

Consultation paper

Specific Direction on Faster Payments participants

Implementing the reimbursement requirement

September 2023

We welcome your views on this consultation. If you would like to provide comments, please send these to us by **5pm on 19 October 2023**.

You can email your comments to **appsams@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 be required to disclose all responses which 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 endeavour to consult you if we receive such a request. Any decision we make not to disclose a response can be reviewed by the Information Commissioner and the Information Rights Tribunal.

You can download this consultation paper from our website: www.psr.org.uk/app-scams-reimbursement-specific-direction-fps-consultation/

We take our data protection responsibilities seriously and will process any personal data that you provide to us in accordance with the Data Protection Act 2018, the Specific Data Protection Regulation and our PSR Data Privacy Policy. For more information on how and why we process your personal data, and your rights in respect of the personal data that you provide to us, please see our website privacy policy, available here: <https://www.psr.org.uk/privacy-notice>

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1 Executive summary

- 1.1** In this consultation we invite views on our proposed specific direction which we intend to give to underpin the Faster Payments reimbursement rules. This direction will place a requirement on payment service providers (PSPs) to follow the rules and reimburse victims of APP scams subject to our policy. 'The policy' means the reimbursement requirement policy in our policy statement.
- 1.2** The proposed specific direction is one of three legal instruments which we will use to implement the policy. In July 2023, we consulted on the other two legal instruments: the specific direction and specific requirement on the Faster Payments operator.¹
- 1.3** As part of our July consultation, we provided a draft copy of the proposed general direction. Industry's response to the proposed general direction was that further clarity was needed on its scope and on the PSPs it would capture. We listened to this feedback, and we are now proposing to issue a specific direction. This allows us to provide the clarity industry asked for.
- 1.4** This consultation concerns the proposed specific direction on PSPs who participate in Faster Payments and who provide a payment account in the UK to their payment service users which can send or receive Faster Payments.
- 1.5** The specific requirement on the Faster Payments operator contains the reimbursement rule requirements. This proposed specific direction on Faster Payments PSPs contains the reimbursement requirement, the obligation to follow the reimbursement rules and the obligation to report data to Pay.UK. It will also place an ongoing obligation on indirect access providers to inform the Payment Systems Regulator (PSR) of any indirect PSP customers they provide access to.
- 1.6** The purpose of this proposed specific direction is to ensure that all PSPs who provide a payment account in the UK to their payment service users, which can send or receive Faster Payments, comply with the new reimbursement rules. We've previously outlined the policy detail and rule requirements in our June policy statement.
- 1.7** The proposed specific direction should be reviewed alongside the draft Pay.UK Faster Payments rules. These rules have not been finalised and we are not consulting on these as part of this consultation. These draft rules are being published for visibility only. These rules have been drafted based on our proposed specific requirement on Pay.UK, which has been consulted on. We are still considering the responses to the consultation on the proposed specific requirement and therefore these rules may change. A draft copy of the Faster Payments rules can be found alongside this document.
- 1.8** Subject to the consideration of responses, we intend to finalise and publish all three legal instruments by the end of 2023, rather than the timeline in our June policy statement. This will not impact the implementation of the reimbursement requirement as all legal instruments will still be published by the same deadline.

