

Consultation paper

A new reimbursement requirement

Faster Payments APP scam
reimbursement rules and
operator monitoring

July 2023

We welcome your views on this consultation. If you would like to provide comments, please send these to us by **5pm on 25 August 2023**.

You can email your comments to **appscams@psr.org.uk** or write to us at:

APP scams
Payment Systems Regulator
12 Endeavour Square
London E20 1JN

We will consider your comments when preparing our response to this consultation.

We will make all non-confidential responses to this consultation available for public inspection.

We will not regard a standard confidentiality statement in an email message as a request for non-disclosure. If you want to claim commercial confidentiality over specific items in your response, you must identify those specific items which you claim to be commercially confidential. We may nonetheless have to disclose all responses that include information marked as confidential in order to meet legal obligations, in particular if we are asked to disclose a confidential response under the Freedom of Information Act 2000. We will try to consult you if we receive such a request. The Information Commissioner and the Information Rights Tribunal may review any decision we make not to disclose a response.

You can download this consultation paper from our website:

www.psr.org.uk/cp23-4-app-scam-reimbursement-rules

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1 Executive summary

We propose using three legal instruments to give effect to our APP scam reimbursement policy, outlined in our recent policy statement PS23/3.¹

In this consultation we are seeking views on the overall package of legal instruments. We also invite views on the specific detail of two of the three legal instruments, namely a specific requirement under section 55 of the Financial Services (Banking Reform) Act 2013 (FSBRA) and a specific direction to Pay.UK under section 54.

There will be a further consultation on the general direction on PSPs in October 2023.

- 1.1** In this consultation we invite views on the legal instruments with which we will implement our reimbursement requirement policy. We cover this policy in depth in our policy statement from June 2023. When we refer to ‘the policy’ in this document, we are referring to the reimbursement requirement policy in our policy statement PS23/3.² Where we have changed our position since the policy statement, we have made this clear and explained why we have done so. We are asking for responses to this consultation by 5pm on 25 August 2023.
- 1.2** We will use three legal implements to implement the policy, drafts of which we have published as part of this consultation. **In this consultation we are focused on the detail of the specific requirement and the specific direction on Pay.UK, but we also welcome comments on the overall package of the three legal instruments.**
- 1.3** We are publishing our general direction to payment service providers (PSPs) for visibility, but we intend to consult on it separately in October. This will allow Pay.UK to draft the reimbursement rules beforehand, so that the consultation will be better informed on PSPs’ obligations under the section 54 general direction.
- 1.4** We intend to finalise and publish all three legal instruments in December 2023. This is a change from the timeline we published in the June policy statement, in which we said we would publish final versions of the specific requirement and specific direction on Pay.UK in early Q3, followed by the final version of the general direction in December. This change reduces the risk of any changes to the general direction following our October consultation giving rise to incompatibilities with the specific requirement and specific direction.
- 1.5** We want the new requirements to be in place for consumers as soon as possible. We propose an implementation date of 2 April 2024. We recognise this is likely to be a challenging target for firms, and welcome views on what is required for operational

1 PSR PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023): www.psr.org.uk/publications/policy-statements/ps23-3-fighting-authorised-push-payment-fraud-a-new-reimbursement-requirement/

2 PSR PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023): www.psr.org.uk/publications/policy-statements/ps23-3-fighting-authorised-push-payment-fraud-a-new-reimbursement-requirement/

readiness. However, we would not expect implementation to be any later than Q2 2024. We intend to confirm the implementation date for the new requirements in the autumn, alongside the consultation on the general direction.

- 1.6** The Bank of England has also announced its intention that similar reimbursement requirements should apply to the Clearing House Automated Payment System (CHAPS) payment system. We intend to give a similar direction to direct and indirect CHAPS participants to support this application to CHAPS. We intend to consult on that direction alongside this one in October 2023.
- 1.7** As this consultation is for the instruments relating to the reimbursement policy, our cost benefit analysis and equality impact assessment published alongside the policy statement both apply. The cost benefit analysis is found in the supplementary file of the PS23/3 publication³, and the equality impact assessment is in Annex 1 of the main file.⁴
- 1.8** The deadline for responses to this consultation by 5pm on 25 August 2023.

3 PSR PS23/3, *Cost benefit analysis* (June 2023): www.psr.org.uk/media/ycpd2ogg/ps23-3-annex-4-cost-benefit-analysis-june-2023.pdf

4 PSR, PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023), page 63, paragraph 1.1: www.psr.org.uk/publications/policy-statements/ps23-3-fighting-authorised-push-payment-fraud-a-new-reimbursement-requirement/

2 Introduction

This consultation concerns the legal instruments with which we will implement our reimbursement requirement policy. We cover the policy in depth in our policy statement PS23/3 from June 2023.⁵

We will use three legal instruments to implement the policy, drafts of which we have published as part of this consultation. **In this consultation we are focusing on the section 55 specific requirement and the section 54 specific direction on Pay.UK.**

We have published our section 54 general direction on PSPs for visibility and will consult on it separately in October 2023. This will leave time for Pay.UK beforehand, to allow for a better-informed consultation.

- 2.1** We are introducing a new reimbursement requirement for APP scams within Faster Payments. APP scams happen when a fraudster tricks someone into sending a payment to an account outside of their control.
- 2.2** We are consulting on the package of legal instruments which will give effect to the new reimbursement requirement outlined in our policy statement (PS23/3).⁶
- 2.3** Pay.UK is the independent operator of Faster Payments. We want Pay.UK to run Faster Payments in a way that protects customers and prevents fraud from entering the system. We stated in our five-year Strategy, from 2022, that we want Pay.UK to take the lead in developing protections for payment system users. We believe the system operator is best placed to make, maintain, refine, monitor and and enforce compliance with scheme rules that address fraud risks within the system. We have expanded on the rationale for this stance further in chapter 6 of PS23/3.⁷
- 2.4** We will direct Pay.UK to put the new reimbursement requirement into Faster Payments rules, using our powers under section 55 of FSBRA. We will support this with a general direction under section 54 on all Faster Payments participants. This general direction will oblige these firms to comply with the rules Pay.UK creates following our section 55 specific requirement. Finally, we will direct Pay.UK to create an effective compliance-monitoring regime to ensure that PSPs are following our reimbursement requirement. To achieve this, we will issue a specific direction to Pay.UK. Table 1 provides an overview of the legal instruments and their intended uses, as well as the supplementary materials we will issue.

5 PSR PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023): www.psr.org.uk/publications/consultations/cp22-4-app-scams-requiring-reimbursement/

6 PSR PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023): www.psr.org.uk/publications/consultations/cp22-4-app-scams-requiring-reimbursement/

7 PSR PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023), page 49, paragraph 6.1-6.37: www.psr.org.uk/publications/consultations/cp22-4-app-scams-requiring-reimbursement/

- 2.5** In this consultation we are seeking views on both the overall package of legal instruments, and the specific detail of two of the three legal instruments: the specific requirement and our specific direction to Pay.UK.
- 2.6** The general direction to PSPs, which we cover in Chapter 5 of this consultation paper, requires compliance with Faster Payments scheme rules that Pay.UK will create following our rule change requirement. At the time of this consultation, Pay.UK has not yet drafted these rules. As a result, PSPs cannot see the rules we are directing them to follow. We are therefore publishing the general direction, for visibility, which we intend to consult on in October 2023 once Pay.UK has drafted the reimbursement requirement policy rules. We welcome comments on the general direction, alongside responses to the questions in this consultation.
- 2.7** We expect that our approach to implementation will evolve over time as Pay.UK introduces changes aimed at reaching participants and enforcing requirements.
- 2.8** The contents of this consultation should be read alongside the policy statement PS23/3, which includes further context, the reasoning behind the policy, and assessments of its impact.⁸ We will reference these where necessary.

