



Electronic Money Association

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APP Scams
Payment Systems Regulator
12 Endeavour Square
London
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28 May 2024

Dear Sir/Madam

Re: EMA response to PSR CP 24/3 The FPS APP scams reimbursement requirement: compliance and monitoring

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, providing online payments, card-based products, electronic vouchers, and mobile payment instruments. Most members operate in the UK and the EU, as well as globally. A list of current EMA members is provided at the end of this document.

I would be grateful for your consideration of our comments and proposals.

Yours sincerely,

A handwritten signature in black ink that reads 'Thaer Sabri'. The signature is written in a cursive style and is underlined with a long horizontal stroke.

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

EMA response

General remarks:

We acknowledge the need for the PSR to monitor compliance with their Directions, and ensure that those PSPs subject to the requirements are engaging with, and seeking to meet, their obligations.

However, in the absence of the availability from Day One of a case management platform that will be able to automatically gather and report the compliance data sought by the PSR, we consider that a number of the requirements for manual reporting to be overly burdensome. They will for the most part apply to smaller PSPs that are not currently using UK Finance's BPS system, and PSPs that also see very low – if any – volumes of APP scam. The burden associated with manual reporting of compliance data is exacerbated by the other significant changes to internal policies and processes that firms will already have to implement, many of which are yet to be clarified.

Please find below three areas of particular concern for EMA Members:

- A Receiving PSP Firm is expected to 'Pay then Dispute' a Reimbursement Contribution Claim:
 - This has a clear adverse financial impact on smaller PSPs;
 - Potentially there will be a high number of disputes – a CRM participant assessed 35% of claims they received were civil disputes or buyer/seller disputes;
 - The Process for disputing a Reimbursement Contribution Claim and recovering an invalid Reimbursement Contribution Claim is not yet defined;
 - This will be a manual process for most PSPs and thus a significant operational burden and reconciliation challenge.
- APP Scam Reimbursement Scheme Reporting:
 - Mandatory monthly Nil Reporting for all firms is hugely disproportionate: sending PSPs' data will already highlight any Receiving PSPs that are not complying/participating or reporting without the need for 900+ PSPs to report on a monthly basis; and we understand that the top 40 firms account for c. 90% of the volume of APP scams;
 - The requirement for Full Standard B data capture without the RCMS being available: Manually recording this data is hugely disproportionate.
- The vast majority of PSPs will be reliant on manual processes at launch on 7 October. As these manual processes are not yet defined, the impact on resources and the training requirements for staff are currently unknown.

EMA response to questions

Question 1: Do you agree with or otherwise have views on this proportionality assessment and our cost benefit analysis at Annex 5? Do you have any further evidence to provide that is relevant to this analysis?

The current lack of clarity and detail on the Scheme Rules, RCMS and manual process mean it is very difficult to assess the financial and operational requirements and impact.

The proposed June date for publication of the rules will not allow sufficient time for PSPs to build, test and implement systems and/or manual processes and deliver staff training in time for October 2024.

As smaller firms will not have access to RCMS or the UK Finance BPS system for claims handling, the manual processing and accompanying costs will fall disproportionately on smaller PSPs.

Question 2: Please provide your views on whether the proposed approach to implementing reporting standards A and B balances effective management of compliance with the reporting burden on PSPs. If you do not support the proposed approach, please explain why.

We do not support the current approach.

The requirement to capture the full Standard B data, of which only a sub-set needs to be reported from Day One (Standard A), is hugely disproportionate. The RCMS system will not have the requisite functionality to collect the Standard B data from Day One. Instead, identifying, collecting and storing this data on a monthly basis will thus require an enormous amount of manual effort.

The primary goal of the RCMS appears to be the collection of APP Scam Reimbursement Claim data – thus its availability and its widespread implementation across the sector should dictate the data collection timescales.

Question 3: Do you have any comments on the draft CDRS? Please provide your views and reasoning.

Monthly Nil reporting appears disproportionate when many PSPs are unlikely to be subject to APP Scams due to their business models. Estimates are that the top 40 PSPs account for around 90% of the volume – indicating 850+ might be making nil returns on a regular basis. This will be the first time that firms are under such a frequent reporting requirement, as generally most payments data is reported on a six-monthly or annual basis. Firms will need

to assign and train staff to prepare and submit the reports, which will in large part include no data.

As there are two PSPs involved in an APP Scam Reimbursement Claim, non-reporting firms will be easily identified, and even more so once the RCMS is collating industry data.

Some PSP's business models are highly unlikely to be subject to APP Scam fraud - as the FPS is not core to their product proposition and/or those that offer business-to-business services. These firms will unnecessarily be making nil returns and need to subscribe to RCMS in order to automate their nil returns. It is unclear why this reporting is necessary or even beneficial for PSPs or the PSR.

Question 4: Please provide your views on the proposed date of 1 May 2025 for reporting standard B to come into effect.

We believe reporting standard B should only come into effect when the RCMS is fully functional, confirmed as fit for purpose, and available for integration. PSPs have existing customer handing systems with which the RCMS must be integrated.

Many PSPs have small compliance teams, so the burden of manually collecting the data points under Standard B on a monthly basis will be hugely disproportionate, and remove resources from the ongoing day to day risk management of the business.

