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APP Scams
Payment Systems Regulator
12 Endeavour Square
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28 May 2024

Dear Sir/Madam

Re: EMA response to PSR P24/8: CHAPS APP scam reimbursement requirement

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,

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

EMA response

General remarks:

Our main concern is that there has not been sufficient time, especially in light of other PSR concurrent initiatives, to give this this proposal adequate consideration and assessment. A further prime concern is that of scope and potential for PSPs to unintentionally fall within the scope definition. Many PSPs will utilise CHAPS for their corporate purposes but not offer it as part of a consumer product proposition – these PSPs should be specifically excluded.

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 but likely to be high.

The smaller incidence of APP Scam fraud perpetrated by criminals via CHAPS suggests that this additional burden is unwarranted in view of the existing high level of voluntary reimbursement.

EMA response to questions

Question 1: Do you agree that we should follow a similar approach for CHAPS as we did for Faster Payments in issuing this specific direction?

In principle we support close alignment between similar Schemes that will reduce the complexity for implementation and staff training. However, our many reservations that we have raised with respect to the FPS APP Scam Reimbursement Scheme also apply.

Question 2: Do you agree with the proposed function and scope of our specific direction?

A2.1 **Scope** is a prime concern and the potential for PSPs to unintentionally fall within the scope definition. Many PSPs will utilise CHAPS for their corporate purposes but not offer it as part of a consumer product proposition – these PSPs should be specifically excluded.

A2.2 **Excess and Threshold:** The £100 excess is far too low, and the £415,000 maximum is far too high. Setting the threshold at this level will serve to protect only the most wealthy in society at a cost to the majority – either through a reduction in competition as PSPs exit the market or through increased fees.

It has been suggested that firms should set lower transaction limits below the £415k threshold – this obviously isn't a particularly viable risk management strategy for CHAPS.

A2.3 **New market entrants:** There should be a period of three-month grace for new indirect entrants to CHAPS.

Question 3: Do you agree that we should align the reporting standards between Faster Payments and CHAPS?

Monthly nil reporting appears disproportionate when many PSPs are unlikely to be subject to APP Scams due to their product propositions not offering CHAPS.

Many PSP's business models are highly unlikely to be subject to APP Scam fraud - as CHAPS is not core to their product offering. We thus foresee that these firms will unnecessarily be making nil returns and subsequently need to subscribe to RCMS in order to automate their nil returns. It is unclear why this nil reporting is necessary or even beneficial for PSPs or the PSR.

Question 4: If you believe that we should have different data standards, please provide details of the differences.

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: **We are seeking your views on the proposed options, including the relative costs, benefits and timescales. Please indicate if these are the same as your response to question 15 in CP24/3, in which case there is no need to repeat your response here.**

To confirm that our response to this question is the same as that provided to question 15 in CP24/3.

Question 6: Do you agree that we should align the start date of the proposed specific direction with the effective date of the CHAPS reimbursement rules?

We are concerned by the short timeframe from this consultation to the proposed implementation date. With so many issues (topics) as yet undecided, the ability of PSPs to meet the 7 October implementation date for either and, or both payment schemes is extremely challenging and uncertain.

This position is threatened further by several significant proposed requirements only now, in the implementation phase of delivery, being introduced by the PSR. This included the new proposals regarding obligations on PSPs to inform consumers of their right to reimbursement and the need to record and retain all data relating to a consumer APP claim. Both obligations, if introduced will bring huge cost and resource implications for the industry and further risk an already unstable delivery plan.

In addition, PSPs are heavily reliant on Pay.UK's capacity to deliver the RCMS. While it is becoming increasingly evident most PSPs will not be using the RCMS claims management functionality for day one, there remains a critical dependency on Pay.UK to complete the registration of all in scope PSPs to the RCMS prior to the 7 October.

Question 7: Do you agree that we should align the information management and record keeping, including the retention period, for CHAPS to what we are proposing in Faster Payments?

Whilst alignment between Schemes should be the default position, we have several significant concerns with the FPS record keeping requirements.

The five-year period is consistent with other legislative retention periods, however whether this is 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). We await publication of the RCMS DPIA.

Question 8: If you believe that we should have a different approach to information management and record keeping and the retention period, please provide details of the differences.

Whilst alignment between Schemes should be the default position, we have several significant concerns with the FPS record keeping requirements raised in our response to cp24-3. We will not repeat them in full here, but note at a high-level our concerns regarding the disproportionate approach for the recording and storage of data relating to all APP claims, including all elements of reporting standard B.

Question 9: Do you have any comments on the draft Equality Impact Assessment?

No comment.

Question 10: Do you have any comments on the draft Cost Benefit Analysis?

The Cost Benefit Analysis excludes the significant cost of reimbursement that will be borne by firms on the basis that it will entail a corresponding benefit to the victims. However, smaller PSPs are unlikely to be able to absorb this additional cost. They are thus likely to have to increase their fees to reflect this new expense such that it will be borne by payment consumers. This additional cost will disproportionately affect their competitive market positioning leading to a reduction in market competition. Either way, it is a serious omission not to consider this impact.

The Cost Benefit Analysis rests on some cost assumptions that are very likely to be far higher than anticipated. As the CHAPs Scheme will be a manual it will be operationally expensive to administer.

The Reimbursement obligation is anticipated to incentive PSPs to increase investment in fraud prevention. However, this is estimated to be *medium to low* due to existing investment in fraud prevention and training. Whilst we do not know the costs of RCMS; the costs of displacing BPS; and individual firms' integration costs- these are likely to be high and exceed several years of the targeted £2m – £8m annual fraud savings.

The Cost Benefit Analysis assumes that there will be a higher level of funds recovered from fraudsters' accounts to off-set the greater costs incurred. We note that there is no target set that the PSR would equate to success for the incentive provided by this measure. It appears implicit to this assumption that a large amount of the fraudulently acquired funds are left in the Receiving PSPs' accounts. The low 2022 recovery rate of 6% would suggest otherwise and this recovery rate would have to rise very significantly to go anywhere near offsetting the costs.

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.

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