Table 1: Implementation approach

Instrument(s)	What key policies and/or tasks will be covered by the instrument?
Specific requirement for Pay.UK to amend Faster Payments rules (s55 FSBRA)	<p>All policies will be included in the Faster Payments rules, and we will provide additional guidance and detail for some policies (see <i>PSR guidance</i> and <i>PSR publication</i>). Specifically, the Faster Payments rules will include:</p> <ul style="list-style-type: none"> • the reimbursement requirement and its scope • sharing the cost of reimbursement • a time limit to reimburse victims • the ability to charge a claim excess • the ability to impose a maximum level of reimbursement • a time limit for victims to claim
General direction to all Faster Payments participants (s54 FSBRA)	<p>We will set out the reimbursement requirement and who it applies to, and direct all PSPs within the scope of the policy (including indirect participants) to comply with the relevant Faster Payments rules and report data to Pay.UK.</p>
Specific direction to Pay.UK (s54 FSBRA)	<p>We will direct Pay.UK to monitor PSPs in line with the rule change requirement and general direction. Pay.UK will provide compliance data to us – this will inform any enforcement we may take and allow us to assess the effectiveness of the policy.</p>

⁸ PSR, *PS23/3, Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023): www.psr.org.uk/publications/consultations/cp22-4-app-scams-requiring-reimbursement/

PSR guidance We will provide guidance on the consumer standard of caution (gross negligence).

PSR publication Our publications will cover:

(e.g. online notice)

- maximum level of claim excess
- maximum level of reimbursement
- consumer standard of caution

2.9 We intend to finalise and publish all three legal instruments as a package in December 2023. This is a change from the timeline we published in the June policy statement, in which we said we would publish final versions of the specific requirement and specific direction on Pay.UK in early Q3 2023, followed by the final version of the general direction in December. This reduces the risk of any changes to the general direction following our October consultation giving rise to incompatibilities with the specific requirement and specific direction.

2.10 We want to give firms as much time as possible to prepare for the new requirements, so we intend to confirm the implementation date for the new requirements in October, alongside the consultation on the general direction.

2.11 We propose an implementation, or 'go live', date of 2 April 2024 for the reimbursement requirements. We recognise this is likely to be a challenging target for many firms, and welcome views on what is required for operational readiness. However, we would not expect implementation to be any later than Q2 2024.

Responses

2.12 We are asking for feedback on the legal instruments set out in this consultation by 25 August 2023. We welcome feedback from all stakeholders and interested parties, not only entities that we regulate.

2.13 You can provide feedback by emailing us at appscams@psr.org.uk. We would be grateful if you could provide your responses in a Microsoft Word document (rather than, or as well as, a PDF).

2.14 We will make all non-confidential responses available for public inspection. If your submission includes confidential information, please also provide a non-confidential version suitable for publication. Please note: if you deem your submission to include confidential information, please explain why you consider it confidential. Please also note that we do not accept blanket claims of confidentiality.

3 Faster Payments rule change requirement (section 55 specific requirement)

In our policy statement (PS23/3) we set out the details of a new reimbursement requirement for APP fraud within the Faster Payments system. We said that the payment system operator (PSO) scheme rules would be the appropriate place for the policy.

We will direct Pay.UK to put the new reimbursement requirement into Faster Payments rules using our powers under section 55 of the Financial Services (Banking Reform) Act 2013 (FSBRA).

- 3.1** For additional context on the policy, please refer to our policy statement PS23/3. Chapter 6, *Putting reimbursement in place*, explains how we are implementing the requirements and the rationale for this approach. Chapter 7, *Achieving successful implementation*, outlines the outcomes we expect of the legal instruments.⁹
- 3.2** Below are relevant extracts from the policy statement covering the specific requirement.

The course of action

- 3.3** We want to establish an agile set of rules for APP scams that can evolve over time to address the ever-changing threat of scams. All PSPs using Faster Payments will be required to comply with these rules. Pay.UK, as the PSO, will manage and maintain these rules.
- 3.4** We have decided to embed the reimbursement policy into the Faster Payments rules via a rule change requirement. This is because we believe that scheme rules can be managed and refined more efficiently and quickly than regulatory instruments. As with other PSOs and system operators in other sectors, who manage their system rules and the consequences for breaking them, our view is that the PSO's rulebook is the most practical tool for addressing the harms from fraud across the payment system.
- 3.5** We will require Pay.UK to include the main requirements in the Faster Payment rules. It will be their role to maintain and evolve these rules over time – for example, as data and technology improve.

⁹ PSR, PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023), pages 49-60: www.psr.org.uk/publications/consultations/cp22-4-app-scams-requiring-reimbursement/

How it will be achieved

- 3.6** We will embed the reimbursement policies into the Faster Payments rules via a specific requirement using our powers under section 55 of FSBRA. We will provide additional guidance and detail for some policies which will remain with the PSR initially.
- 3.7** The specific requirement will specify a date by which the rules must be in place. We propose this date to be 2 April 2024.
- 3.8** This date recognises that Pay.UK will need some time to prepare and implement rule changes, and that Faster Payments participants will need sufficient time to prepare for compliance with the new Faster Payments rules. However, we want people to benefit from the increased protections as soon as possible, and firms should consider what they can do to comply with and respond to the new requirements in this timeframe. We outline the key capability requirements in Chapter 7 of PS23/3.¹⁰
- 3.9** To ensure consistency of outcome for consumers, and consistency of implementation by PSPs, we will require compliance with the two directions to start on the same date as the rules.
- 3.10** We will require that the following is included in Faster Payments rules. We provide more information on how these policies will operate in practice in Chapter 5 of PS23/3¹¹:
- a. **Reimbursement requirement:** Sending PSPs must reimburse their customers who suffer APP fraud, except where the **consumer standard of caution** exception applies. We will set this standard and publish it before the end of 2023. This exception does not apply when the customer is vulnerable.
 - b. **Claim excess:** The sending PSP can subtract an amount up to the maximum level of the claim excess from the amount reimbursed to the victim. We will publish the level of the claim excess in the fourth quarter of 2023. The claim excess does not apply when the customer is vulnerable.
 - c. **Maximum level of reimbursement:** The sending PSP is not obliged to reimburse above the maximum level of a single APP fraud case. We will set the level and publish it in before the end of 2023.
 - d. **Time limit to claim:** The sending PSP is not obliged to reimburse any APP fraud where the customer submits the claim more than 13 months after making the last payment in the case. Pay.UK is to keep the 13-month period under review.
 - e. **Notifying the receiving PSP:** The sending PSP must notify the receiving PSP of all payments made, and it must do so within a specified period after receiving the claim (period to be determined by Pay.UK). This should be done as soon as possible, to maximise the likelihood of retrieving stolen funds. Pay.UK is to keep the period under review.

10 PSR, PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023), pages 58-60: www.psr.org.uk/publications/consultations/cp22-4-app-scams-requiring-reimbursement/

11 PSR, PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023), pages 36-48: www.psr.org.uk/publications/consultations/cp22-4-app-scams-requiring-reimbursement/

- f. **Sharing the cost of reimbursement:** A receiving PSP must send 50% of the cost of a reimbursement to the sending PSP, within a deadline to be set by Pay.UK.
- g. **Time limit to reimburse:** The sending PSP must reimburse a customer who falls victim to APP fraud within five business days, except when they 'stop the clock'. Pay.UK is to keep the five-day deadline under review. Sending PSPs can 'stop the clock' to:
1. gather additional information from victims to assess the claim
 2. gather additional information from victims to assess vulnerability
 3. where a claims management company is submitting a claim, verify that it is legitimate (for example, by validating that an individual authorised the company to submit a claim)
 4. where first-party fraud is suspected, gather additional information from the receiving PSP and/or law enforcement or other relevant parties
 5. where multi-step fraud has occurred, gather additional information from the other PSPs involved
- h. **Repatriation:** 50% of any funds that are stolen in an APP fraud but then recovered must be repatriated to the sending PSP.

