

Authorised Push Payment (APP) scams conference call – 30 March 2020

Attendees:

Barclays UK
Building Societies Association (BSA)
Citibank UK
ClearBank
Danske Bank
Electronic Money Association (EMA)
Financial Conduct Authority (FCA)
Financial Ombudsman Service
HM Treasury
HSBC UK
Lending Standards Board (LSB)
Lloyds Banking Group
Metro Bank
Monzo
Nationwide
Pay.UK
Payment Systems Regulator (PSR)
Royal Bank of Scotland (RBS)
Santander UK
Starling Bank
The Co-operative Bank
TransferWise
TSB
UK Finance
Virgin Money UK

Chris Hemsley speaking note

Logistics

Good morning, and thank you all for making time for this meeting today. I appreciate it, particularly given the current situation. You will no doubt be familiar with how to make the best of teleconferences now, so please do leave your phone muted during the session, unless you are speaking. I will also do my best to chair this in a structured way, which will inevitably be more formal than I would when we're in the same room.

Also, you have been sent a link to the online presentation of the slides. I will move these slides on, which you should hopefully see live, albeit after a short delay. The link should work on a normal smartphone, if you are having difficulty with your laptops.

First, to confirm attendees, I will run through the organisations that I think are on the line. If you could confirm who you are and who you have with you, that will be helpful. And from the PSR we have Genevieve Marjoribanks, our Head of Policy, and Kim Turner, my Private Secretary and MD office manager. Also from the Financial Conduct Authority, we have Andrew Wigston, Head of Domestic Retail Banks.

In terms of the format, as we warned you all last week, there will be a lot of talking from me. As the issues are inter-related, I will be talking through all of the PSR material at once. While a discussion will be difficult, there will then be an opportunity for reflections and questions.

Opening remarks

We thought long and hard about whether we should continue with this session, in light of the pressures around handling COVID-19 and how it is adding more stretch to everything we all do. Indeed, like you we have been adapting to remote working for our staff, we've been fully engaged with a range of cross-authority workstreams, and have taken action where we can to provide greater flexibility to firms as they focus on protecting customers.

It is important to explain why we chose to proceed with this event at this time. First, we have changed the format to a call and reduced the ambition somewhat, which is recognition of what is possible in the current circumstances. I am mindful that now is not a good time to be seeking firm commitments that require you to set up new strands of work. However, I am equally conscious that this is very important work, that has a huge impact on victims.

Instead, I will take some time to set out an overview of where we are with the issues around APP scams. I will also set out a proposed way in which some of the remaining issues can be

addressed. We will also make a version of what I am saying now, and the slides we are sharing with you, available on our website so that those who could not dial in now have an opportunity to catch-up when they can.

Inevitably, in this format, there will be limited scope for interaction and group dialogue. I am mindful that the meeting will no doubt prompt questions and further discussion. To tackle some of these limitations, I invite you to send in any questions by email, so that we can continue the conversation – in terms of a genuine two-way dialogue – after this session as and when we are able to engage properly.

Second, there's the question of why now and not later. On this, I am very conscious that one of the unfortunate trends that we have seen with COVID-19 is that it is again providing fraudsters with an opportunity to prey on the vulnerable. And the data available to us suggests that there are problems with how APP fraud is currently being handled. If we do not act, these problems are at risk of getting larger, making it more difficult to resolve them. I don't think any of us want that.

In addition, I have heard loud and clear the calls from a number of stakeholders on whether progress has been sufficiently fast; we are sympathetic to this view and want to see, and help drive, better outcomes for consumers. Now, things have clearly moved on in the last few weeks, but that challenge remains and we have a role in making sure this moves forward so that consumers are properly and adequately protected, and rightly stakeholders are calling on us to do that.

So, with that said, I propose to move on to the session, starting with a few words on the general response to APP scams.

Introduction

I don't need to remind you all of the importance of dealing with APP scams. You will all have seen cases come across your desk, where sophisticated fraudsters take advantage of people, costing them life-changing sums of money. This is why I am particularly pleased that industry – working with consumer groups – was able to agree the voluntary Contingent Reimbursement Model Code. This is a huge step-forward in the protections available to customers of the banks who have signed up.

The Code has been in place for ten months. This provides us with an opportunity to take stock of progress, review the evidence we have gathered so far, and consider whether the right outcomes are being achieved for consumers. As I mentioned earlier, there have also been understandable

calls for action from the PSR – asking us to do more – and for more clarity about the next steps to address the remaining issues.

