
Email: [enquiries@fs-cp.org.uk](mailto:enquiries@fs-cp.org.uk)

Lending Standards Board  
5<sup>th</sup> Floor Abbey House  
74-76 John Street  
London EC1M 4DZ

26 May 2021

By email: [crmcode@lstdb.org.uk](mailto:crmcode@lstdb.org.uk)

Dear Sir / Madam,

**Financial Services Consumer Panel response to the Call for Input for the Contingent Reimbursement Model Code ('the Code') issued by the LSB 31 March 2021.**

The Financial Services Consumer Panel (FSCP) 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.

Payments in the UK have been undergoing significant change and modernisation in recent years and particularly since the onset of the Covid-19 pandemic. These changes have led to increased choice and flexibility, greater use of digital payment options and enhanced payment experiences.

While consumers have benefitted from these changes, fraudsters have also adapted to the new payment methods and are profiting by new means. Victims of fraud suffer an enormous amount of personal harm and distress. Which? note that Action Fraud received 241 phone calls between January and November 2020 where a 'threat to life' was flagged.<sup>1</sup>

Trust and confidence in payment services is key and the new opportunities that the modernised payment landscape presents fraudsters therefore need to be urgently addressed.

The rise in Authorised Push Payment (APP) scams risks consumer harm and puts consumer trust in the payments system at serious risk. The industry needs to urgently address both the underlying gaps that allow these new types of frauds to occur and to establish a reliable means whereby consumer losses from such frauds are reimbursed. While the development of the Contingent Reimbursement Model Code was welcome, uptake has been disappointingly low. Increasing participation in the Code is an essential part of the solution.

The Panel believes that regulation is ultimately required to make membership of the Contingent Reimbursement Model (CRM) Code<sup>2</sup>, and reimbursement of APP scam losses, mandatory. Improvements to the CRM Code will nevertheless be necessary to help widen

---

<sup>1</sup> <https://www.which.co.uk/news/2021/03/devastating-emotional-impact-of-online-scams-must-force-government-action/>

<sup>2</sup> As the Panel have stated in their response to the PSR's call for views on APP Scams: [https://www.fs-cp.org.uk/sites/default/files/fscp\\_response\\_psr\\_app\\_scams\\_final.pdf](https://www.fs-cp.org.uk/sites/default/files/fscp_response_psr_app_scams_final.pdf)

participation, harmonise good practice amongst firms and improve the consistency of outcomes for consumers in the near term.

The Panel have provided comments on the key areas identified in the Call for Input, enclosed.

Yours faithfully,

Wanda Goldwag

Chair, Financial Services Consumer Panel

### **1. The evolving nature and complexity of APP scams and the CRM Code**

The scope of the CRM code should remain flexible and be continually be updated to reflect the evolving nature and complexity of APP scams.

APP scams are evolving and becoming more sophisticated and will continue to do so, including by involving more parties in the scam journey. We strongly support the LSB's efforts to explore the emergence of patterns so that the Code can be adapted as needed to cater for such complexities.

### **2. Wider participation of firms in the CRM Code**

To have maximum effectiveness, the Code *should* recognise the full breadth of participants within the payments industry and the same protections should apply for consumers, irrespective of the payments provider they use.

The Call for Input however notes that several firms suggested that participation in the Code was not necessary for them to offer their customers protection against APP scams. It also observes that some firms felt the Code was too onerous in proportion to the level of APP scams occurring within their organisations.

We recognise that participation in the Code may be onerous for some organisations, however their non-participation can lead to consumer harm. Furthermore, the industry's ability to retain consumer confidence, to fight back against fraud and to detect and block the movement of fraudulent funds will be compromised by some organisations non-participation in the Code.

We would therefore encourage the coverage of the Code be extended to the widest extent possible without reducing the consumer protections in place. Requirements for firms under the Code to mitigate fraud must remain robust. However, the requirements should not be set at so high a bar, such that certain industry participants are excluded, or barriers to entry created. The requirements need to ensure that innovative, new and smaller payment providers *can* participate, and such providers should be *required* to participate. Furthermore, the protections need to be future-proofed for new propositions and business models.

The current scope of the Code is limited to the UK. While domestic adherence to the Code should be the immediate objective, industry must also focus on the international dimension to APP scams. The increased speed and ease with which cross-border payments can now be made allows for fraudulent funds to be quickly moved offshore and outside the scope of the current Code. This, combined with the complexity involved in dealing with cross-border fraud, will make its appeal to fraudsters self-evident.

### **3. Roles and responsibilities in the CRM Code**

The Code should more fully reflect the roles and responsibilities of receiving banks and CRM guidance should be clear so that firms understand their roles and responsibilities.

This would help to harmonise good practice, improve consistency of outcomes for consumers and, eventually, lead to reduced incidence of such frauds.

Receiving banks should have **at least equal** responsibility for reimbursing APP victims. The very existence of fraudulent or mule accounts enables APP fraud to occur. Receiving banks have a responsibility, commensurate with their money laundering and financial crime obligations, to have measures and controls in place to detect fraudulent activity and prevent funds passing through these accounts. Increasing the liability of receiving banks in the reimbursement of APP scams losses would incentivise them to follow best practice, trace the onward movement of those funds and help reduce the incidence of such frauds.

Receiving banks should also share information to help trace the fraudulently obtained funds if they have been sent on. Industry must co-operate to help trace fraudulent funds and to locate and freeze such accounts to help reduce their usage.

#### **4. The customer experience and the role of firms along payments journeys**

Consumer awareness of payment systems and associated protections remains low. Consumers become aware and may find appropriate information at the point that they have fallen victim to a scam.

More and clearer information should be provided to consumers on the protections and risks offered by and associated with different payment providers. Organisations that are Code signatories, should be clearly labelled as such and the protections this gives consumers should be clearly set out. For as long as payment providers remain non-signatories to the Code, they should clearly set out the terms on which they will treat customers in the event of APP scams.