3.11 All the above will be incorporated into the Faster Payments rules, for which Pay.UK is responsible, but responsibility for reviewing and changing the rules will fall into three categories. The categories below are taken from our policy statement¹², but we have condensed them within the legal instruments. This is because only elements of Category 1 and Category 3 appear in the rule change requirement, and the restrictions on Pay.UK's ability to change applies only to the Category 3 elements:

Category 1: Regulatory requirements set by the PSR

3.12 We will control certain regulatory requirements for the foreseeable future. We will require Pay.UK to embed these in the rules but will also impose them on Faster Payments participants through a separate general direction (see Chapter 5 below). We do not expect Pay.UK to propose changes to any rules that fall within Category 1. These currently are:

- the reimbursement requirement
- the scope of the reimbursement requirement

12 PSR, *PS23/3, Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023), page 50, paragraphs 6.8-6.11: www.psr.org.uk/publications/consultations/cp22-4-app-scams-requiring-reimbursement/

Category 2: Requirements retained by us initially, with the potential to become Faster Payments rules in the future

3.13 There are other rules that we will control initially but that we intend to hand over to Pay.UK when we deem it has sufficient capability to manage and enforce them.¹³ These are:

- the maximum claim excess and the maximum level of reimbursement
- the consumer standard of caution
- the consumer standard of caution exception

Category 3: Requirements Pay.UK will be responsible for from day one

3.14 We want Pay.UK to take responsibility for ensuring all remaining rules function effectively from day one. This will involve keeping them under review just as Pay.UK does with other Faster Payments rules. These are:

- 50:50 cost allocation of reimbursement between sending and receiving PSPs
- an option for PSPs to refuse claims submitted after 13 months
- the five-business-day deadline for reimbursing customers
- the 'stop the clock' provision

3.15 We will require Pay.UK to notify us of any proposed changes to the Category 3 reimbursement rules. Where proposed changes could affect the policy outcomes of the reimbursement requirements, we would expect to be closely involved in the assessment of those changes. In some cases, we may consider varying our specific requirement to enable changes to the rules, or using our powers under section 54 of FSBRA to prevent the rules from being changed.

CHAPS

3.16 The Bank of England has announced its intention that similar reimbursement requirements should apply to the CHAPS payment system. We are working closely with them on the effective implementation of those requirements.

3.17 To achieve as much consistency as possible, the Bank will undertake its own process to draft the relevant scheme rules which will be as close as possible to those implemented in Faster Payments, with some potential differences to account for differences in the characteristics and users of the two systems.

3.18 The rules for CHAPS are likely to be drafted over the summer along the same timetable as Pay.UK for Faster Payments. We intend to then impose a direction on relevant CHAPS participants requiring compliance with the relevant rules.

¹³ PSR, *PS23/3, Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023), page 50, paragraph 6.7: www.psr.org.uk/publications/consultations/cp22-4-app-scams-requiring-reimbursement/

- 3.19** We intend to formally consult in October on the direction obliging compliance with the CHAPS rulebook. We have not yet drafted the direction for CHAPS participants, but plan to replicate the approach we have taken for the direction for Faster Payment participants as far as possible, and we are seeking initial views on both at this stage.

4 Compliance monitoring/data collection (section 54 specific direction)

In our policy statement (PS23/3) we said that we will require Pay.UK to create and implement a compliance monitoring regime for all requirements across all in-scope PSPs.

To ensure this, we will also give a specific direction to Pay.UK to create and implement effective monitoring of PSPs in line with the section 55 specific requirement and general direction.

4.1 For additional context, please refer to our policy statement (PS23/3). Chapter 6, 'Putting reimbursement in place', provides an explanation of the approach taken to implement the requirements and the rationale for adopting this approach. Chapter 7, 'Achieving successful implementation', outlines the expected outcomes that the legal instruments seek to achieve.¹⁴

4.2 Below are relevant extracts from the policy statement covering the Section 54 specific direction.

The course of action

4.3 To ensure the effectiveness of the reimbursement policy, we will direct Pay.UK to create and implement a compliance monitoring regime for all requirements across all in-scope PSPs (including indirect participants). This approach acknowledges that Pay.UK is best positioned to assess the most effective and efficient monitoring mechanism (in conjunction with industry). We will direct all in-scope PSPs to provide data to Pay.UK (see Chapter 5).

4.4 An effective monitoring regime is one that will measure whether PSPs are consistently complying with the scheme rules on reimbursement requirements. To achieve this, Pay.UK and industry will need to complete several key actions including agreeing new systems and governance processes. More information on this can be found in Chapter 7 of our policy statement (PS23/3).¹⁵

14 PSR PS23/3, Fighting authorised push payment fraud: a new reimbursement requirement (June 2023), page 49-60: www.psr.org.uk/publications/policy-statements/ps23-3-fighting-authorised-push-payment-fraud-a-new-reimbursement-requirement/

15 PSR PS23/3, Fighting authorised push payment fraud: a new reimbursement requirement (June 2023), page 58-60: www.psr.org.uk/publications/policy-statements/ps23-3-fighting-authorised-push-payment-fraud-a-new-reimbursement-requirement/

How it will be achieved

- 4.5** Using our powers under section 54 of FSBRA, we will give a specific direction to Pay.UK to:
- develop and implement rules and arrangements to monitor compliance by all PSPs with the reimbursement rules
 - monitor the nature, extent and effectiveness of compliance with the reimbursement rules by PSPs
 - gather data and information in order to facilitate the monitoring of PSPs' compliance with the reimbursement rules
 - report to the PSR on the nature, extent, and effectiveness of compliance with the reimbursement rules by PSPs
- 4.6** The specific direction will also outline the high-level areas we expect Pay.UK to gather and analyse data on are:
- the number of APP scam claims reported by consumers
 - the number of APP scam claims rejected by PSPs (and reasons)
 - the time taken to reimburse APP scam victims
 - the use of exceptions by PSPs
 - the reimbursement rate of consumers by sending PSPs
 - the reimbursement rate of sending PSPs by receiving PSPs
 - the time taken for receiving PSPs to reimburse sending PSPs
 - the rate of repatriation of stolen APP funds
- 4.7** The information gathered will inform our monitoring of the general direction we give to PSPs. The metrics in paragraph 4.6 are not exhaustive, and Pay.UK will determine the extent of information they need to ensure the facilitation of monitoring of PSPs' compliance with the reimbursement rules.
- 4.8** We are also working with Pay.UK to agree a high-level approach and principles for how it will monitor compliance.

5 Reimbursement requirement, compliance with rules and data provision (section 54 general direction)

We are not seeking comments on the detail of this general direction. We intend to consult on it separately in October 2023. But it is an important part of our overall approach to implementation and may impact respondents' views on the other legal instruments.

We will use our section 54 FSBRA powers to give a general direction to direct all in-scope PSPs (including indirect participants) to comply with the relevant Faster Payments rules and report data to Pay.UK.

The general direction will place a regulatory obligation on both direct and indirect Faster Payments participants to reimburse consumers and define the scope of which payments and consumers are covered, while maintaining responsibility for the rules with Pay.UK.

We intend to remove the requirement to comply with scheme rules and report data once we are satisfied they are no longer necessary to support Pay.UK's implementation and oversight of the reimbursement requirement.

We intend to give a similar direction to direct and indirect CHAPS participants to support implementation of equivalent reimbursement requirements for CHAPS. We intend to consult on that direction alongside this one in October 2023.

5.1 For additional context on the policy, please refer to our policy statement (PS23/3). Chapter 6, *Putting reimbursement in place*, provides an explanation of the approach taken to implement the requirements and the rationale for adopting this approach. Chapter 7, *Achieving successful implementation*, outlines the expected outcomes that the legal instruments seek to achieve.¹⁶

5.2 Below are relevant extracts from the policy statement covering the Section 54 general direction.

The proposed course of action

5.3 The approach to implementation using the section 55 rule change, and the expectation conferred by the section 54 specific direction on Pay.UK represents a change to their

¹⁶ PSR PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023), pages 49-60 www.psr.org.uk/publications/consultations/cp22-4-app-scams-requiring-reimbursement/

role and they are not currently able to take this on fully. Pay.UK's scheme rules only apply to direct participants, and Pay.UK has limited tools to enforce compliance with its rules. Although Pay.UK is already doing work to consider how it can change these constraints as it progresses delivery of the New Payments Architecture, relying exclusively on scheme rules at this stage poses risks to timely and effective implementation.