1 CP23/4, [APP fraud reimbursement requirement – draft legal instruments](#) (July 2023)

- 1.9** We want the new requirements to be in place for victims as soon as practicable. In our July consultation, we suggested the reimbursement requirement would come into effect on 2 April 2024. Responses to that consultation suggested that April was an ambitious timetable, the majority of PSPs would not be ready, and this could lead to inconsistencies, confusion and negative impacts on the success of the overall policy. While there was some support for an April date, in some cases this was only on the basis that the industry was shown to be operationally ready.
- 1.10** Taking on board this feedback, we are now proposing the requirement to reimburse comes into effect on 7 October 2024. We will refer to this as the implementation (go-live) date in this consultation. We recognise this might still be a challenging target for some firms, and welcome further views on this. We discuss this in Chapter 4.
- 1.11** The Bank of England has also announced its intention that similar reimbursement requirements should apply CHAPS. We are considering giving a direction for direct and indirect CHAPS participants, mirroring where possible the direction on Faster Payments PSPs. If we decide to give a direction, we expect to consult on this by the end of Q1 2024. We discuss this in Chapter 5.
- 1.12** The equality impact assessment and cost benefit analysis published alongside the policy statement have been considered and have not currently changed as a result of proposing this direction. There may be an impact on the cost benefit analysis, depending on the go-live date chosen. But we intend to make any necessary updates to this cost benefit analysis after considering the responses to all our consultations, and before making our final decisions. The cost benefit analysis for the reimbursement policy was published alongside our policy statement.² The equality impact assessment is in Annex 1 of the main file of the policy statement.³ We will review these further, if required, as a result of this consultation.
- 1.13** The deadline for responding to this consultation is **5pm on 19 October 2023**.

2 PS23/3, [Annex 4: cost benefit analysis](#) (June 2023)

3 PS23/3, [Fighting authorised push payment fraud: a new reimbursement requirement](#) (June 2023), page 63, paragraph 1.1

2 Introduction

We propose to give a specific direction to all Faster Payments PSPs who provide a payment account in the UK to their payment service users who send and receive Faster Payments. With this consultation, we invite views on our proposal and ask for responses by 5pm on 19 October 2023. This builds upon the previous package of consultations, including the policy statement and the other legal instruments. We intend to publish all the finalised legal instruments in December 2023.

This chapter gives further details, outlines those legal instruments and the additional materials we will issue, and gives guidelines for submitting responses.

2.1 Following responses to our previous consultation (CP23/4), we are now proposing to give a specific direction under section 54 of FSBRA to all Faster Payments PSPs who:

- a. participate in Faster Payments.
- b. provide a payment account in the UK to their payment service users which can send or receive Faster Payments.

2.2 This proposed direction meets our regulatory principles and statutory objectives. In 2022, we set out four strategic priorities for the PSR, linked to our statutory objectives. The new reimbursement requirement aligns and advances our statutory and strategic objectives. It furthers our commitment to ensure that service users are sufficiently protected when using the UK's payment systems and, in the longer term, it will promote competition through creating a more efficient payments market based on clearer standards for preventing fraud.

2.3 Table 1 provides an updated overview of the legal instruments and their intended uses, as well as the supplementary materials we will issue.

Table 1: Implementation approach

Instrument(s)	What key reimbursement policies and/or tasks will be covered by the instrument?
Specific requirement for Pay.UK to amend Faster Payments rules (FSBRA section 55)	<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 limited claim excess • the ability to impose a maximum level of reimbursement • a time limit for victims to claim
Specific direction on all PSPs participating in Faster Payments who provide payment accounts to payment service users in the UK (FSBRA section 54)	<p>We will set out the reimbursement requirement and who it applies to in order to direct all PSPs within the scope of the policy to comply with the relevant Faster Payments rules and report data to Pay.UK.</p>
Specific direction to Pay.UK (FSBRA section 54)	<p>We will direct Pay.UK to monitor PSPs in line with the specific requirement and specific direction. Pay.UK will provide us with compliance data to inform any enforcement we may take and allow us to assess the policy’s effectiveness.</p>
PSR guidance	<p>We will provide guidance on the consumer standard of caution (gross negligence).</p>
PSR publication (e.g. online notice)	<p>Our publications will cover:</p> <ul style="list-style-type: none"> • the maximum level of claim excess • the maximum level of reimbursement • the consumer standard of caution and guidance to support this