It is really important that we get this right – preventing fraud and protecting customers who fall victim to this crime. To do this, we want to make sure the Code is working effectively and that we have a sustainable longer-term framework that means customers are protected no matter which bank they use to make payments.

Reflecting this, there are several areas I want to cover off today:

- First, the current state of play – a look at recent fraud statistics and the work that the PSR and FCA are progressing with the industry on fraud prevention
- Second, outcomes under the Code – discussion of data on reimbursement levels under the Code, the findings from the LSB's thematic review, the Financial Ombudsman Service's experience of complaints and potential barriers to take up of the code
- Third, the long-term funding for no-blame situations – this remains a critical area for industry and the PSR that requires urgent resolution
- Finally, I will outline the options for the way forward

The state of play

Let's start with the current fraud landscape – UK Finance recently released fraud statistics which show that APP scams are on the increase. More victims are losing life changing sums of money. Data shows that between 2018 and 2019 APP fraud losses increased by almost 30% to an alarming £456 million. Most of this increase is attributed to fraud occurring on personal accounts.

These figures are a stark reminder that there's a lot more to be done to stop customers becoming victims to this life changing crime. The effect of these scams on consumers is devastating, we have all seen and heard the stories from people who have fallen victim. This type of fraud needs to be prevented and firms are on the front line. Your fraud prevention strategies play a significant role in helping to minimise the number of people falling victim to APP fraud. It is critical that firms get this right, so we can stamp out this crime.

There are anti-fraud initiatives in-train, which is a start – but it's clear that more needs to be done. As a high-level update, I'll briefly touch on the Stop Scams work and Confirmation of Payee.

The FCA has been progressing its work on Stop Scams, an industry led initiative borne out of a partnership between the FCA and Ofcom. Its aim is to stop scams at the source through

collaboration across multiple sectors. It extends the discussion on APP scams to cover participants in the wider eco-system, providing a forum where firms can work together to provide new solutions and tools which reduce the level of fraud. The first event was held in November 2019 and the initiative has now moved onto planning and set-up. The FCA continue to seek feedback on actions and further ideas from industry members.

The PSR has been busy liaising with many of you on the implementation of Confirmation of Payee, following the direction we gave in August 2019. The deadline for implementation is 31 March 2020 but I recently sent directed firms a letter, making it clear that formal action will not be pursued if there are delays due to COVID-19, provided that firms reimburse customers in cases where Confirmation of Payee would have likely prevented the scam.

I am pleased that the response to this has been positive. We acted quickly, without much time to consult and test our approach in advance, and are pleased with how the industry has initially reacted despite this.

Outcomes under the Code

Moving on to the next agenda item, I want us to reflect on what industry data tells us so far. Data from UK finance suggests that only 40% of losses from cases assessed under the Code were reimbursed between 28 May and 31 December 2019. I know there is continuing work to understand the impact of any remaining data issues behind these figures. But, if this data is a reasonable indication of what customers are experiencing, this is well below the levels of reimbursement that I was expecting. After all, the Code presumes that customers should be reimbursed unless there are clear grounds for holding them liable.

Reimbursement by banks and cases

This picture is repeated when looking at data by individual banks. Here, we can see that the levels of reimbursement are extremely varied across Code banks. It also shows that in a significant number of cases, Code banks are either not reimbursing, or where they are, the award is partial, meaning that a large number of victims are left out of pocket.

Reimbursement by bank and value

The data by value highlights the same issues namely that reimbursement levels vary considerably across Code banks, and generally are lower than I would have expected. Overall, this data indicates there is a problem with reimbursement levels. The Code does not appear to be working as well as we had hoped to improve outcomes for victims of APP scams.

It is possible that there is a problem with the data. Indeed, what the data shows does seem out of line with what I am being told by banks about their approach to managing claims. It is of course possible that there is a good explanation behind what we seem to be seeing in the data. I think this points to the need for us to work as quickly as we can to understand whether the data we are seeing is right, what might explain it, and, if it is a reasonable indication of reimbursement levels, what we can do to improve outcomes for customers.

Feedback from the Lending Standards Board and Financial Ombudsman Service

Turning to the work of the Lending Standards Board (LSB) and the Financial Ombudsman Service. As you will all know, both organisations play a vital role in making sure that the Code is working. The LSB by monitoring outcomes and managing changes to the code, and the Financial Ombudsman Service by providing a route of appeal for customers who are not happy with how their case has been handled under the Code.