- 5.4** We are therefore introducing some safeguards to mitigate those risks. We will overlay the scheme rule requirements with a general direction requiring all Faster Payments participants to comply with those rules. This will bring all Faster Payments participants into the scope of the requirements and will give the PSR a role in enforcement to support Pay.UK. We will retain responsibility for some of the key requirements. We will look to hand over responsibility for some of these to Pay.UK in the future as it develops the capabilities required to achieve our long-term vision. Before doing so, we would review and consult on any subsequent changes to Pay.UK's role and implement these changes through appropriate legal instruments.
- 5.5** The section 54 general direction will also compel participants in Faster Payments to provide Pay.UK with the data it needs to facilitate the monitoring of PSPs' compliance with the reimbursement rules.
- 5.6** The Bank of England has also announced its intention that similar reimbursement requirements should apply to the CHAPS payment system.¹⁷ We are in discussions with the Bank as to the details of this, but we intend to impose a similar direction on relevant CHAPS direct and indirect participants to ensure a consistent outcome across both payment systems. We would welcome initial views on this approach. We intend to consult on a direction on CHAPS direct and indirect participants alongside the consultation on this general direction in October.

How it will be achieved

- 5.7** Using our powers under section 54 of FSBRA, we will give a general direction to all Faster Payments participants. The general direction will comprise:
- the reimbursement requirement
 - the scope of the reimbursement requirement
 - an obligation on Faster Payments participants to comply with Faster Payments scheme rules created pursuant to our section 55 specific requirement
 - an obligation on all Faster Payments participants to report APP scam case data to the PSO
 - an obligation on direct Faster Payments participants to inform indirect participants of their obligations under the new reimbursement rules
- 5.8** Obliging compliance with Faster Payments scheme rules and the reporting of APP scam case data by all Faster Payments participants will ensure consistency of outcome across direct and indirect participants for consumers who have fallen victim to an APP

¹⁷ Bank of England letter to the TSC, Authorised Push Payment Fraud – update:
<https://committees.parliament.uk/publications/40547/documents/197730/default/>

scam. This will also ensure that Pay.UK is provided with the required data to monitor whether all PSPs are in compliance with the scheme rules.

5.9 We are keen to ensure that all PSPs who are in scope of the reimbursement requirement are aware of their obligations, both from a perspective of good outcomes for their consumers, but also to prevent inadvertent breaching of Faster Payments scheme rules. To support this, all direct Faster Payments participants will be required to inform their current (and future) indirect participants of the obligations, conferred by the section 54 general direction, under the new reimbursement rules.

6 Question summary

Our approach

- 6.1 Question 1:** Does our proposed package of the three legal instruments outlined above (and published in the annexes to this document) give full effect to the policy set out in our policy statement PS23/3? If not, why, and what changes are necessary in order for it to do so?
- 6.2 Question 2:** Do you agree with our proposed timeline for implementation and the feasibility of the 'go live' date of 2 April 2024? If not, why and what alternative would you propose?
- 6.3 Question 3:** Do you have any comments on the frequency of reporting to Pay.UK? Would a different reporting frequency strike a balance between the cost and burden of reporting and sufficient data coverage?
- 6.4 Question 4:** Do you have any comments on what data Pay.UK should gather?
- 6.5 Question 5:** Do you have any comments on the approach and principles for Pay.UK monitoring compliance?

Individual legal instruments

- 6.6 Question 6:** Do you have any other comments on the section 55 specific requirement on Pay.UK?
- 6.7 Question 7:** Do you have any other comments on the section 54 specific direction on Pay.UK?
- 6.8 Question 8:** Do you have any other comments on the section 54 general direction on PSPs?

CHAPS

- 6.9 Question 9:** Do you agree that it is right to follow a similar approach to imposing a reimbursement requirement within the CHAPS payment system?
- 6.10 Question 10:** Do you have any comments on the most effective way to do this?

General

- 6.11 Question 11:** Do you have any other comments on this consultation?

Annex 1

Draft Specific Requirement [X]: Faster Payments APP scam reimbursement rules

DRAFT Specific Requirement [X]
on the operator of Faster
Payments to insert an APP
scam reimbursement
requirement into the Faster
Payments rules, and a
notification requirement

Specific Requirement [X]:
Faster Payments APP scam
reimbursement rules

[Month] 2023

Specific Requirement [X]: Faster Payments APP scam reimbursement rules

1 Recitals

Whereas:

- 1.1** Authorised push payment (APP) scams occur when a scammer tricks someone into sending money to an account outside of their control.
- 1.2** Faster Payments is a push payment system used for sending money between different payment service providers (PSPs) in the United Kingdom. More than 90% of APP scams happen over Faster Payments. A significant reduction in APP scam payments across Faster Payments will significantly reduce the number of APP scam payments overall.
- 1.3** The Financial Services and Markets Act 2023 (FSMA 23) placed a statutory obligation on the Payment Systems Regulator (PSR) to introduce a reimbursement requirement for APP scams in Faster Payments by the end of February 2024.
- 1.4** In September 2022, the PSR launched a consultation on a package of policy proposals to introduce a reimbursement requirement on PSPs in the Faster Payments rules.
- 1.5** The PSR has decided to implement a policy that requires APP scam victims, except in cases where the consumer standard of caution has not been met, or the consumer committed first-party fraud, to be reimbursed by their PSP (that is, the sending PSP). This is known as the reimbursement requirement. There will be a consumer standard of caution exception to ensure a level of care is taken by consumers when making payments.
- 1.6** The PSR will require the Faster Payments operator to put the new reimbursement requirement into the Faster Payment rules. The PSR is obliging the Faster Payments operator is required to do this through this specific requirement to make a specified rule change pursuant to section 55(1)(b) of the Financial Services (Banking Reform) Act 2013 (FSBRA).

- 1.7** The PSR does not intend to prescribe exact wording which the Faster Payments operator must incorporate into the Faster Payments rules. Rather, the PSR requires the Faster Payments operator to implement the definitions set out at 3.2 and the outcomes set out in paragraph 3.3 in a way which is appropriate for the Faster Payments rules. The exception to this is paragraphs 3.1 and 3.2 of General Direction [X], which the Faster Payments operator is required to include verbatim in the Faster Payments rules.
- 1.8** The PSR will publish the level of the elements of the reimbursement requirement that set incentives on consumer behaviour, with guidance. One publication will cover the consumer standard of caution required, describing how much caution a consumer should exercise when initiating payments to remain eligible for reimbursement. This will increase consistency in applying the standard. The PSR will also publish the level of the claim excess and the maximum level of reimbursement. All of these publications and any associated guidance will be the responsibility of the PSR.

2 Powers exercised and purpose

- 2.1** Faster Payments is designated by the Treasury as a regulated payment system under section 43 of FSBRA for the purposes of Part 5 of FSBRA.
- 2.2** The PSR gives this specific requirement in accordance with section 55(1) of FSBRA.
- 2.3** In accordance with section 55(2), this requirement is specific rather than general.
- 2.4** The PSR has had regard to the following provisions of FSBRA:
- a. sections 49 to 53 (General duties of regulator)
 - b. section 62(2)(b) (Duty to consider exercise of powers under Competition Act)
- 2.5** The PSR gives this specific requirement for the reasons set out in the PSR's policy statement PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement*, published in June 2023.
- 2.6** The purpose of this specific requirement is to ensure that the PSR will comply with its duty under section 68 of FSMA 23 to introduce a reimbursement requirement for APP scams in Faster Payments. In order to do this, the PSR here also requires the operator of Faster Payments to change the Faster Payments rules so that they include a reimbursement requirement for APP scams.