- 2.4** In our consultation on the legal instruments in July 2023⁴ we also asked for views on a proposed go-live date of 2 April 2024. Most of the responses we received said that this date was unachievable. Therefore, we will not be confirming the implementation (go-live) date of the reimbursement requirement at this point. Instead, we plan to confirm the implementation (go-live) date, alongside the finalised legal instruments in December 2023. In this consultation paper in Chapter 4 we:
- summarise at a high level the responses we received
 - summarise what we think are the key dependencies
 - ask for views on our preferred go-live date of 7 October 2024

Responses

- 2.5** We are asking for feedback on the specific direction set out in this consultation **by 5pm on 19 October 2023**. We welcome feedback not only from the entities that we regulate, but also from all stakeholders and interested parties.
- 2.6** You can provide feedback by emailing us at **appscams@psr.org.uk**. You should provide your responses in a Microsoft Word document (rather than, or as well as, a PDF).
- 2.7** We will consider all consultation responses received by the deadline (5pm on 19 October 2023). Because we intend to finalise all the legal instruments by December 2023, we will not grant extensions for responses.
- 2.8** We will make all non-confidential responses available for public inspection and publish these along with the responses when we finalise the proposed specific direction in December 2023. If your submission includes confidential information, please also provide a non-confidential version suitable for publication. 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.

4 CP23/4, [APP fraud reimbursement requirement – draft legal instruments](#) (July 2023)

3 Why a specific direction?

We have designed the reimbursement requirement for APP scams to boost protections for consumers and do more to prevent scams happening. There are added benefits in enhancing trust in Faster Payments to achieve our strategic goals as the PSR.

Pay.UK's current scheme rules and powers lack the reach and nuance to achieve all this. Therefore, we propose a specific direction obliging in-scope Faster Payments PSPs to comply with the reimbursement rules and provide Pay.UK with APP scam case data.

The change to a proposed specific direction is different from the position set out in our policy statement⁵ and from our consultation paper on the other legal instruments.⁶ We have done this, following feedback, to provide more clarity around the scope of the direction.

Background

- 3.1** The proposed specific direction will create the reimbursement requirement and support the reimbursement rules and monitoring aspects. We provided a draft copy of the then proposed general direction in our July 2023 consultation on the other legal instruments (specific requirement and specific direction to Pay.UK) for visibility. After considering the feedback from that consultation we are now proposing a specific direction.
- 3.2** We have summarised the feedback and comments received from industry below:
- Several respondents asked for clarity on the scope of the proposed general direction in relation to the participants it would capture.
 - Respondents provided feedback on the definitions given and suggested changes to them. Any changes to the definitions can be seen in the draft of the proposed specific direction in Annex 1.
 - Some respondents felt that it was the PSR's obligation to inform indirect participants of the reimbursement requirement, and others wanted more guidance on how they should communicate this.
 - One respondent suggested we reframe part of the proposed general direction to provide clarity on if the PSR's intention was for indirect participants to comply with all Faster Payments rules, rather than just the rules on the reimbursement requirement.
 - We also received comments on the scope of the policy rather than the proposed general direction. The scope of the policy has been outlined in our policy statement in June.
 - As part of the responses to our previous consultation we were asked to consider whether we should be directing only the PSPs subject to the Payment Services Regulations 2017 (PSRs 2017).

5 PS23/3, [Fighting authorised push payment fraud: a new reimbursement requirement](#) (June 2023)

6 CP23/4, [APP fraud reimbursement requirement – draft legal instruments](#) (July 2023)

3.3 In Annex 1 we have provided a copy of the draft general direction we published in July, which highlights some of the changes we have made. We have also included a copy of the proposed specific direction. But we have highlighted some **key** changes below:

