

**Memorandum of Understanding between
the Payment Systems Regulator ('PSR') and
the Lending Standards Board ('LSB')**

1. Scope and purpose

1.1 The purpose of this Memorandum is to record the framework for co-operation and communication between the Payment Systems Regulator, in carrying out its duties and functions under Part 5 of the Financial Services (Banking Reform) Act 2013 [relating to Authorised Push Payment ('APP') scams] and the Lending Standards Board, in its role as the governing body for the Contingent Reimbursement Model Code ('CRM Code/ The Code') for APP scams, to the extent permitted by law.

1.2 This Memorandum does not give rise to legally binding obligations on the part of either the PSR or the LSB and is subject to any legal requirement affecting the PSR or the LSB, including contractual obligations.

1.3 This Memorandum is not intended to:

- (a) restrict the exercise or discretion which the law requires or allows the PSR or the LSB to exercise
- (b) create any legitimate expectation on the part of any person that the PSR or the LSB will do any act or will refrain from doing any act; or
- (c) prevent the PSR or the LSB from complying with any law which applies to them, for example, applicable statutory or procedural restrictions on disclosure or obligations under applicable data protection legislation in force

2. The Payment Systems Regulator

2.1 The PSR is the economic regulator of payment systems, and its aim is to make sure the UK's payment systems work well for everyone who uses them now and in the future.

2.2 The PSR has a range of regulatory powers including imposing requirements around system rules, and amending agreements relating to payment systems, including fees and charges.

2.3 The PSR must, so far as is reasonably possible, act in a way which advances one or more of its three payment systems objectives:

- (a) to promote effective competition in the market for payment systems and the markets for services provided by payment systems in the interests of those who use, or are likely to use, services provided by payment systems;
- (b) to promote the development of, and innovation in, payment systems in the interests of those who use, or are likely to use, services provided by payment systems, including in particular the infrastructure used to operate; and
- (c) to ensure that payment systems are operated and developed in a way that takes account of, and promotes the interests of those who use, or are likely to use, services provided by payment systems.

2.4 In discharging its general functions relating to payment systems, the PSR must also have regard to the importance of maintaining the stability of, and confidence in, the UK's financial system.

2.5 The PSR's strategy¹ has four key outcomes, with ensuring users are sufficiently protected when using payment systems, the most relevant to the development of and implementation of the CRM Code.

3. The Lending Standards Board

3.1 LSB has an overarching mission to drive fair customer outcomes within financial services through independent oversight.

3.2 The LSB is an independent oversight organisation which sets standards through, and provides independent oversight of, the Standards of Lending Practice and other codes of practice within its remit. These cover retail and business lending and financing, access to banking services, and protections from authorised push payment scams.

3.3 The Standards and Codes overseen by the LSB are:

- (a) The Standards of Lending Practice for personal customers.
- (b) The Standards of Lending Practice for business customers.
- (c) The Standards of Lending Practice for business customers – Asset Finance.
- (d) The Access to Banking Standard.
- (e) The CRM Code.

3.4 Firms can be signatories to any combination of the Standards and Codes overseen by the LSB. Firms signed up to one or more of the LSB's Standards or Codes are referred to as 'registered firms'.

3.5 Registered firms that are signatories to the CRM Code can include Payment Services Providers within the meaning of regulation 2(1) of the Payment Service Regulations 2017.

4. Areas of overlap between the LSB and PSR

4.1 The PSR has powers derived from primary and secondary legislation. The PSR has strategic objectives of preventing APP scams from happening in the first place and significantly reducing the size of losses incurred by payment system users when APP scams occur.

4.2 The LSB has powers derived from registered firms agreeing to be bound by the LSB's Registration Rules and, in turn, to comply with the requirements of the Standards and Codes to which they are signatories. This includes the CRM Code.

4.3 The PSR and the LSB have a mutual regulatory interest in relation to reducing the harm to consumers caused by APP scams.

¹ <https://www.psr.org.uk/publications/general/the-psr-strategy/>

4.4 In March 2018, the PSR set up the APP Scams Steering Group, made up of industry and consumer representatives, to develop a contingent reimbursement model for APP scams. In May 2019, the CRM Code came into effect. On 1 July 2019, the LSB became the independent governing body of the CRM Code.

4.5 The CRM Code provides protections for customers using the payments system against APP scams executed across Faster Payments, CHAPS, or an internal book transfer, authorised by a customer in accordance with regulation 67 of the Payment Services Regulations. The CRM Code provides protections for consumers, micro-enterprises, and charities, as defined in regulation 2(1) of the Payment Services Regulations. The Code sets out commitments by registered firms to take steps to detect and prevent APP scams and to, on a contingent basis, reimburse victims of APP scams where they are not to blame for the success of the scam.

4.6 The LSB is responsible for the maintenance, review and, where necessary, updates of the CRM Code and the accompanying practitioner guide, to ensure that it continues to provide an appropriate degree of protection for customers. The LSB's oversight framework ensures that firms are adhering to the requirements of the CRM Code via a combination of thematic reviews, self-attestation, and relationship management.

4.7 In working together, the PSR and LSB want to achieve the following objectives:

- (a) to improve detection and prevention of APP scams;
- (b) to improve protections and outcomes for victims of APP fraud, through reimbursement, repatriation, and prevention measures;
- (c) to determine whether further enhancements could be made to the CRM Code, in line with the Code's objectives;
- (d) to provide payment system users with greater transparency about Payment System Providers ('PSPs') performance in applying the CRM Code until any resulting regulation or legislation supersedes it.

