



**Electronic Money Association**

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**APP Scams**

Payment Systems Regulator  
12 Endeavour Square  
London  
E20 1JN

18 September 2024

Dear Sir/Madam

**Re: EMA response to PSR cp24-11 consultation on APP Scams: Changing the maximum level of reimbursement**

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 support and comments.

Yours sincerely,

A handwritten signature in black ink that reads 'Thaer Sabri'. The signature is written in a cursive style with a long, sweeping underline.

Dr Thaer Sabri  
Chief Executive Officer  
Electronic Money Association

We welcome the PSR's decision to reduce the Maximum Reimbursement Threshold to £85,000. We recognise that the PSR has heeded industry's concerns about the impact of the reimbursement policy on smaller PSPs and competitive market dynamics.

The PSR's industry data indicates that APP Scam Sending PSP Firms in general tend to entities of significant size and turnover compared to Receiving PSPs, who are often smaller PSPs. We thus support this change as it will result in a fairer reweighting of incentives between Sending and Receiving Firms that is proportionate to their size. Nevertheless, we maintain our preferred recommended Maximum Reimbursement extent of liability of £30,000.

With less than a month to the implementation deadline, EMA Members are extremely concerned about the late provision of guidance, such as sight of the RCMS functionality, documentation and Best Practice Guide, that are necessary to develop processes and train staff. We would again urge the PSR to give serious consideration to delaying the Scheme launch.

Nevertheless, whilst we believe that this change strikes a better balance, the overall policy of requiring PSPs to become the risk underwriters for consumer payments has unforeseeable consequences for the hitherto vibrant UK fintech payment sector.

## **EMA Response to Questions**

### **Question 1: What are your views on the proposal to change the maximum level of reimbursement from the outset of the policy, to set it to the FSCS limit, which is currently £85,000?**

We welcome this change. APP Scam fraud is causing significant harm to victims and must be addressed. The reduced maximum threshold of £85,000 is a more than sufficient transfer of liability to incentivise PSPs to tackle this crisis effectively.

The original limit of £415,000 was based on the upper limit of what the Financial Ombudsman can award to a complainant. However the Financial Ombudsman ("FOS") serves a different purpose to that of the PSR's reimbursement rules and is not bound to decide complaints in accordance with PSR directions. The purpose of the FOS is to provide redress to customers when firms have done something really wrong or egregious, such as serious regulatory non-compliance that results in loss to the customer. The PSR reimbursement rules, on the other hand, make payment service providers the insurers of last resort for APP scams (i.e. liable in cases where they have not done anything non-compliant or otherwise wrong, just like an insurance company pays out a policy). Where the customer is receiving reimbursement for an APP scam due to no fault on the part of the firm, the extent of liability should be much lower. In the (extremely rare) cases where a customer suffers loss higher than £30,000, they can have recourse to the FOS, which has the right to award in the customers' favour up to the £415,000.

In fact we consider that a Maximum Reimbursement Threshold of £30,000 would also represent a more than sufficient incentive on PSPs to take further steps to address APP fraud. 95% of APP scam claims are lower than £10,000<sup>1</sup>, thus the vast majority of claims would still be reimbursed if liability was limited to £30,000. This is the same as the liability cap for credit card fraud set down by Section 75 of the Consumer Credit Act 1974. It makes sense that the extent of reimbursement liability is consistent across all types of payment fraud.

**Question 2: What are your views on the impacts (including costs, benefits, and risks) of operationalising an initial maximum limit of £85,000 from 7 October 2024? For example, we'd welcome views on:**

**a. the prudential impact on PSPs**

The reduction of the maximum reimbursement threshold to £85,000 alleviates to some degree the prudential risk to which smaller PSPs have greater exposure.

This is particularly important for early stage, externally funded, innovative firms that tend to have mono-line product offerings. The UK benefits from a highly competitive and tech-enabled FinTech market, and this change will be advantageous to smaller players. Larger PSPs, who are responsible for a significant proportion of APP Scam fraud will be further incentivised by this change. These firms are typically substantially more financially robust with a greater number of alternative products and services.

One high value claim could send a small payment service provider into insolvency. A large UK retail bank could withstand a loss of £415,000; however, a smaller payment service provider likely could not. A high-value reimbursement claim is likely to put a smaller payment service provider into insolvency.

UK retail banks are required to hold large amounts of capital, which can exceed millions of pounds<sup>2</sup>; whereas smaller payment service providers (such as electronic money institutions and payment institutions) are required, by law, to hold only between £125,000 and €350,000 initial capital. This demonstrates the different nature and risks associated with a large UK retail bank's business compared with that of a small payment service provider: a reimbursement liability of greater than a small payment service provider's capital requirement could send that business into insolvency; whereas a UK bank worth millions of pounds could easily withstand such a liability.

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<sup>1</sup> UK Finance Annual Fraud report (2022 data)

<sup>2</sup> Pursuant to the UK Capital Requirements Regulation (575/2013)

This is further exacerbated in the payments industry. PSPs who are members of the EMA are principally specialist payment providers who are proscribed from lending the funds of users, and therefore are restricted in the income that they generate to transaction related income streams. The impact of any increase in cost is felt much more by these PSPs (i.e. non-bank PSPs), as they do not benefit from the cross-subsidisation afforded by banks.