- We are now proposing to issue a specific direction to provide more clarity on the scope of the PSPs captured by the direction. We have provided more detail on this in the section 'why we are considering a specific direction' below.
- We are removing the requirement for PSPs to tell any existing or new indirect participants they provide access to about the obligations that apply to them under the reimbursement requirement. But given the scope of this policy, we need to understand who the direct participants provide access to. Therefore, we are placing an obligation on indirect access providers to inform the PSR of any indirect PSP customers they provide access to.
- We are proposing to move the reference to the consumer standard of caution, excess and maximum level of reimbursement from the proposed specific direction into the reimbursement rules. This will help provide more clarity on the reimbursement requirement to PSPs.
- Any changes to the definitions based on industry's comments have been highlighted in the proposed draft specific direction in Annex 1. We have also redrafted the reimbursement requirement to be subject to the reimbursement rules.
- We are proposing to include in the definition of *payment service provider* only those institutions that are included in, and not exempted from, the PSRs 2017.

Why we are considering a specific direction

3.4 As outlined above, there was a common theme in the feedback to our July consultation around the need for more clarity in the scope of our proposed general direction. Considering this feedback, we are now proposing a specific direction.

3.5 The change to a specific direction will not alter the scope of the policy as described in our policy statement and it does not affect how we will implement the policy. We have, however, listened to the feedback and changed how we frame this in the proposed direction. By proposing a specific direction instead of a general direction we can provide improved clarity on our existing policy position.

3.6 We intend for this change to the direction to more clearly define the PSPs who would be affected by the policy. It also reduces confusion around the scope and obligations of PISPs, EMIs and other non-bank PSP arrangements. The definition of 'APP scam payment' remains the same, which means that the intent of the reimbursement policy remains unchanged.

3.7 We intend to use the Specific direction to direct PSPs:

- a. participating in Faster Payments
- b. who provide a payment account in the UK to their payment service users which can send or receive Faster Payments

Overview of the specific direction

3.8 Using our powers under section 54 of FSBRA, we are proposing giving a specific direction to all Faster Payments PSPs who provide payment accounts to payment users in the UK which can send or receive Faster Payments. The specific direction will comprise:

- the reimbursement requirement
- the scope of the reimbursement requirement
- an obligation on both direct and indirect Faster Payments PSPs to comply with the new reimbursement 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 payment system operator (PSO)
- an ongoing obligation on indirect access providers to inform the PSR of any indirect PSP customers they provide access to

3.9 We are proposing to direct PSPs that provide payment accounts that make or receive Faster Payments. In one of the responses to the previous consultation, we were asked to consider whether we should be directing only PSPs subject to the Payment Services Regulations 2017. The majority by number and category of 'payment service providers' as defined in FSBRA are also subject to the Payment Services Regulations 2017, including banks, building societies, E-money and payments institutions for example but not credit unions, municipal banks or the National Savings Bank.

3.10 PSRs 2017 imposes liability on a PSP for incorrect execution of a payment, particularly in the case of unauthorised payments. For reasons of parity in the liability between unauthorised fraud with authorised fraud, we are proposing to include in the definition of *payment service provider* those legal persons which are covered by the PSRs 2017 and are not exempted. Payments to or from accounts operated by any of these exempt PSPs would be outside the definition of *APP scam payments*.

3.11 We intend to remove the requirement to comply with scheme rules and report data once we are satisfied that they are no longer necessary to support Pay.UK's implementation and oversight of the reimbursement requirement. More detail on this is provided in our policy statement.

3.12 The specific direction will compel Faster Payments PSPs to reimburse any victim that reports a reimbursable APP scam payment to their sending PSP, subject to the reimbursement rules. These will be any rules created as a result on our specific requirement on Pay.UK. These reimbursement rules will contain some limitations to reimbursement. These are set out in the limitations of reimbursement section below.

3.13 The specific direction will apply to all reimbursable scam payments which occur after the implementation (go-live) date. From this date the reimbursement requirement will come into force. It will also compel all PSPs in Faster Payments who provide a payment account in the UK to their payment service users which can send or receive Faster Payments, to comply with the new reimbursement scheme rules. A draft copy of these can be found alongside this consultation.