The conclusions from the LSB's thematic review provide context to the data we are seeing come through, and offers insight into how the Code is being applied. The LSB has provided an overview of the key issues identified in its review, which I'll briefly touch on now. Banks have received their own reports, so I will not repeat all the LSB findings in detail.

I'm pleased to hear the LSB has also conducted a roundtable with all impacted firms, as well as members of its wider registered firms base, to discuss its initial findings and provide guidance on its expectations.

Turning to the experience of the Financial Ombudsman Service, it has highlighted several issues that are consistent with those identified by the LSB.¹

In its case assessment experience, so far it has seen:

- Evidence to suggest that some firms are declining to reimburse based on generic warnings.
- Cases where they consider the bank was not right to say the customer had a reasonable basis for believing the transaction or recipient was genuine.
- Cases where firms have expected customers to display a higher degree of caution or knowledge of the scam than might ordinarily be reasonable, and
- Cases where firms are offering partial reimbursements in circumstances where 100% reimbursement would be appropriate.

¹ The Financial Ombudsman Service's full update can be found in the annex of this document

However, the Financial Ombudsman Service has recognised that there has been improvement in some firm's responses to more recent transactions – but there is still more to be done. These issues need to be addressed as soon as possible to make sure the Code is delivering the right outcomes for consumers.

Looking across all the evidence, there is some cause for concern that outcomes are not where we all want them to be. I welcome the LSB review and the early information emerging from the Financial Ombudsman Service. But it goes without saying that these issues need to be addressed as soon as possible to make sure the Code is delivering the right outcomes for consumers. I will come on to this later.

Barriers to Code participation

If I now move on from the outcomes under the Code for those PSPs that are signed up. There is clearly a shared objective that we all want to see more firms signed up to the Code. This is something that I know the LSB has front of mind.

On this, there are a few points to make, where we can make progress to remove barriers to participating in the Code and also encourage wider take-up.

First, while it is open to banks and others to participate in a shared funding scheme, it is also important that firms have the option to choose to self-fund the cost of no-blame cases, and that it is clear this option exists for new joiners. I emphasise this as otherwise we risk introducing competition risks into the framework, as larger banks dictate the way that smaller, competitor firms choose to fund this cost.

Second, we need to make sure that the Code can work for a wider set of institutions, and address provisions which could prevent smaller PSPs and PISPs from complying with the Code.

Third, I am also eager to see the Code's benefits publicised more broadly to encourage greater levels of participation and to ensure a level playing field. Indeed, I have discussed with a number of you whether we can think more imaginatively about how to increase participation. Once we have addressed the barriers to some firms participating, is there a role for a kitemark or a need for greater publicity around who has and has not signed up to the Code?

No-blame funding

Overview of Pay.UK decision

Another key outstanding issue with the Code is the long-term funding arrangements for no-blame. It is important to put on record that I welcome the steps taken by those banks who are meeting the cost of the so-called no-blame scenario, be it through self-funding these costs, or through the shared funding approach.

You will all know that Pay.UK considered – but ultimately rejected – a proposed rule change, that would have done a number of things:

- Made it a mandatory requirement of FPS to meet the costs of no-blame APP fraud
- Transferred this levy income into a fund, governed by UK Finance
- Used money raised from FPS transactions to fund the reimbursement of fraud occurring on other payment channels (e.g. CHAPS)
- Resulted in all FPS participants, regardless of whether they benefited from the interim no-blame fund, recompensing those who provided its funding

It is worth reflecting on the reasons why this proposal was rejected by Pay.UK. Pay.UK highlighted the following:

- The approach of creating a socialised, shared fund may dampen individual incentives to invest in fraud controls
- Managing fraud risk in the same way could result in cross-subsidies and increased costs, impacting competition
- FPS rules should not be used to make a voluntary initiative (that is, the Code) mandatory
- There was a lack of consensus amongst PSPs
- The proposal could not be enforced in practice

Key take-aways from FPS levy proposal

There are a number of important points that I think help indicate a way forward:

- First, we need to be mindful of the impact on competition. For me, this does not imply that FPS rules cannot mandate minimum standards of behaviour. But, equally, requiring firms to reimburse customers in a particular way carries a greater risk that competition will be distorted.
- Second, changes to FPS rules should be made in ways that benefit end users – that is, individuals and businesses. This will sometimes mean that Pay.UK will need to change the rules when there is no consensus on the way forward.
- Third, and linked to this, participants need to comply with the rules. And if they do not, there needs to be proportionate sanctions. If this is not the case, then it pushes Pay.UK

towards only making rule changes when there is consensus. That is not in users' interests.