Question 5: Please provide your views on how Pay.UK and the PSR could identify and manage complex cases, including any input on criteria we could use to identify such cases and how we could manage them.

We support UK Finance's proposal on behalf of the industry that these cases be 'ring-fenced'.

Question 6: Please provide any views on the proposed approach for amending the Faster Payments compliance data reporting guidance.

The PSR or Pay.UK should consult on any changes to compliance data reporting guidance, inviting industry input to the reporting. This will ensure the impact of any change is assessed and a sensible timeframe for implementation derived.

Question 7: Do you agree with the proposed contingency arrangements? If not, why not and what alternative would you suggest?

Where the RCMS is unexpectedly unavailable for an extended period of a day or more, firms will be unable to stand-in with manual processing. As set out earlier in our response, the identification, gathering, validating and reporting of this data is no small task when required on a manual basis, and most firms will have limited resource to dedicate to such a task.

Monitoring and reporting requirements should be suspended in this circumstance.

Question 8: Please provide your views on the requirements for PSPs to register as an RCMS user. If you disagree, please provide your views on any alternative options for delivering this.

There should be a period of three-month grace for new indirect entrants to FPS.

Question 9: Should registration be completed by the proposed date of 20 August 2024? If not, what date do you consider feasible and why?

No comment.

Question 10: Please provide your views on our proposal to require all PSPs in scope of the policy to use Pay.UK's RCMS to achieve the stated goals. If you do not support the proposal, what do you consider are the alternative options to deliver effective communication, claim management and data reporting for all PSPs?

We contend that this mandate should be contingent upon the RCMS being fully functional, confirmed as fit for purpose, and available for integration. PSPs have existing customer handling systems with which RCMS must be integrated.

The RCMS appears to have a single purpose – that of compliance monitoring. Perhaps it could be better employed to meet PSPs' wider APP Scam needs to counter fraud, victim handling, etc. than simply monitoring compliance with PSR Directions.

Question 11: Do you consider that the proposed date for requiring compliance with the RCMS rule is achievable? If not, what do you propose as an alternative date and why?

This is dependent upon Pay.UK's delivery of RCMS and its functionality – it is too early to make a judgement due to lack of information. The timeframe should thus be determined by system availability and functionality.

Question 12: Do you agree that PSPs should retain Faster Payments APP scams compliance data and information as proposed in SD20 and the CDRS?

No, we disagree strongly.

An obligation on PSPs to collate and retain all data under reporting standard A and B, where there is no duty to submit enhanced data points to the RCMS, would place a significant burden on PSPs at a time when all resources and efforts are focused on delivery of the core reimbursement requirement policy.

Question 13: Do you agree that this data and information must be retained for a period of five years? If not, what do you consider reasonable?

The five-year period is consistent with other legislative retention periods, however whether this necessary, justifiable and consistent with GDPR is questionable. When RCMS is in place and capturing data as a centralised industry, there will be an element of duplication of this data with that held by PSPs. This suggests that there needs to be some rationalisation of data requirements and retention periods to reduce excessive data storage.

We recommend an assessment against GDPR requirements is conducted in relation to the storage of such data, and in several different places (RCMS and PSP systems).

Question 14: Do you have any comments on the obligations we propose to place on Pay.UK?

We suggest that there should be a clear Governance framework around Industry engagement and a Change Management Framework.

Question 15: We are seeking your views on the proposed options, including the relative costs, benefits and timescales.

PSPs are required to provide 2 months' notice for any changes to their customers' T&Cs, thus such changes need to be clarified at least two months in advance of 7 October. Firms may not place any obligations to put further obligations above the Consumer Standard of Caution.

Implementing these changes requires a large amount of resource and cost; we suggest this would be better assigned towards fraud awareness comms and other measures more likely to reduce the incidence of APP scams.

Question 16: Do you have any comments on the proposed amendments set out in this section?

We support the proposed amendments.

Question 17: Do you have any comments on the proposed amendments set out in this section?

6.18 Mentions that a customer must always be given a reason for the rejection of an APP Scam Claim. There needs to be exemption from this requirement where the reason for the rejection is First Party Fraud.

Question 18: Please provide your views on the proposed limits on the use and disclosure of Faster Payments APP scams compliance data and information by Pay.UK. If you disagree, please provide your rationale.

We are supportive of this proposal.

However, perhaps this large investment in data gathering could usefully be extended to other closely related purposes – such as fraud prevention?

Question 19: Please provide your views on the principles we have suggested above. In particular, do you agree with the proposal that, where possible, the PSR should, seek to issue any necessary amendments to its legal instruments during the months of April and October in any given year? If not, please provide an alternative approach and the rationale for this.

We welcome the proposed approach for an annual cycle, with any amendments to the legal instruments being issued in the months of April and October. Where there is a requirement for system changes, operational processes, or changes to T&C's the delivery of such changes will be a significant and require adequate notice and timeframe for implementation.

We recommend a consultation process take place to allow for planning and scheduling to ensure any necessary amendments to the legal instruments to support the proposed change can be implemented.

Members of the EMA, as of January 2024

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Airwallex (UK) Limited
Allegro Group
Amazon
American Express
ArcaPay UAB
Banked
Bitstamp
BlaBla Connect UK Ltd
Blackhawk Network EMEA Limited
Boku Inc
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