Question 1: Does the change to a specific direction provide more clarity on the scope of PSPs directed?

Question 2: Do you agree that PSPs that are exempt from the liability requirements for fraudulent unauthorised payments under the PSRs 2017 should also be excluded from the scope of our direction requiring reimbursement?

Transactions the direction would apply to

- 3.14** The proposed specific direction will apply to all Faster Payments PSPs who provide a payment account in the UK to their payment service users which can send or receive Faster Payments. Our policy statement⁷ gives more detail on the scope of the policy.
- 3.15** The change to a specific direction does not alter the scope of the transactions covered by the policy.

Limitations of reimbursement

- 3.16** The reimbursement rules will include the below limitations to reimbursement:
- a consumer standard of caution exception
 - maximum levels of excess per claim and a maximum level of reimbursement
 - a time limit to claim
- 3.17** This is a change from our proposed general direction where the limitations to reimbursement were in the direction. This will help provide more clarity on the reimbursement requirement to PSPs. This is not a change to our policy.
- 3.18** Our June policy statement gives more information on the scope of the reimbursement policy and the transactions that will not be covered.⁸

Reporting of APP scam case data

- 3.19** The proposed specific direction places an obligation on the PSPs directed within it to report APP scam case data to the payment system operator (currently Pay.UK). We understand that some PSPs already report or collect data on APP scams, and we believe most of the relevant data will be generated by the reimbursement process, so we expect this to place a minimal burden on PSPs.
- 3.20** Pay.UK, with the PSR's approval, will specify the frequency, form and nature of the data required. In our July consultation on the specific requirement and direction on Pay.UK, we asked for comments from industry on the frequency of reporting to Pay.UK and we will consider and respond to the feedback received when we publish the final legal instruments in December.

⁷ PS23/3, [Fighting authorised push payment fraud: a new reimbursement requirement](#) (June 2023)

⁸ PS23/3, [Fighting authorised push payment fraud: a new reimbursement requirement](#) (June 2023), page 14

3.21 We will require all PSPs directed in the proposed specific direction to comply with reimbursement scheme rules and report APP scam case data to ensure consistent outcomes for consumers who have fallen victim to an APP scam. This will also ensure that Pay.UK has the data it needs to monitor whether all PSPs are in compliance with the scheme rules. The PSR will also use this data to assess the effectiveness of the reimbursement requirement and for any enforcement action.

Indirect access providers to inform the PSR of any indirect PSP customers they provide access to

3.22 We are proposing placing an obligation on indirect access providers to inform the PSR of all indirect PSP customers they provide access to. This is to ensure that all PSPs are aware of the reimbursement requirement. This is a change from the proposed general direction where we asked directed PSPs to inform their indirect PSPs about their obligations under the policy.

3.23 We are proposing that all indirect access providers provide a complete list of all their indirect PSP customers for the previous calendar year by 31 March 2024.

3.24 This will be an ongoing obligation and we would expect a list of these to be provided to us on an annual basis on 31 March.

3.25 We are proposing to provide the list provided to the PSO (currently Pay.UK), to help with compliance and monitoring of the policy.

3.26 We are aware that each year the PSR requires indirect access providers to provide information about who their indirect PSP customers are, as well as information on which payment systems they use amongst other data. This informs the PSRs work on access to payment systems.⁹

3.27 We think the scope of the obligation under the proposed specific direction is different to that of the request for information on indirect access providers. Therefore, this is a proportionate requirement.

Question 3: Does the scope of the direction give effect to its intention as outlined in the policy statement?

Question 4: Do you agree with the move to an ongoing obligation placed on indirect access providers to provide us with a list of any indirect PSP customers they provide access to annually?