I think there are important points here about what we, at the PSR, think about how FPS rules should change over time:

- Mandatory requirements on all participants are not necessarily anti-competitive, any more than health and safety requirements are in other sectors.
- The previous proposal, however, combined a number of features that made it more problematic from a competition perspective: making reimbursement mandatory and also requiring a particular approach to funding. The first – the key consumer-friendly element – can be achieved without the second.
- The previous proposal did not answer the question about how it would work in practice. We need an answer to the question of what happens if some are unwilling to comply with the rules.

This is not a criticism of where we got to last time around. Rather, it is me saying that it is important to understand and address the previous issues in any next steps. I'd now like to turn to the way forward from here.

The way forward

In my view, there are three possible paths forward to resolving the problems I've outlined in this meeting:

- First, continue with the current approach. Addressing the issues we have identified, but working within the rules we have at present.
- Second, return to the concept of an FPS rule change, developed and proposed by industry.
- Third, rely on action by the PSR

Now, I should probably start by explaining the third of these options. We have looked at our powers; PSD2 expressly prohibits EU member states or the UK, during the transition period, from forcing PSPs to go beyond the terms set out in the Directive. As a result, our view is that we cannot currently require reimbursement to be made to APP scam victims. We have tested this legal position thoroughly.

Our position is unchanged. At present, we cannot direct a solution to this issue. However, this position may well change in the near future. As the UK's future relationship with the EU becomes clearer, it is possible that the PSR will be able to take action. But that means that the third option

is not one we can yet turn to, which leads me back to our first option – improve the current approach, within the broad framework that is in place today.

Option A

We recognise that the industry worked hard and fast with consumer groups to get the Code in place – this was an impressive achievement. But the evidence suggests that the application of the Code in its current form is resulting in inconsistent and poor outcomes for consumers. If we are to continue with current plans to address consumer outcomes using the Code, the industry must work with the LSB and Financial Ombudsman Service to improve outcomes under the Code as a matter of urgency.

We expect to see firms strengthen their systems and controls in response to the LSB's review, and set a much higher bar for deciding that a customer does not meet the reasonable basis provision under the Code. We expect firms to continue working with the Financial Ombudsman Service to better understand its case assessment experience to support, and improve their interpretation and application of the Code.

Continuing with this option would require Code signatories to agree to a solution for funding no-blame. The simplest approach here appears to be to expect firms to reimburse customers. They can then do this in one of two ways: by committing to self-funding these costs or by choosing to participate in shared funding. The LSB would then amend the Code to provide clarity on self-funding being an option. We would then move beyond time-limited arrangements and instead accept that self-funding is the long-term minimum requirement.

We want to see more firms sign up to the Code to provide greater market coverage and better protections for consumers transacting through Faster Payments. Part of this means completing the work that is underway to allow more institutions to sign up to the Code; as it doesn't yet work for all payment institutions. This combination could deliver good outcomes:

- A commitment to reimburse those that have done nothing wrong
- A long-term commitment to meeting the costs of no-blame, through self-funding, which would permit firms to set up alternative shared funding arrangements.
- And efforts to move towards universal Code membership through greater use of publicity and information.

The alternative to this appears to be to return to the idea of using FPS rules, and for industry to take the necessary work forward.

Option B

So, Option B would involve industry beginning work in earnest now to pursue a scheme rule change to embed consumer protections in Faster Payments. The rule change would have to avoid pitfalls identified by Pay.UK in its assessment of the FPS levy proposal last year. At a high-level this approach would involve the following changes:

- Introducing a new rule into FPS that requires reimbursement of customers who have fallen victim to an APP scam. This would be analogous to the Direct Debit guarantee. It would provide a high level of protection for customers, prompt reimbursement and then leave it to PSPs to address issues of liability. Conceptually, at least, this could mean that PSPs would recover funds from customers if they established that they were genuinely negligent or acting in a fraudulent way.
- Making sure that there are ways to enforce these rules against firms that choose not to comply with them. This might require a further, separate, rule change to introduce proportionate sanctions. We cannot rely on removing FPS access to firms or moral suasion. The sanctions need to be credible to have the desired effect.
- And it would be open to PSPs to either meet the cost of no-blame or enter into a shared funding solution. With that choice, a lot of competition issues fall away.