Requirements

3 Requirement to change the Faster Payments rules to introduce a reimbursement requirement for APP scams

- 3.1** The PSR requires the operator of Faster Payments to change the Faster Payments rules by 2 April 2024 in the ways set out in this section, to achieve the specified purpose of incorporating a reimbursement requirement for APP scams into those rules.
- 3.2** The Faster Payments rules must contain definitions of the terms listed below, and the definitions must be taken from the 'Interpretation' section of this specific requirement insofar as that wording is appropriate for the Faster Payments rulebook:
- a. authorised push payment/APP
 - b. APP scam
 - c. APP scam case
 - d. authorisation
 - e. business day
 - f. consumer
 - g. consumer standard of caution
 - h. consumer standard of caution exception
 - i. direct participant
 - j. Faster Payments
 - k. indirect participant
 - l. operator
 - m. payment system
 - n. Payment Systems Regulator/PSR
 - o. payment service provider/PSP
 - p. receiving PSP
 - q. reimbursable APP scam payment

- r. reimbursement requirement
- s. reimbursement rules
- t. repatriation
- u. sending PSP
- v. victim
- w. vulnerable consumer

3.3 The Faster Payments rules must contain a reimbursement requirement which produces the outcomes set out below.

Reimbursement requirement

3.4 The operator must insert and not alter the reimbursement requirement and its scope as set out in 3.1 and 3.2 of GD7.

Additional provisions to reimbursement requirement

3.5 The sending PSP must reimburse the victim within five business days of the victim reporting the APP scam case, unless the PSP exercised the 'stop the clock' provision.

3.6 PSPs will not be required to reimburse any APP scam payments where the consumer standard of care exception applies, unless the victim was a vulnerable consumer at the time the reimbursable APP scam payments were made.

3.7 The sending PSP may exercise a 'stop the clock' provision which will pause the five-business-day reimbursement timescale while it is waiting for a response to its request for further information for the purposes of assessing the claim. The sending PSP can use the 'stop the clock' provision in the following circumstances:

- a. to gather additional information from victims to assess the claim
- b. to gather additional information from victims to assess vulnerability (if applicable)
- c. where relevant, to verify that a claims management company is submitting a legitimate claim – for example, validating that an individual has authorised the company to submit a claim
- d. in cases where the sending PSP has evidence of first-party fraud, to gather additional information from the receiving PSP and/or law enforcement and/or other relevant parties
- e. in cases where multi-step scams have occurred, gather additional information from the other PSPs involved

- 3.8** Where a sending PSP exercises the 'stop the clock' provision, the five-business-day reimbursement timescale is paused at the point when the sending PSP sends its request for further information. The sending PSP must resume the five-day clock as soon as it receives a response.
- 3.9** When requesting further information from the victim, the PSP should use an appropriate method of communication based on the victim's circumstances and preferences.

Voluntary reimbursement

- 3.10** Any reimbursement or part of a reimbursement made by a sending PSP in excess of the amount of reimbursement required by the reimbursement requirement will be classed as a 'voluntary reimbursement'.
- 3.11** Voluntary reimbursements are out of scope of the reimbursement requirement and of the provisions of this section of the rules. The 50:50 cost allocation below does not apply to voluntary reimbursements, but only to any in-scope reimbursement amount. Voluntary reimbursements are the responsibility of the sending PSP only.

50:50 allocation between sending and receiving PSPs of amount reimbursed to victim

- 3.12** Sending PSPs must inform receiving PSPs of all APP scam case claims made to them. This must be done at the earliest possible opportunity following the victim reporting the APP scam case to the sending PSP to maximise the opportunity for repatriating stolen funds.
- 3.13** The sending PSP must only claim from the receiving PSP after the sending PSP has refunded its customer. The sending PSP may claim 50% of the amount paid to the victim, or the required reimbursement amount (subject to claim excess and any voluntary reimbursement), whichever is lower.
- 3.14** The receiving PSP must reimburse the sending PSP for the amount claimed (subject to claim excess and any voluntary reimbursement). It must do so within a reasonable period of time, with such period defined by the operator.]
- 3.15** If the sending PSP chooses not to apply the claim excess (see paragraph 3.3 Claim excess and reimbursement cap 1 below), the receiving PSP can deduct 50% of the claim excess from the reimbursement sent to the sending PSP.
- 3.16** Where a receiving PSP is able to repatriate APP scam losses, and when the victim has already been reimbursed by the sending PSP, repatriated funds should be shared between PSPs in the same proportion as the reimbursement paid to the victim between the sending and receiving PSPs to defray the amount they paid to the victim.
- 3.17** Any repatriated funds remaining after the PSPs have fully defrayed their reimbursement cost (this being exclusively the amount paid to the victim under the reimbursement

requirement) must go to the consumer. PSPs may not retain funds for any other reason, including covering administrative costs arising from processing the claim. The effect of this requirement, if 100% of funds are recovered, is that the consumer should be reimbursed their claim excess (if applied), or where a victim has been scammed for an amount above the maximum refund limit, and funds have been repatriated above that limit, the sending PSP must give the additional funds back to the victim.

- 3.18** An ultimate backstop period (to be determined by the Faster Payments operator) will ensure that receiving PSPs cannot avoid their obligation to reimburse sending PSPs under this requirement.

Claim excess and reimbursement cap

- 3.19** Sending PSPs may apply a single claim excess at a level to be set by the PSR. Sending PSPs may deduct the amount of this excess from the amount which they would otherwise be required to reimburse to the APP scam victim.

- 3.20** PSPs are not required to reimburse APP scam victims above the maximum level of reimbursement. The maximum level of reimbursement applies to each APP scam case considered individually. The maximum level of reimbursement will be set by the PSR.

- 3.21** Sending PSPs can reimburse their customers for claims exceeding the reimbursement cap. The amount reimbursed over the reimbursement cap will be considered a voluntary reimbursement as described in paragraph 3.3 Voluntary reimbursement.

Option for PSPs to refuse claims submitted after 13 months

- 3.22** PSPs may refuse to reimburse claims submitted more than 13 months after the date of the final APP scam payment. If a sending PSP reimburses a claim submitted more than 13 months after the final payment, this will be considered a voluntary reimbursement as described in paragraph 3.3 Voluntary reimbursement.

4 Notification requirement

- 4.1** The Faster Payments operator must notify the PSR of any proposed changes to the rules implemented under this specific requirement.

- 4.2** The PSR will be responsible for the core elements of the policy for the foreseeable future. These are reflected in General Direction [X], and the Faster Payments operator is required to include them in the Faster Payments rules but not make any changes to them. These elements are:

a. The reimbursement requirement and its scope (paragraphs 3.3 to 3.22)

- 4.3** The PSR requires that the Faster Payments operator place all other outcomes (those not fitting into the core elements above) into the Faster Payments rules as outlined in

this specific requirement, then keep them under review just as with other aspects of the Faster Payments rules. The PSR requires that it be notified by the Faster Payments operator about any potential changes of the Faster Payments rules. The formal notification should be made prior to the change being adopted by the Faster Payments operator, and should contain sufficient analysis for the PSR to understand the nature of, cause for, and cost versus benefit of the change.

4.4 The PSR may remove this notification requirement in the future at its own discretion.

5 Application

5.1 This specific requirement applies to the operator.

6 Commencement and duration

6.1 This specific requirement comes into force on 2 April 2024.

6.2 This specific requirement shall continue in force until such time as it is varied or revoked by the PSR.

7 Citation

7.1 This specific requirement may be cited as Specific Requirement [X] (Faster Payments APP scam reimbursement rules).

8 Interpretation

8.1 The headings and titles used in this specific direction are for convenience and have no legal effect.

8.2 The Interpretation Act 1978 applies to this general direction as if it were an Act of Parliament, except where words and expressions are expressly defined.