⁹ <https://www.psr.org.uk/our-work/access-to-payment-systems/>

4 Implementation (go-live) date

In our July consultation on the other legal instruments, we asked for comments on a proposed go-live date of 2 April 2024. The implementation (go-live) date is the date that the reimbursement requirement would come into force. The response from industry was that an April date was unachievable. We have listened to this feedback, and we would like to now invite views on further options and our preferred implementation (go-live) date of 7 October 2024.

Go-live date

- 4.1** In our consultation on the legal instruments in July 2023¹⁰ we asked for views on a proposed go-live date of 2 April 2024. Most of the responses we received provided reasons as to why this date was unachievable. And we've summarised the responses in further detail below.
- 4.2** We will not be confirming the implementation date of the reimbursement requirement in this consultation. Instead, we plan to confirm the implementation (go-live) date alongside the finalised legal instruments in December 2023. In this consultation paper we will:
- summarise at a high level the responses we received
 - summarise what we think are the key dependencies
 - ask for further input on a proposed implementation (go-live) date of the requirement to reimburse of 7 October 2024.
- 4.3** In response to the consultation most of industry expressed that they did not think an April 2024 implementation (go-live) date was achievable. Respondents said this did not give them enough time from the finalised policy and updated Faster Payments rules being published in December 2023 to operationalise. Most also said that they would need 6 to 12 months from the publication of the final policy position (consumer standard of caution, excess, maximum level of reimbursement and legal instruments) in December 2023 to prepare for implementation. They also highlighted there isn't currently a data solution in place.

10 CP23/4, [APP fraud reimbursement requirement – draft legal instruments](#) (July 2023)

4.4 From the feedback to the consultation, we have summarised what we consider to be the key issues raised. Industry said they key issues were:

- **System capability:** Respondents highlighted that there isn't currently a data solution that allows them to handle case management, communicate settlements and report data to Pay.UK. Industry representatives said that without these systems in place, they are concerned that larger PSPs may not be able to communicate with smaller PSPs effectively within the timescales required for reimbursement. They are also concerned that non-secure communication systems would be used to handle data. Industry respondents were keen for the systems to be tested ahead of the go-live date. Industry expressed the need for one system to handle both case management and compliance monitoring, and the risks of duplication of work if these were decoupled.
- **Operational timescales:** PSPs told us they would need time to train staff, build IT systems, change the way they handle APP scams, develop end-to-end processes and design warnings. Smaller PSPs raised the point that they might face resource challenges in preparing for the go-live date, especially given the introduction of Confirmation of Payee planned for October 2024. Smaller PSPs also emphasised that they needed time to build up commercial resilience for increased costs.
- **Faster Payments rules:** The responses highlighted that PSPs do not consider they can prepare to implement the policy or estimate how long it might take them to be operationally ready without having seen the Faster Payments rules that Pay.UK will deliver. Respondents told us they would need sufficient time to review these rules ahead of the go-live date.
- **Elements of the policy aren't finalised:** Industry commented that the consumer standard of caution, excess, maximum level of reimbursement and legal instruments won't be finalised until December 2023. Respondents representing PSPs stated it was difficult for industry to prepare operationally and design end-to-end processes or develop systems until the policy package had been finalised. We intend to finalise the policy package in December 2023.

4.5 Considering all the factors, we think that the key dependencies are:

- development of system capability
- development of the updated Faster Payments rules
- the finalisation of the policy

Table 2: High-level timeline of delivery of key dependencies

September 2023	<ul style="list-style-type: none">• Draft Faster Payments rules published alongside the consultation on specific direction
December 2023	<ul style="list-style-type: none">• All legal instruments published• Consumer standard of caution policy and guidance published• Excess and maximum level of reimbursement policy published
October 2024	<ul style="list-style-type: none">• Deadline for introduction of Confirmation of Payee for Group 2¹¹

4.6 We consider that an implementation (go-live) date of 7 October 2024 would balance the needs of industry and the need to provide protection for victims of APP scams. We say this because:

- This provides Pay.UK and industry time to develop system capability.
- It also aligns with industry's suggestion that it would need 6 to 12 months from the publication to prepare for the implementation (go-live) date.
- By this date we believe PSPs will have had sufficient time from the publication of the policy statement in June 2023, the draft Faster Payments rules in September 2023 and the finalised policy elements in December 2023 to prepare operationally and develop systems.
- We understand that this will leave victims of APP scams without protection for longer. Implementing the policy too soon has the potential for other negative outcomes for consumers, such as disorderly failures of PSPs and less nuanced de-risking of consumers.