4.8 On 20 July 2022 the Government introduced the Financial Services and Markets Bill to Parliament. The bill will enable the PSR to direct PSPs to reimburse victims of APP fraud with the regulatory requirement being imposed within six months of the provisions coming into force. The PSR intends to publish a consultation on its preferred approach to APP scam reimbursement in Autumn 2022 which will include proposed interim and long-term arrangements for the implementation of reimbursement requirements.

4.9 Recognising that future legislation, regulation, or changes to the CRM Code may be necessary to improve detection and prevention of APP scams and to improve protections and outcomes for the victims of APP fraud, the LSB and PSR have a mutual interest in co-operating in the course of each organisations' work in relation to APP scams.

5. Oversight and investigation

5.1 The PSR and the LSB recognise the desirability of:

- (a) promoting an approach to the oversight and regulation of APP scams that is coordinated, transparent, proportionate, and responsive to the issues; and

- (b) avoiding undue duplication of investigation and review work in areas of mutual regulatory interest.

5.2 The PSR's approach to regulating the payment systems industry is set out in PSR PS 15/1: A new regulatory framework for payment systems in the UK. The PSR will, where appropriate, take account of the work being performed by the LSB and the adherence to the Standards and Codes by registered firms when determining what resources to deploy in regulating the payment systems industry.

5.3 The LSB undertakes independent oversight of registered firms' adherence to the provisions of the CRM Code identifying areas of non-adherence and takes action where this is the case. When an issue is identified that could potentially require action, by either the PSR or the LSB, the two bodies may consult each other to understand and to be able to take account of any actions that either organisation may take.

6. Co-operation, co-ordination, and exchange of information

6.1 The PSR and the LSB will seek to:

- (a) co-operate in a timely way with regard to their respective roles;
- (b) maintain general awareness and understanding of each other's functions;
- (c) share good practice in areas of overlap; and
- (d) meet as necessary to seek to achieve these benefits, including regular meetings at staff level and meetings at least quarterly at senior management level. Meetings at staff level will take place at least quarterly and more frequently on an ad hoc basis, as necessary. These meetings may include discussion of the quality of compliance in areas of overlap and will review progress in dealing with any specific issues that have arisen since the previous regular meeting, to the extent this is compatible with legal restrictions on disclosure.

Co-operation and co-ordination

6.2 The LSB, subject to restrictions set out in the LSB's Registration Rules, and the PSR, subject to statutory restrictions, will, at least quarterly, share general insight regarding the planning, undertaking and outcomes of compliance, oversight and supervisory work, and the development of the CRM Code or PSR regulation in line with the respective organisations' objectives. This approach will seek to ensure:

- (a) a consistent understanding of the Code's overarching objectives of:
 - i. reducing the occurrence of APP scams;
 - ii. increasing the proportion of Customers protected from the impact of APP scams, both through reimbursement and the reduction of APP scams;
 - iii. minimising disruption to legitimate payment journeys;
- (b) that there is the opportunity for the PSR and LSB to take account of the respective organisation's work when planning or undertaking supervisory, monitoring or policy development work;

- (c) where work is being undertaken in relation to APP scams, and in particular scam prevention, the LSB and PSR can take steps to work collaboratively to prevent duplication of oversight and policy work;
- (d) that due consideration is given to the need to communicate and engage at appropriate opportunities with the respective organisation when either the LSB or PSR:
 - i. is considering a material change to the CRM Code or to the regulation of payment systems that may impact on the work being undertaken by the other organisation; or
 - ii. is planning to publish materials that reference the work of the other organisation.

Exchange of information

6.3 The PSR's ability to disclose information on its regulatory activities to the LSB is subject to statutory restriction. The co-operation arrangements outlined in this section do not affect or override those restrictions. Subject to these restrictions, the PSR may exchange information where it is able to do so – in the case of confidential information legislation enables this in certain circumstances through "information gateways".

6.4 The LSB Registration Rules impose a duty of confidentiality on the LSB, but they provide a gateway for confidential information regarding registered firms to be passed to the PSR.

6.5 Subject to the above two paragraphs, the PSR and the LSB expect to exchange information as appropriate in connection with the carrying out of their respective responsibilities in relation to the payments industry. This will include, where relevant:

- (a) the LSB will notify the PSR of information held by the LSB which the LSB considers may warrant investigation by the PSR, where that information becomes apparent to the LSB;
- (b) the PSR will, subject to statutory restrictions, notify the LSB of information held by the PSR which the PSR considers may warrant investigation by the LSB;
- (c) the parties will, if appropriate, consult with each other in relation to any proposed PSR or LSB public announcement that may be relevant to the functions of the other party.

7. Review of memorandum of understanding

7.1 The PSR and the LSB will commit to review the Memorandum from time to time, and as appropriate, to consider:

- (a) any issues that have arisen from the operation of this Memorandum;
- (b) the content and application of this Memorandum and any changes which need to be made;
- (c) the exercise of the PSR's and the LSB's respective responsibilities; and
- (d) whether any rules or procedures need to be reviewed for possible change.

7.2 Either the PSR or the LSB may terminate the Memorandum at any time but will endeavour to give the other body reasonable notice before doing so.

8. Publication

Copies of this Memorandum will be available on the PSR and LSB websites.

9. Special circumstances

Whilst it is intended that the arrangements in this Memorandum should apply generally, it is recognised that some circumstances will require special handling. Nothing in the Memorandum prevents the making of arrangements to meet specific exceptional needs.

Signed by:

For the Payment Systems Regulator

Name: Kate Fitzgerald

Position: Head of Policy

Signature: 

Date: 28th October 2022

For the Lending Standards Board

Name: Emma Lovell

Position: Chief Executive

Signature: 

Date: 28th October 2022