8.3 References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

8.4 The following definitions shall apply in this general direction:

- **Authorised push payment** or **APP** means a consumer payment, initiated by the sending PSP in accordance with an authorisation given by its consumer

- **APP scam (authorised push payment scam)** means where a scammer manipulates or deceives, by way of fraud or dishonesty, a consumer into transferring funds from the consumer's bank account to an account not controlled by the consumer, where the payment is not made to the recipient intended by the consumer, or the payment is for a purpose other than that intended by the consumer.
- **APP scam case** means a fraudulent act, or a fraudulent course of conduct, that leads to one or more APP scam payments.
- **APP scam payment** means a payment instruction, made as part of an APP scam, which has all the following features:
 1. It is executed through Faster Payments.
 2. It is authorised by a PSP's consumer.
 3. It is executed by that PSP in the UK.
 4. The payment is received in an account in the UK that is not controlled by the consumer.
 5. The payment is not to the recipient intended by the consumer or the payment is for a purpose other than that intended by the consumer.
- **Authorisation**, for the purpose of the reimbursement requirement, in the context of a payment means that the payer has given their explicit consent to:
 1. the execution of the payment transaction, or
 2. the execution of a series of payment transactions of which that payment transaction forms part
- **Business day**, for the purposes of the reimbursement requirement, means any day (period of 24 hours beginning at midnight) which is not a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday in any part of the United Kingdom (England, Wales, Scotland and Northern Ireland, but not the Channel Islands or the Isle of Man).
- **Consumer**, for the purposes of the reimbursement requirement, refers to in-scope customers of PSPs. These are individuals, microenterprises (an enterprise that employs fewer than ten persons and that has either an annual turnover or annual balance sheet total that does not exceed €2 million) and charities (a body whose annual income is less than £1 million per year and is a charity as defined by the Charities Act 2011, Charities and Trustees Investment (Scotland) Act 2005 or the Charities Act (Northern Ireland) 2008).
- **Consumer standard of caution** is defined by the PSR in [its separate publication PSRX].

- **Consumer standard of caution exception** is defined by the PSR in [its publication PSRX].
- **Direct participant** means an entity as defined under sections 42(2)(c), (5) and (6) of FSBRA.
- **Faster Payments Scheme** or **Faster Payments** means the Faster Payments Scheme as a regulated payment system designated by Order from the Treasury on 1 April 2015.
- **Indirect participant** means an entity as defined under sections 42(2)(c) and (5) of FSBRA, but which does not have direct access pursuant to section 42(6) of FSBRA.
- **Operator** has the same meaning as under section 42(3) of FSBRA in relation to the Faster Payments system.
- **Payment system** has the same meaning as under section 41(1) of FSBRA.
- **Payment Systems Regulator** is the body corporate established under section 40 of FSBRA.
- **Payment service provider** or **PSP** has the same meaning as under section 42(5) of FSBRA.
- **Receiving PSP** means a PSP providing a payment account into which APP scam payments are received.
- **Reimbursable APP scam payment** means an APP scam payment where the customer standard of caution exception does not apply, the victim is not party to the fraud and the victim is not claiming fraudulently or dishonestly to have been defrauded.
- **Reimbursement requirement** means any obligation conferred on PSPs as a result of the reimbursement rules.
- **Reimbursement rules** means any rules created as a result of the PSR's Specific Requirement [X] on the Faster Payments operator to create and implement rules on PSPs reimbursing their consumers when they fall victim to APP scams.
- **Repatriation** means where a receiving PSP is able to detect, freeze and return funds stolen as part of an APP scam.
- **Sending PSP** means a PSP that provides a payment account for a person or persons, from which the APP scam payment was made.
- **Victim** means a consumer who has made an APP scam payment.

- **Vulnerable consumer** has the same meaning as when the term is used by the FCA in its *Guidance for firms on the fair treatment of vulnerable customers*¹, namely that a vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to harm – particularly when a firm is not acting with appropriate levels of care.

Made on [date]

[Name]

[Job title]

Payment Systems Regulator

Status of requirements

Requirements give rise to binding obligations. Breaching a requirement is a compliance failure which makes a party liable to regulatory sanction.

1 Available here: www.fca.org.uk/publications/finalised-guidance/guidance-firms-fair-treatment-vulnerable-customers

Annex 2

Draft Specific Direction [X]: APP scams Faster Payments operator monitoring

DRAFT Specific Direction [XX]
imposing certain
responsibilities on the Faster
Payments operator in respect
of the APP scam
reimbursement rules

Specific Direction [XX] (APP scams
Faster Payments operator monitoring)

[Month] 2022

Specific Direction [XX]: APP scams Faster Payments operator monitoring

1 Recitals

Whereas:

- 1.1 Authorised push payment (APP) scams happen when a scammer tricks someone into sending a payment to an account outside of their control.
- 1.2 The Financial Services and Markets Act 2023 places a statutory obligation on the Payment Systems Regulator (PSR) to introduce a reimbursement requirement for APP scams in Faster Payments by the end of February 2024.
- 1.3 In September 2022, the PSR launched a consultation on a package of policy proposals to introduce a reimbursement requirement on payment service providers (PSPs) in the Faster Payments rules.
- 1.4 Following this consultation, the PSR has decided to implement a policy that requires APP scam victims, excluding those who have committed first-party fraud, to be reimbursed by the sending PSP. This is known as the reimbursement requirement.
- 1.5 There will be a consumer standard of caution exception to the reimbursement requirement to ensure that consumers take appropriate care when making payments.
- 1.6 The PSR has decided to implement this policy by requiring the operator of Faster Payments to put the new reimbursement requirement into the Faster Payments rules. The operator is required to do this through the PSR's specific requirement to make a specified rule change pursuant to section 55(1)(b) of the Financial Services (Banking Reform) Act 2013 (FSBRA). These are known as the reimbursement rules.
- 1.7 The PSR has also decided to use its powers under section 54 of FSBRA to direct participants in Faster Payments to comply with the reimbursement rules. This is to ensure that these rules apply to both direct and indirect participants in Faster Payments, to ensure that all participants in Faster Payments and their customers are, as far as possible, placed on an equal footing..

2 Powers exercised and purpose

- 2.1** Faster Payments is designated by the Treasury as a regulated payment system under section 43 of FSBRA for the purposes of Part 5 of FSBRA.
- 2.2** The PSR makes this direction in accordance with section 54(1) and (3) of FSBRA. In accordance with section 54(3)(c), this direction applies to operators of a specified description.
- 2.3** Pay.UK is a payment system operator with responsibility for managing and operating the Faster Payments system. This direction refers to the operator of Faster Payments as the 'Faster Payments operator'.

DRAFT

Direction

NOW the PSR gives the following specific direction to the Faster Payments operator:

3 Overall specific responsibilities of the Faster Payments operator

3.1 In addition to its responsibility for developing, adopting, amending, and implementing certain rules forming part of the reimbursement rules pursuant to Specific Requirement [X], the Faster Payments operator shall also have a number of further responsibilities in respect of the implementation of the reimbursement rules as specified in this direction.

3.2 In particular, the Faster Payments operator shall be responsible for:

- a. developing and implementing rules and arrangements to monitor compliance by all PSPs using Faster Payments with the reimbursement rules (such rules and arrangements must provide an effective system of monitoring)
- b. monitoring the nature, extent and effectiveness of PSPs' compliance with the reimbursement rules
- c. gathering data and information in order to facilitate this task
- d. reporting to the PSR on the nature, extent and effectiveness of PSPs' compliance with reimbursement rules

3.3 The Faster Payments operator shall fulfil these responsibilities in accordance with the directions set out below and any relevant guidance as may, from time to time, be issued by the PSR as to the implementation of the reimbursement rules.

3.4 The Faster Payments operator's specific obligations under this direction are without prejudice to other obligations the PSR has imposed on the Faster Payments operator via any other directions issued under sections 54 or 55 of FSBRA.

3.5 This direction should be read alongside, and interpreted consistently with, any other relevant directions issued under sections 54 or 55 of FSBRA.