Question 5: Do you agree with our proposed timeline for implementation, our assessment of key dependencies, and the feasibility of a go-live date of 7 October 2024?

11 PS22/3, [Extending Confirmation of Payee coverage](#) (October 2022)

5 CHAPS timeline

In our June policy statement¹² and our July consultation on the legal instruments¹³ we explained that the Bank of England had announced its intention to introduce comparable reimbursement requirements for CHAPS.

Timeline for CHAPS

- 5.1** The Bank of England has announced its intention that a comparable model should apply to the CHAPS payments. We are working closely with them on the effective implementation of reimbursement requirements for CHAPS payments.
- 5.2** To support this, we are considering giving a direction for in scope CHAPS participants, similar to the one we currently propose for Faster Payments.
- 5.3** The Bank of England will draft the relevant scheme rules for CHAPS. However, the scheme rules may need to include some differences to reflect differences in the characteristics and users of the two systems.
- 5.4** If we decide to consult on a direction, we are considering formally consulting in early 2024 on any proposed direction obliging compliance with the CHAPS reimbursement rules. We will consider replicating the approach we have taken for the direction for Faster Payments as far as possible.
- 5.5** In our July consultation on the other legal instruments, we said we intended to consult on a CHAPS direction alongside this consultation on the specific direction. However, if we decide to consult on a CHAPS direction, we will intend to do so in early 2024, once the specific direction for Faster Payments participants has been finalised.

12 PS23/3, [Fighting authorised push payment fraud: a new reimbursement requirement](#) (June 2023), page 14

13 CP23/4, [APP fraud reimbursement requirement – draft legal instruments](#) (July 2023)

6 Question summary

- Question 1:** Does the change to a specific direction provide more clarity on scope whilst still achieving the policy objectives?
- Question 2:** Do you agree that PSPs that are exempt from the liability requirements for fraudulent unauthorised payments under the PSRs 2017 should also be excluded from the scope of our direction requiring reimbursement?
- Question 3:** Does the scope of the direction give effect to its intention as outlined in the policy statement?
- Question 4:** Do you agree with the move to an ongoing obligation placed on indirect access providers to provide us with a list of any indirect PSP customers they provide access to annually?
- Question 5:** Do you agree with our proposed timeline for implementation, our assessment of key dependencies, and the feasibility of a go-live date of 7 October 2024?

Annex 1

Draft specific direction

DRAFT Specific Direction [X] to PSPs participating in Faster Payments which provide payment accounts to payment service users in the UK to reimburse APP scam payments and comply with the scheme rules on reimbursement

Specific Direction [X]:
APP scam reimbursement requirement

[Month] 2023

Specific Direction [X]: APP scam reimbursement requirement

1 Recitals

Whereas:

- 1.1 Authorised push payment (APP) scams happen when a person 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 to be reimbursed by the sending PSP. This is known as the reimbursement requirement.
- 1.5 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.
- 1.6 The PSR has also decided to use its powers under section 54 of FSBRA to direct PSPs participating in Faster Payments, which provide payment accounts to payment service users in the UK, 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 specific 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)
 - b. Section 62 (Duty to consider exercise of powers under Competition Act 1998)
- 2.3** This specific direction ensures that the PSR complies with its duty under section 72(5) of FSMA 2023 to introduce a reimbursement requirement for APP scams in Faster Payments.