This approach would broaden consumer protection and should result in consistent outcomes for consumers. While COVID-19 clearly presents challenges in terms of finding the resources to work through the necessary detail, there is nothing in principle stopping industry from pursuing this option now.

Option C

Which then takes me back to Option C – waiting for the PSR to act. In principle, I can see either of Options A or B working. But if we do not end up with satisfactory outcomes for end users, it may well fall to the PSR to act, which is probably a good point to reference that I received a letter from Pay.UK and UK Finance later on Friday. Now, given it is Monday morning, we clearly have not had much time to digest its content.

However, the key point in that letter was a call for legislation, on the basis that there was no consensus around how best to address these issues. This is not how rule changes should work in payments. Instead, the process should be that participants can bring forward rule changes that they consider improve outcomes for end users – consumers and businesses. No consensus is needed for this to happen.

Equally Pay.UK should not be looking to achieve consensus. Put simply, it should instead be looking to improve the rules in ways that deliver benefits to end users. Indeed, requiring consensus would be seriously detrimental to progress across a range of issues, and not just for

APP scams. So – in summary – the case for legislation has not yet been made. The tools exist now to address the core issue of consumer protection.

Concluding remarks

A clear theme running through this meeting is the need to drive better outcomes for consumers. The options proposed offer a way forward to resolving the issues we have seen. We all play a critical role in the fight against APP fraud and I ask you to consider the options we have presented and, through collaboration, identify a workable solution to the concerns we have raised.

And, these options can work within the existing legislative framework. Action can be taken now to improve the current approach. Or it can be taken now to bring forward the rule changes to establish mandatory reimbursement. It is, of course, not ideal that we could not take this forward in the original roundtable format. And I thank you for your patience while I worked through that material.

I now propose to do two things, as I anticipate that what I have said will prompt questions. And we will need to find a good way to follow up on this session.

Firstly, we invite comments on the meeting by email. We will be in touch shortly after to work out the best way to continue the conversation and answer the questions raised.

Second, we can now see how we go by opening the floor to further contributions.

To do this, I will first ask you just to call out your name if you would like to make a comment. I will then work through this list in turn.

Q&A session

Participant questions regarding CRM Code data

Participants noted the wide variation in levels of reimbursement across Code banks as well as the PSR's view that the average figures were below expectations. Participants asked what level of reimbursement the PSR would expect.

Participants said longitudinal data analysis of reimbursement levels would have been more insightful than figures starting from the Code's go-live data. The period immediately following the go-live data is when Code banks were putting processes in place to implement the Code. Participants said it would be helpful to see how reimbursement levels have changes over time.

The lack of counter-factual data was also raised. Participants said we need to compare results pre and post Code implementation.

One participant said the data indicating an increase in scams might reflect better reporting. However, participants still acknowledged that levels were heightened and that more needs to be done.

Participants said a disproportionate amount of time is being spent working out purchasing scams/buyer-seller disputes compared to preventing and investigating APP scams. In addition, they said too much time is being spent talking about liability rather than prevention. Action to prevent fraud is most important.

The PSR's response

We acknowledged that the data is not perfect, but the most recent data (May 2019 to February 2020) is not significantly different to the last set of figures (May 2019 to November 2019) and there does not seem to be an upward trend in reimbursement levels.

We said that firms need to work with the Lending Standards Board (LSB) and the Financial Ombudsman Service to make sure the Code is being applied consistently and as intended. Customers should be reimbursed unless there is evidence that they were at fault.

We agreed it is important that the incentives are there for payment service providers to spend sufficient time on the highest impact issues. Fraud prevention is critical – customers should not have to go through the turmoil of being scammed.

Participant questions regarding barriers to joining the CRM Code

Participants agreed with the PSR's observations on barriers to joining the Code and asked for a timeframe to resolve these issues.

The PSR's response

We said that the LSB plans to start its first-year review of the Code in May and it expects that it will take this issue into account. We understand that the LSB is also undertaking other related work.

Participant questions regarding third party responsibility for enabling scams

Participants highlighted the distinction between prevention and reimbursement and included examples of social engineering that occurs over social media platforms. They asked the PSR for views on how contributions could be secured from outside the industry.