4 Compliance monitoring

4.1 The Faster Payments operator must prepare proposals ('the compliance monitoring proposals') for an effective regime to monitor all PSPs' compliance with the reimbursement rules, whether they participate in Faster Payments directly or indirectly.

- 4.2** The Faster Payments operator must provide opportunity for representations by direct and indirect Faster Payments participants on the compliance monitoring proposals. The Faster Payments operator must consider, and take into account (as appropriate), representations submitted to it.
- 4.3** A key objective of the envisaged compliance monitoring regime is that breaches of the reimbursement rules are identified quickly and clearly.
- 4.4** An effective system for compliance monitoring is therefore one which:
- a. monitors the overall nature and extent of compliance by PSPs with the reimbursement rules on an ongoing basis
 - b. includes effective arrangements to check and verify that PSPs are consistently complying with the reimbursement rules
 - c. provides an effective means of identifying non-compliance by PSPs promptly and clearly
 - d. ensures that any breaches of the reimbursement rules by PSPs are addressed appropriately in line with applicable enforcement procedures
- 4.5** The Faster Payments operator's compliance monitoring proposals must be approved by the PSR prior to the proposals being formally adopted or implemented by that operator.
- 4.6** The PSR will review the Faster Payments operator's compliance monitoring proposals and may direct that the proposals be amended.
- 4.7** Once accepted, the proposals will become the compliance monitoring scheme and the Faster Payments operator must implement and maintain this scheme.
- 4.8** The PSR will determine the timeframe within which the compliance monitoring proposals will come into force and must be implemented by the Faster Payments operator.
- 4.9** If, by **2 February 2024**, the Faster Payments operator has not brought forward compliance monitoring proposals which the PSR considers it appropriate to approve, the PSR may give a further direction specifying the monitoring regime the Faster Payments operator must adopt.
- 4.10** The Faster Payments operator may propose changes to the scheme once it is implemented. It must submit any such proposals to the PSR for approval.

5 Data and information collection

- 5.1** The Faster Payments operator must collect adequate data on PSPs' compliance with the reimbursement rules and use it to operate the monitoring and enforcement regime effectively.
- 5.2** If a PSP has failed to comply with the reimbursement rules, the data which the Faster Payments operator collects must include information as to why the PSP has failed to comply with each of the rules breached.
- 5.3** The Faster Payments operator must, at a minimum, collect data on the following matters:
- a. the number of APP scams reported by consumers
 - b. the number of APP scam claims reimbursed by PSPs
 - c. the number of APP scam claims rejected by PSPs, together with the reason for rejection
 - d. the time taken to reimburse APP scam victims, including:
 1. total time including 'stop the clock'
 2. time not including 'stop the clock'
 3. number of times that 'stop the clock' was used
 - e. the use of exceptions by PSPs for:
 1. first-party fraud
 2. the consumer standard of caution exception
 - f. the reimbursement rate of consumers by sending PSPs
 - g. the reimbursement rate of sending PSPs by receiving PSPs
 - h. the time taken for receiving PSPs to reimburse sending PSPs
 - i. the rate of repatriation of APP scam funds
- 5.4** The Faster Payments operator must collect this data from both direct and indirect participants in Faster Payments.
- 5.5** This data collection obligation shall apply from 2 April 2024.

- 5.6 The Faster Payments operator shall propose to the PSR:
1. how this data will be collected, including whether it is to be collected through a template or automated process
 2. the frequency of data collection it requires

6 Commencement and duration

- 6.1 This specific direction comes into force on [X December 2023].
- 6.2 This specific direction shall continue in force until such time as it is varied or revoked by the PSR.

7 Citation

- 7.1 This specific direction may be cited as Specific Direction [XX] (APP scams Faster Payments operator monitoring).

8 Interpretation

- 8.1 The headings and titles used in this specific direction are for convenience and have no legal effect.
- 8.2 The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament except where words and expressions are expressly defined.
- 8.3 References to any statute or statutory provisions shall be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.
- 8.4 The following definitions shall apply in this specific direction:
- **APP scam (authorised push payment scam)** means where a scammer manipulates or deceives, by way of fraud or dishonesty, a consumer into transferring funds from the consumer's bank account to an account not controlled by the consumer, where the payment is not made to the recipient intended by the consumer, or the payment is for a purpose other than that intended by the consumer.

- **APP scam payment** means a payment instruction, made as part of an APP scam, which has all the following features:
 1. It is executed through Faster Payments.
 2. It is authorised by a PSP's consumer.
 3. It is executed by that PSP in the UK.
 4. The payment is received in an account in the UK that is not controlled by the consumer.
 5. The payment is not to the recipient intended by the consumer or the payment is for a purpose other than that intended by the consumer.
- **Authorisation**, for the purpose of the reimbursement requirement, in the context of a payment means that the payer has given their explicit consent to:
 1. the execution of the payment transaction, or
 2. the execution of a series of payment transactions of which that payment transaction forms part
- **Compliance monitoring proposals** means the proposals prepared by the Faster Payments operator pursuant to this direction regarding the establishment of a regime to monitor compliance by all PSPs with the reimbursement rules, whether they participate in Faster Payments directly or indirectly.
- **Consumer**, for the purposes of the reimbursement requirement, refers to in-scope customers of PSPs. These are individuals, microenterprises (an enterprise that employs fewer than ten persons and that has either an annual turnover or annual balance sheet total that does not exceed €2 million) and charities (a body whose annual income is less than £1m per year and is a charity as defined by the Charities Act 2011, Charities and Trustees Investment (Scotland) Act 2005 or the Charities Act (Northern Ireland) 2008).
- **Consumer standard of caution exception** is defined by the PSR in [its publication PSRX].
- **Direct participant** means an entity as defined under sections 42(2)c, (5) and (6) of FSBRA.
- **Faster Payments Scheme** or **Faster Payments** means the Faster Payments Scheme as a regulated payment system designated by Order from HM Treasury on 1 April 2015.
- **Indirect participant** means an entity as defined under sections 42(2)c and (5) of FSBRA, but which does not have direct access pursuant to section 42(6) of FSBRA.

- **Operator** has the same meaning as under section 42(3) of FSBRA in relation to the Faster Payments system. The term Faster Payments operator is to be understood accordingly.
- **Payment account** means an account held in the name of one or more payment service users which is used for the execution of payment transactions.
- **Payment system** has the same meaning as under section 41(1) of FSBRA.
- **Payment Systems Regulator** is the body corporate established under section 40 of FSBRA.
- **Payment service provider** or **PSP** means an entity as defined as per section 42(5) of FSBRA.
- **Receiving PSP** means a PSP providing a payment account into which APP scam payments are received.
- **Reimbursable APP scam payment** means an APP scam payment where the customer standard of caution exception does not apply, the victim is not party to the fraud and the victim is not claiming fraudulently or dishonestly to have been defrauded.
- **Reimbursement requirement** means any obligation conferred on PSPs as a result of the reimbursement rules.
- **Reimbursement rules** means any rules created as a result of the PSR's Specific Requirement [X] on the Faster Payments operator to create and implement rules on PSPs reimbursing their consumers when they fall victim to APP scams.
- **Repatriation** means where a receiving PSP is able to detect, freeze and return funds stolen as part of an APP scam.
- **Sending PSP** means a PSP which provides a payment account for a person or persons, from which the APP scam payment was made.
- **Victim** means a consumer who has made one or more APP scam payments.