DRAFT

Direction

NOW the PSR gives the following specific direction to all PSPs participating in Faster Payments which provide payment accounts to consumers in the UK

3 The reimbursement requirement

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 requirements set out in the reimbursement rules. 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 the date on which this specific direction comes into force.

4 Requirement to comply with the reimbursement rules

- 4.1** By the date on which this direction comes into force, all directed PSPs which are members of Faster Payments are to comply with the provisions of the reimbursement rules.
- 4.2** By the date on which this direction comes into force, all directed PSPs who are not members of Faster Payments are to comply with the provisions of the reimbursement rules.

5 Reporting APP scam case data

- 5.1** All directed PSPs are to report APP scam case data to the Faster Payments operator.
- 5.2** 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.
- 5.3** This reporting obligation shall apply from the date this direction comes into force.

Indirect Access Providers to provide information about their indirect PSP customers

- 5.4 By 31 March 2024, and annually thereafter, all indirect access providers must provide the PSR with a complete list of all of their indirect PSP customers for the previous calendar year.

6 Application

- 6.1 This specific direction applies to all PSPs participating in Faster Payments which provide payment accounts to consumers in the UK.

7 Commencement and duration

- 7.1 This general direction comes into force on [7 October 2024].
- 7.2 This general direction will continue in force until such time as it is varied or revoked by the PSR.

8 Citation

- 8.1 This direction may be cited as Specific Direction [XX] (APP scam reimbursement requirement).

9 Interpretation

- 9.1 The headings and titles used in this specific direction are for convenience and have no legal effect.
- 9.2 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.
- 9.3 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.
- 9.4 The following definitions shall apply in this general direction:
- **Account controlled by the consumer** means a Payment Account which a consumer can access and from which they can make payments. It is not sufficient for it to be in the consumer's name.
 - **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 person manipulates or deceives, by way of fraud or dishonesty, a consumer into transferring funds from the consumer's payment account to a payment 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. For the avoidance of any doubt, where the person is party to any fraud or dishonesty referred to above, this is not an APP scam for the purpose of the reimbursement requirement or the reimbursement rules.
- **APP scam case** means a fraudulent act, or a fraudulent course of conduct, that leads to one or more APP scam payments.
- **'APP scam case data'** means such data as the payment systems operator of FPS requires, from time to time, in order to discharge their obligation, under paragraph 5.1 of SDXX, placed upon them by the PSR.
- **APP scam payment** for the purposes of this direction means an APP, authorised by a victim 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 this direction, 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 Trustee Investment (Scotland) Act 2005 or the Charities Act (Northern Ireland) 2008).
- **Directed PSP** means a PSP participating in Faster Payments to which this specific direction applies.

- **Faster Payments** means the Faster Payments Scheme as a regulated payment system designated by Order from the Treasury on 1 April 2015.
- **Indirect Access Provider** means a payment service provider with access to Faster Payments that has an agreement or arrangements with another person for the purpose of enabling that other person ('indirect PSP customer') to provide services for the purposes of enabling the transfer of funds using Faster Payments or to become a payment service provider in relation to Faster Payments.
- **Member of Faster Payments** means directly connected settling and directly connected non-settling participants.
- **Operator** has the same meaning as under section 42(3) of FSBRA in relation to the Faster Payments system.
- **Payment Account** means an account which can send or receive Faster Payments, is held in the UK, and which is used for the execution of payment transactions.
- **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 consumer standard of caution exception set out in the reimbursement rules does not apply and the claim was made within the time limit set out in the reimbursement rules.
- **Reimbursement requirement** means the obligation conferred on directed PSPs under paragraph 3.1 above.
- **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 consumer, from which one or more APP scam payments were made.
- **Victim** means a consumer who has made one or more APP scam payments.
- **Vulnerable consumer** has the same meaning as when the term is used by the Financial Conduct Authority 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.

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

Made on [date]

[Name]

[Job title]

Payment Systems Regulator

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