

Electronic Money Association
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To:

Rt Hon Harriet Baldwin MP
Chair of Treasury Select Committee

Rt Hon Dr Thérèse Coffey MP
Treasury Select Committee

By email

5 February 2024

Dear Ms Baldwin and Dr Coffey

RE: Treasury Select Committee meeting held Tuesday 30 January 2024 featuring Chris Hemsley, Managing Director, Payment Systems Regulator as witness

The EMA is the UK and EU trade body representing electronic money issuers and alternative payment service providers (“**PSP**”). 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 PSPs. A list of our members is attached at the end of this letter.

We are writing in furtherance of the Treasury Select Committee’s work with respect to authorised push payment (“**APP**”) scams

Earlier this week on Tuesday 30 January 2024, Chris Hemsley, Managing Director of the PSR appeared as a witness at the Treasury Select Committee meeting to give oral evidence on the PSR’s work including their work on mandatory reimbursement for APP scams.

We have written to you previously on this topic and raised our primary concern with respect to the PSR’s new mandatory reimbursement rules. To reiterate, our primary concern is that under the new reimbursement rules, PSPs are be liable towards a customer for loss sustained from an APP scam to the extent of GBP 415,000 per individual claim.

We consider this liability is so extensive such that it runs the risk of sinking a small payment service provider, thereby reducing competition in the market for payment services.

We understand the PSR must levy liability on payment service providers to reimburse a customer for loss sustained from an APP scam pursuant to section 72 of the Financial Services and Markets Act 2023. We are not asserting that payment service providers should not be levied with liability – our concern is the excessive extent of liability. We understand the magnitude of the problem and are committed to reducing fraud.

On the topic of the GBP 415,000 figure, we write to clarify a response given to the Treasury Select Committee at the Tuesday Meeting by Chris Hemsley.

During the course of the Tuesday Meeting [time stamp 10:27], Dr Thérèse Coffey raised the issue of GBP 415,000 liability per claim. Dr Coffey further noted that industry have suggested it is only 0.3 percent of APP fraud cases that are above GBP 85,000 and that it has been suggested that this GBP 415,000 amount seems disproportionate on small firms and/or new entrants.

In response, Chris Hemsley stated that payment service providers can mitigate their liability by imposing transaction limits as follows:

Chris Hemsley [time stamp 10.28:10]: *“By having good fraud controls you mitigate those risks. But also, most people for most accounts you have limits in the low tens of thousands. So, I can’t transfer more than GBP 25,000 from my current account and that is quite common. So, we do need to put this in perspective. So, if you run a business where you do allow very large sums of money to move around very very quickly, your fraud controls need to be matching that challenge. For most businesses, including most Fintechs, I am not aware that typically they would be transferring those large sums around routinely.”*

Please allow us to clarify this response – it is important that you have the full information.

A PSP cannot effectively manage their APP scam liability by imposing transaction limits. PSPs can still be liable to the full extent (up to GBP 415,000) if they were to impose transaction limits under the PSR's mandatory reimbursement rules.

This is because the GBP 415,000 liability is not confined to one transaction. A customer can make a series of payments to a fraudster over a long period of time that can add up to a significant amount. For example, a PSP that imposed a very low transaction limit of GBP 1000 - the customer could make a GBP 1000 every week for five years and the PSP would have to reimburse the customer approximately GBP 250,000.

The GBP 415,000 figure is also not limited by time. In the same the example as above - the fraud could be perpetuated over five years (or longer) and the PSP's liability increasing marginally over time (and reimbursable all in one go upon receiving a claim). The PSR's rules require that the claim be made within 13 months of the last payment in the scam - all of the payments do not need to be made in the 13-month period - it is just the last payment in a series of payments that could have take place over years. This scenario is potentially more

likely to be the case for a large value claim than a single transaction, as the majority of UK consumers do not have such high savings¹.

As Chris Hemsley said during the Tuesday Meeting [time stamp 10:20:30]: *“In terms of the horizon, one thing I would call out is Artificial Intelligence and Generative AI, for example, are creating new fraud opportunities and tactics. They are making it easy to impersonate a voice, impersonate even an appearance and so this is the latest example of how criminals will adapt to use the latest techniques to unfortunately committ these crimes. Which then lays the challenge at all of our doors, that we keep learning, changing adapting to keep pace. But I call that one out in the fraud space as a current particular concern”.*

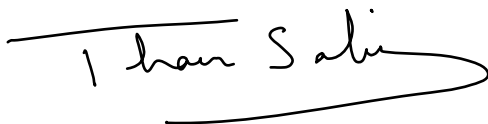
It is therefore feasible and a real risk that a sophisticated and elaborate fraud could be perpetuated over a long period of time without detection on the part of the customer or the PSP.

As you can see, PSPs cannot manage their liability for APP scams by imposing transaction limits. The GBP 415,000 figure has nothing to do with individual transactions. Even low transaction limits can result in the PSP incurring a large liability for a fraud that has been perpetuated over a long amount of time.

It is essential that the Treasury Select Committee has complete information with respect to the PSR’s reimbursement rules in order to carry out their work. We would be very grateful if you could use this information to urge the PSR to lower the GBP 415,000 figure prior to the October go-live date.

We remain available to provide further information to the Treasury Select Committee on the matter of APP fraud and assist in any way, if that would be helpful.

Yours sincerely



Thaer Sabri
Chief Executive Officer
Electronic Money Association

¹ Office of National Statistics (ONS) data on average savings/pension pot in the UK.

EMA Members as at 1 February 2024

AAVE LIMITED
Airbnb Inc
Airwallex (UK) Limited
Allegro Group
Amazon
American Express
ArcaPay UAB
Banked
Bitstamp
BlaBla Connect UK Ltd
Blackhawk Network EMEA Limited
Boku Inc
Booking Holdings Financial Services International Limited
BVNK
CashFlows
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Citadel Commerce UK Ltd
Contis
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Crypto.com
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eBay Sarl
ECOMMPAY Limited
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EPG Financial Services Limited
eToro Money
Etsy Ireland UC
Euronet Worldwide Inc
Facebook Payments International Ltd
Financial House Limited
First Rate Exchange Services
Flex-e-card
Flywire
Gemini
Globepay Limited
GoCardless Ltd
Google Payment Ltd
IDT Financial Services Limited
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Ixaris Systems Ltd
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Lightspark
Modulr Finance B.V.
MONAVATE
MONETLEY LTD
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Moorwand
MuchBetter
myPOS Payments Ltd
Nuvei Financial Services Ltd
OFX
OKG Payment Services Ltd
OKTO
One Money Mail Ltd
OpenPayd
Own.Solutions
Park Card Services Limited
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Payoneer Europe Limited
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PPRO Financial Ltd
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Ramp Swaps Ltd
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Ripple
Securiclick Limited
Segpay
Soldo Financial Services Ireland DAC
Square
Stripe
SumUp Limited
Swile Payment
Syspay Ltd
Transact Payments Limited
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TrueLayer Limited
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