Made on [date]

[Name]

[Job title]

Payment Systems Regulator

Annex 3

Draft General Direction [X]: APP scam reimbursement requirement

DRAFT General Direction [X] to all PSPs participating in Faster Payments to comply with the scheme rules on reimbursement

General Direction [X]:
APP scam reimbursement
requirement

[Month] 2023

General Direction [X]: APP scam reimbursement requirement

1 Recitals

Whereas:

- 1.1 Authorised push payment (APP) scams happen when a scammer tricks someone into sending money to an account outside of their control.
- 1.2 The Financial Services and Markets Act 2023 (FSMA 2023) places a statutory obligation on the Payment Systems Regulator (PSR) to introduce a reimbursement requirement for APP scams in Faster Payments by the end of February 2024.
- 1.3 In September 2022, the PSR consulted on proposals for placing this requirement on payment service providers (PSPs).
- 1.4 Following this consultation, the PSR has decided to implement a policy that requires APP scam victims – excluding those who have committed first-party fraud – to be reimbursed by the sending PSP. This is known as the reimbursement requirement.
- 1.5 There will be a consumer standard of caution exception to the reimbursement requirement to ensure that consumers take appropriate care when making payments.
- 1.6 The PSR has decided to implement this policy by requiring the operator of Faster Payments to put the new reimbursement requirement into the Faster Payments rules. The operator is required to do this through the PSR's specific requirement to make a specified rule change pursuant to section 55(1)(b) of the Financial Services (Banking Reform) Act 2013 (FSBRA). These are known as the reimbursement rules.
- 1.7 The PSR has also decided to use its powers under section 54 of FSBRA to direct participants in Faster Payments to comply with the reimbursement rules. This is to ensure that these rules apply to both direct and indirect participants in Faster Payments, to ensure that all participants in Faster Payments and their customers are, as far as possible, placed on an equal footing.

2 Powers exercised and purpose

- 2.1** The PSR gives this general direction in accordance with section 54(1) and (3) of FSBRA.
- 2.2** The PSR has had regard to the following provisions of FSBRA:
- a. Sections 49 to 53 (General duties of regulator)
- 2.3** The general direction ensures that the PSR complies with its duty under section 68 of FSMA 2023 to introduce a reimbursement requirement for APP scams in Faster Payments.

DRAFT

Direction

NOW the PSR gives the following general direction to all PSPs participating in Faster Payments:

3 Direction to all PSPs participating in Faster Payments

Reimbursement requirement

- 3.1** Any reimbursable APP scam payment reported by a victim to their sending PSP must be reimbursed to the victim by the sending PSP in full, subject to the maximum level of reimbursement and claim excess. This is known as the reimbursement requirement.

Scope of reimbursement requirement

- 3.2** The reimbursement requirement applies to all reimbursable APP scam payments executed after the implementation of this scheme. The date of implementation is 2 April 2024.

Compliance with Faster Payments scheme rules

- 3.3** By 2 April 2024, all PSPs who are direct participants in Faster Payments are to comply with the provisions of the Faster Payments scheme rules (as amended by the operator of Faster Payments pursuant to the Faster Payments specific requirement and as relevant by the provisions below), which contain the reimbursement requirement, and any provisions of the Faster Payments scheme rules connected or ancillary to the reimbursement requirement.
- 3.4** By 2 April 2024, all PSPs who are indirect participants in Faster Payments are to comply with the provisions of the Faster Payments scheme rules (as amended by the operator of Faster Payments pursuant to the Faster Payments specific requirement and as relevant by the provisions below), which contain the reimbursement requirement, and any provisions of the Faster Payments scheme rules connected or ancillary to the reimbursement requirement.

Reporting APP scam case data

- 3.5** All direct and indirect participants participating in Faster Payments are to report APP scam case data to the Faster Payments operator.

3.6 This shall be done in the form, with the frequency, and for the data which may be specified by the Faster Payments operator (with the agreement of the PSR) from time to time in its rules and/or operational guidance

3.7 This reporting obligation shall apply from 2 April 2024.

Direct participants are to inform indirect participants of obligations

3.8 By 2 April 2024, all PSPs who are direct participants in Faster Payments are to draw to the attention of any indirect participants to whom they provide access to Faster Payments of the indirect participants' obligations under:

- a. this general direction
- b. the reimbursement rules
- c. the reimbursement requirement

3.9 All PSPs who are direct participants in Faster Payments who are obliged to inform indirect participants of information under paragraph 3.8 are to keep a record of having done so. The PSR may ask to see these records.

4 Application

4.1 This general direction applies to all PSPs participating in Faster Payments.

5 Commencement and duration

5.1 This general direction comes into force on [X December 2023].

5.2 This general direction shall continue in force until such time as it is varied or revoked by the PSR.

6 Citation

6.1 This direction may be cited as General Direction [X] (APP scam reimbursement requirement).

7 Interpretation

- 7.1** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 7.2** The Interpretation Act 1978 applies to this general direction as if it were an Act of Parliament, except where words and expressions are expressly defined.
- 7.3** References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.
- 7.4** The following definitions shall apply in this general direction:
- **Authorised push payment** or **APP** means a consumer payment, initiated by the sending PSP in accordance with an authorisation given by its consumer
 - **APP scam (authorised push payment scam)** means where a scammer manipulates or deceives, by way of fraud or dishonesty, a consumer into transferring funds from the consumer's bank account to an account not controlled by the consumer, where the payment is not made to the recipient intended by the consumer, or the payment is for a purpose other than that intended by the consumer.
 - **APP scam case** means a fraudulent act, or a fraudulent course of conduct, that leads to one or more APP scam payments.
 - **APP scam payment** means a payment instruction, made as part of an APP scam, which has all the following features:
 1. It is executed through Faster Payments.
 2. It is authorised by a PSP's consumer.
 3. It is executed by that PSP in the UK.
 4. The payment is received in an account in the UK that is not controlled by the consumer.
 5. The payment is not to the recipient intended by the consumer or the payment is for a purpose other than that intended by the consumer.
 - **Authorisation**, for the purpose of the reimbursement requirement, in the context of a payment means that the payer has given their explicit consent to:
 1. the execution of the payment transaction, or
 2. the execution of a series of payment transactions of which that payment transaction forms part

- **Consumer**, for the purposes of the reimbursement requirement, refers to in-scope customers of PSPs. These are individuals, microenterprises (an enterprise that employs fewer than ten persons and that has either an annual turnover or annual balance sheet total that does not exceed €2 million) and charities (a body whose annual income is less than £1 million per year and is a charity as defined by the Charities Act 2011, Charities and Trustees Investment (Scotland) Act 2005 or the Charities Act (Northern Ireland) 2008).
- **Consumer standard of caution** is defined by the PSR in [its separate publication PSRX].
- **Consumer standard of caution exception** is defined by the PSR in [its publication PSRX].
- **Direct participant** means an entity as defined under sections 42(2)(c), (5) and (6) of FSBRA.
- **Faster Payments Scheme** or **Faster Payments** means the Faster Payments Scheme as a regulated payment system designated by Order from the Treasury on 1 April 2015.
- **Indirect participant** means an entity as defined under sections 42(2)(c) and (5) of FSBRA, but which does not have direct access pursuant to section 42(6) of FSBRA.
- **Operator** has the same meaning as under section 42(3) of FSBRA in relation to the Faster Payments system.
- **Payment Systems Regulator** is the body corporate established under section 40 of FSBRA.
- **Payment service provider** or **PSP** has the same meaning as under section 42(5) of FSBRA.
- **Reimbursable APP scam payment** means an APP scam payment where the customer standard of caution exception does not apply, the victim is not party to the fraud and the victim is not claiming fraudulently or dishonestly to have been defrauded.
- **Reimbursement requirement** means any obligation conferred on PSPs as a result of the reimbursement rules.
- **Reimbursement rules** means any rules created as a result of the PSR's Specific Requirement [X] on the Faster Payments operator to create and implement rules on PSPs reimbursing their consumers when they fall victim to APP scams.
- **Sending PSP** means a PSP that provides a payment account for a person or persons, from which the APP scam payment was made.
- **Victim** means a consumer who has made an APP scam payment.

- **Vulnerable consumer** has the same meaning as when the term is used by the FCA in its *Guidance for firms on the fair treatment of vulnerable customers*¹, namely that a vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to harm – particularly when a firm is not acting with appropriate levels of care.

Made on [date]

[Name]

[Job title]

Payment Systems Regulator

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1 Available here: www.fca.org.uk/publications/finalised-guidance/guidance-firms-fair-treatment-vulnerable-customers

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