As an example, if the total revenue generated by a PSP was in the region of 1% of the value of a transaction (which is generally at the high end), from which its cost of doing business must be extracted, it would have to process at least 100 equivalent size transaction to recover the loss on a single claim of fraud. Once the costs of doing business are taken into account, this is likely to increase to perhaps 1000 transactions.

The reduction in the maximum threshold thus represents a welcome re-weighting of incentives for firms that have a greater choice of competing investment priorities. Nevertheless, as above we maintain our preferred recommended Maximum Reimbursement Threshold of £30,000.

**b. any implications arising from any planned or already completed consumer communications activities, that would result from a change in the maximum level of reimbursement**

EMA Members typically use digital communication channels, allowing them to be highly responsive to changes such as this.

**c. the impact that you consider our proposed approach would have on firms' incentives to put in place effective fraud prevention measures.**

The higher threshold of £415,000 represented a significant financial threat to smaller firms' viability. Funding Reimbursement Contribution Claims will reduce the financial resources of smaller PSPs. The discretionary funding of enhanced fraud prevention solutions must compete with the non-discretionary costs of regulatory compliance with the APP scam reimbursement. The lower threshold will reduce this impact and allow for smaller PSPs' funding of new fraud solutions to counter the fraud threat.

**Question 3: Do you agree with or otherwise have views on our proportionality assessment and our cost benefit analysis? Do you have any further evidence to provide that is relevant to this analysis?**

The Cost Benefit Analysis excludes the significant cost of reimbursement that will be borne by PSPs 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 service users. Nevertheless, the lower £85,000 extent of liability is a positive step, as it will reduce these adverse impacts.

The additional costs will disproportionately impact smaller PSPs and affect their competitive market positioning, leading to a reduction in market competition. The reduction in the extent of liability would re-weighting of incentives will go some way to mitigating this negative impact on competition.

The Cost Benefit Analysis rests on some cost assumptions that are likely to be far higher than anticipated. Smaller PSPs will receive an overwhelming proportion of reimbursement contribution claims by email. Smaller PSPs will have to manually handle claims and manually collate data, which will be operationally expensive to administer.

The realignment of incentives helps to mitigate this concern, but the cost-benefit analysis underestimates the operational expense that smaller PSPs will face, particularly given the manual nature of claims management for firms using the RCMS.

**Question 4: Please provide your views on the Bank's proposed approach to change the maximum level of reimbursement for CHAPS to align with our proposal for Faster Payments (which is to set it to the FSCS limit, currently £85,000).<sup>16</sup>**

We support aligning the CHAPS maximum reimbursement threshold with that of Faster Payments.

This provides consistency across payment schemes, ensuring that both systems operate under the same regulatory framework and limits.

**Members of the EMA, as of September 2024**

Airbnb Inc

Airwallex (UK) Limited

Amazon

Ambr

American Express

ArcaPay UAB

Banked

Bitstamp

BlaBla Connect UK Ltd

Blackhawk Network EMEA Limited

Boku Inc

Booking Holdings Financial Services International Limited

BVNK

CashFlows

Circle

Coinbase

Contis

Crypto.com

Currenxie Technologies Limited

Decta Limited

eBay Sarl

ECOMMPAY Limited

Em@ney Plc

emerchantpay Group Ltd

EPG Financial Services Limited

eToro Money

Etsy Ireland UC

Euronet Worldwide Inc

Facebook Payments International Ltd

Financial House Limited

First Rate Exchange Services

Flywire

Gemini

Globepay Limited

GoCardless Ltd

Google Payment Ltd

IDT Financial Services Limited

iFAST Global Bank Limited

Imagor SA

Ixaris Systems Ltd

J. P. Morgan Mobility Payments Solutions S. A.

Lightspark Group, Inc.

Modulr Finance B.V.

MONAVATE

MONETLEY LTD

Moneyhub Financial Technology Ltd

Moorwand Ltd

MuchBetter

myPOS Payments Ltd

Navro Group Limited

Nuvei Financial Services Ltd

OFX

OKG Payment Services Ltd

OKTO

One Money Mail Ltd

OpenPayd

Own.Solutions

Papaya Global Ltd.

Park Card Services Limited

Payhawk Financial Services Limited

Paymentsense Limited

Paynt

Payoneer Europe Limited

PayPal

Paysafe Group

Paysend EU DAC

PayU

Plaid

Pleo Financial Services A/S

PPRO Financial Ltd

PPS

Push Labs Limited

Remitly

Revolut



Ripple

Securiclick Limited

Segpay

Soldo Financial Services Ireland DAC

Square

Stripe

SumUp Limited

Syspay Ltd

TransactPay

TransferGo Ltd

TransferMate Global Payments

TrueLayer Limited

Uber BV

VallettaPay

Vitesse PSP Ltd

Viva Payments SA

Weavr Limited

WEX Europe UK Limited

Wise

WorldFirst

Worldpay