Participants acknowledged that evidence of direct causality is a big problem in getting firms from other industries to contribute to APP scam reimbursement.

The PSR's response

We said that third party issues are being considered through the Stop Scams work being led by the FCA and Ofcom. We support the principle that if a scam is facilitated by other industries, those industries should also do work on fraud prevention.

We said that things have moved on since the days when Faster Payments was viewed as an alternative to cash; much larger sums of money are now moved via Faster Payments. This raises the question of whether the Faster Payments rules sufficiently manage the risks associated with its current use.

We acknowledged that cross industry liability may not be adequately covered in current legislation and there might be areas that require change. However, industry does not need to wait for legislative action to make positive changes with respect to the Code or the Faster Payments rules.

We highlighted that evidence of causality across industries is difficult to obtain. It would be easier to address this if industry outlines what the specific problems are. It was left to industry to return to the PSR on this point.

Participant questions regarding a potential scheme rule change to embed consumer protection in Faster Payments

Participants asked how Pay.UK could make a Faster Payments rule change to address consumer protection when the last proposal was rejected due to a lack of consensus.

Participants acknowledged that Pay.UK does not need consensus to make changes but its governance needs to ensure it is not biased towards one particular type of business model.

The PSR and Pay.UK's response

Pay.UK stated that it didn't reject the rule unilaterally as the Board decision was based on evidence and feedback from stakeholders following its Call for Input. They also explained that the lack of consensus was one reason amongst others, including incentives and competition, and that there was a significant number of respondents who were not in favour of the proposed rule.

Pay.UK has been advised by its participants and end user representatives that their preference is for the industry to focus on improving take-up to the Code and in parallel for Pay.UK, alongside UK Finance, to consider the broader question of it and how Pay.UK rules and standards could be used to improve customer confidence in Faster Payments.

The PSR agreed that Pay.UK should make decisions on the right way forward according to clear criteria, being conscious of competition and different business models. Decisions cannot keep every single member happy. Attempting to do this will lead to paralysis.

We said that there is a role for the regulator to intervene if decisions are made without suitable governance or if they are anti-competitive.

Participant questions regarding next steps

Participants asked what follow up actions would be taken as a result of the conference call.

The PSR's response

We said it would publish the conference call materials on our website. We asked participants to submit views via email on the best way to action the options presented in the conference call.

Annex

Update provided by the Financial Ombudsman Service

Our role is to decide what's fair and reasonable taking into account:

- Relevant law and regulations
- Regulators' rules, guidance and standards
- Codes of practice
- Good industry practice at the time

While the CRM Code is a relevant and important factor in our thinking, firms should also keep in mind the considerations that applied to pre-CRM Code complaints.

Our investigations on individual complaints and a pre-investigation sift of a larger number of cases suggest a range of approaches to the application of the CRM Code. We are in the process of feeding back our thoughts on a firm by firm basis as part of our regular engagement. But, at a high level, what we have seen appears to broadly mirror the findings of the recent LSB review.

In particular, our work to date suggests:

- Some firms are declining reimbursement on the basis of generic 'warnings' without considering whether those warnings were 'effective' (and in particular whether the warning was specific to the fraud and impactful in all the circumstances)
- It would be helpful for firms to do more to evidence the effectiveness of their warnings and to differentiate in their case handling between warnings that may meet the definition of an effective warning and those that don't
- Some firms are inappropriately declining reimbursement on the basis that the consumer did not have a reasonable basis for believing the transaction or recipient was genuine. In those cases, we have seen examples of firms:
 - Not giving reasons for their conclusions
 - Not taking into account or recognising the full circumstances of the scam (for example the role of social engineering)
 - Expecting a higher degree of caution and/or knowledge of scams on the part of the consumer, for example expecting the consumer to make additional checks before making the payment, than might ordinarily be reasonable for consumers generally, or in the particular circumstances of the transaction
 - Making decisions based on assertion, rather than on the evidence
 - Offering 50% reimbursement for this reason when 100% reimbursement would be appropriate. There is a risk that partial offers may deter consumers from pursuing what may be valid complaints

- Applying generic reasoning to individual complaints

The impact of this approach to warnings and 'reasonable basis for believing' is that the presumption in favour of reimbursement is in practice, in many of the cases we have seen, effectively reversed.

