



Electronic Money Association

Crescent House

5 The Crescent

Surbiton

Surrey

KT6 4BN

United Kingdom

Telephone: +44 (0) 20 8399 2066

Facsimile: +44 (0) 870 762 5063

www.e-ma.org

APP Scams Team
Payment Systems Regulator
12 Endeavour Square
London E20 1JN

Email to: appscamsdata@psr.org.uk

20 January 2023

Re: EMA response to PSR CP 22/5 Authorised push payment scams-Measure 1-Metric C process: revised approach

Dear APP Scams Team,

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers. Our members include leading payments and e-commerce businesses worldwide that provide online payments, card-based products, electronic vouchers and mobile payment instruments. They also include a large number of smaller Payment Service Providers. A list of current EMA members is provided at the end of this document.

We welcome the opportunity to respond to the PSR's Consultation on the revised approach to Metric C, as it will impact a large number of PSPs, including several EMA members.

I would be grateful for your consideration of our concerns.

Yours sincerely

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

Do you have any comments on the proposed new process for collecting Metric C data which we set out in Chapter 4?

We welcome the PSR's objective of simplifying the process for validating metric C data, so that receiving PSPs will no longer be required to undertake a validation process of all data, but rather can challenge sending PSPs data where necessary. However, we note that both sending and receiving PSPs will still have to implement procedures and systems to support the challenge process. Furthermore, as the PSR views validating metric C data as a transitional measure until Measure 1 (paragraph 4.7 in CP response) is in place, we consider there is a risk that some smaller PSPs face disproportionate costs to support the challenge process for a limited time period. Moreover, smaller receiving PSPs who cannot support the resources required for the challenge process face an unlevel playing field in the process for responding to sending PSPs fraud data.

We also note that until the PSR finalise and publish the criteria that they will use to determine which firms are 'most significant' and will have their data published, it is difficult for smaller receiving PSPs to assess the impact of implementing the systems and processes to support the challenge process.

- **Limitation for receiving PSPs to challenge the data only when there is a significant impact for them**

In paragraph 4.33 of the draft Direction, the PSR states that receiving PSPs "*should limit their challenge to only the relevant sending PSPs and the transactions that were material to their concerns.*" Additionally, receiving PSPs should only "*challenge data where their concerns might lead to a significant impact for them*".

We welcome the PSR's proposal to limit the number of formal challenges by the receiving PSP to one per reporting cycle as this will reduce the risk of elongating the challenge process. However, we note that receiving PSPs may have differing views on what is a 'significant impact' of their fraud data being published. For some smaller PSPs, being included in the possible list of published PSPs at all may have a far wider impact than the larger directed PSPs.

To avoid differing approaches, and operational complexity for both the sending and receiving PSPs, we would welcome further guidance from the PSR regarding the criteria that receiving PSPs can apply when deciding whether to challenge data. There is a risk that the data regarding receiving PSPs' fraud levels may be used in ways that are not intended by the PSR's measures. Therefore, the final data must be as accurate as possible, and the PSR will need to ensure support for a fair and rigorous challenge process.

- **Identification of the transactions belonging to indirect PSPs by receiving PSPs**

We also highlight that indirect receiving PSPs that do not have individual sort-codes (such as some e-money issuers) may be reliant on their sponsor PSP to support them in challenging the sending PSP data that relates to their accounts. It is not clear if the PSR intends that such indirect receiving PSPs should challenge their own data directly, or whether the sponsor PSPs should do this on their behalf.

If the indirect PSP is to challenge their data directly with the sending PSP, then this introduces significant operational complexity for them, their sponsor PSP, and the sending PSP. This will likely result in the need for a longer time period to review the data received, and initiate any challenge.

If the indirect PSP is wholly reliant on their sponsor PSP to challenge fraud data that identifies the indirect PSP in the published data, then the sponsor PSP must engage the indirect PSP in the challenge process.

We would welcome further clarification from the PSR on how they envisage the challenge process operating for these indirect PSPs, and an analysis of the potential impact and cost of this aspect of the proposals as part of the Cost Benefit Analysis.

- **Dispute resolution between PSPs**

We note that the sending PSP will make the final decision on the data to submit to the PSR following any challenge by the receiving PSP, but that the PSR has not outlined a dispute resolution process to be used in the event that a receiving PSP considers that changes should have been made to the final submitted data. Whilst we agree with the PSR's assumption that sending PSPs should be relied on to provide accurate data, we suggest there may be occasions when the final data may still be under dispute.

To ensure effective monitoring of the resolution of disputes within the challenge process we propose that additional management information is collected from sending PSPs (under para.7.2.f Draft Direction). This could include the number of requests made by receiving PSPs (under paragraph 7.2(a)) where the sending PSP decided not to make any adjustments.

- **Measuring the efficiency and effectiveness of the receiving PSP challenge process**

We welcome the PSR's proposals to collect data from sending PSPs on the challenge process (para.7.2.f Draft Direction). We consider that the PSR's scrutiny and analysis of this data will be critical to ensuring that the challenge process remains consistent and fair.

It may also allow the PSR to identify if there are any inherent underlying issues with identifying APP fraud cases.

Likewise, we consider that any evidence that the PSR receives that indicates that the challenge process is not operating efficiently and fairly should be subject to full enforcement. For instance, where sending (directed) PSPs are not consistently responding to requests for information from receiving PSPs to allow sufficient time to support the challenge process.

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