Some firms are not providing a clear rationale for their decision to not reimburse under the CRM Code. In some cases, firms do not mention the CRM Code in their final response letter to consumers, in others it is unclear from the firm's response why in the firm's view a permitted exception to reimbursement applies (or how the firm met the CRM Code's standards for firms).

There has been some improvements in some firm's responses to more recent transactions and approach, but there is still more to be done.

APP scams Conference call March 2020



Agenda

Agenda items	Description
1 The state of play	<ul style="list-style-type: none">▪ Fraud levels▪ Update on Stop Scams work and Confirmation of Payee
2 Outcomes under the CRM Code	<ul style="list-style-type: none">▪ Consumer protection and reimbursement under the Code▪ Increasing Code participation
3 No-blame funding	<ul style="list-style-type: none">▪ The long-term funding mechanism for 'no-blame'
4 The way forward	<ul style="list-style-type: none">▪ The approach going forward to resolving outstanding issues

1 APP fraud is increasing

All APP cases reported 2018 - 2019

		PERSONAL			NON PERSONAL			TOTAL		
		2018	2019	% Change	2018	2019	% Change	2018	2019	% Change
Volume	Cases	78,215	114,731	47%	6,409	7,706	20%	84,624	122,437	45%
	Payments	114,707	174,798	52%	8,950	10,651	19%	123,657	185,449	50%
Value	Value	£228.4m	£317.1m	39%	£126.0m	£138.7m	10%	£354.3m	£455.8m	29%
	Reimbursed	£42.3m	£82.2m	94%	£40.3m	£33.8m	-16%	£82.6m	£116.0m	40%

Key takeaways

- Total losses in 2019 amounted to £455.8m (29% increase relative to 2018)
- APP fraud losses occurring on *personal* accounts increased by 39% between 2018 and 2019
- The nominal value of reimbursement (for both personal and non-personal cases) increased by 40%, but because fraud has increased the % of fraud reimbursed has only marginally improved
 - 19% of *personal* APP fraud losses reimbursed in 2018, with 26% reimbursed in 2019
 - 23% of all APP fraud losses reimbursed in 2018, with 25% in 2019

Source: UK Finance Fraud the Facts 2020

1 Anti-fraud initiatives such as Stop Scams and Confirmation of Payee are in-train but more needs to be done

Initiatives	Description
<p data-bbox="219 575 435 606">Stop Scams</p>	<ul style="list-style-type: none"> ▪ Stop Scams is an industry-led initiative borne out of a partnership between the FCA and Ofcom ▪ Its focus is to stop scams at the source through collaboration between banks, telecoms and tech/social media firms ▪ The first event was held in November 2019 after which the initiative moved into a planning and set-up phase ▪ A significant number of banks and telcos have agreed to join ▪ Stop Scams is now seeking feedback on actions and further ideas from industry members (recognising the importance of avoiding duplication with other work) ▪ It is also looking to put in place its first ‘test and learn’ projects (as far as possible with COVID-19)
<p data-bbox="188 1029 466 1108">Confirmation of Payee</p>	<ul style="list-style-type: none"> ▪ In August 2019 the PSR gave a direction to PSPs in the six largest UK banking groups to bring in Confirmation of Payee by 31 March 2020 ▪ In light of COVID-19 the PSR sent a letter to directed PSPs saying up to 30 June it will not take any formal action for delays to CoP if the directed PSPs refund customers who fall victim to either APP scams or a misdirection of payments in instances where CoP would likely have protected those customers ▪ Pay.UK is developing the next phase for Confirmation of Payee which will allow smaller PSPs to bring the technology in

2

Only c.40% of losses from cases assessed under the CRM Code were reimbursed between 28 May and 31 December 2019

Cases assessed using the voluntary code by signatory PSPs (28 May 2019 to 31 December 2019)

All cases reported below are included in previous figures relating to all APP cases reported and should not be treated as an addition.

		Less than £1k	£1k - £10k	More than £10k	Total
Volume	Cases	37,795	10,555	1,961	50,311
	Payments	45,569	18,137	4,841	68,547
Value	Value	£11.3m	£35.6m	£54.2m	£101.1m
	Reimbursed	£3.4m	£14.8m	£23.1m	£41.3m

Key takeaways

- 41% of losses from cases assessed under the Code were reimbursed between 28 May and 31 December 2019
 - This is lower than expected given the Code presumes that customers should be reimbursed unless there are clear grounds for holding them liable
- 54% of losses came from cases involving more than £10k, potentially life changing sums

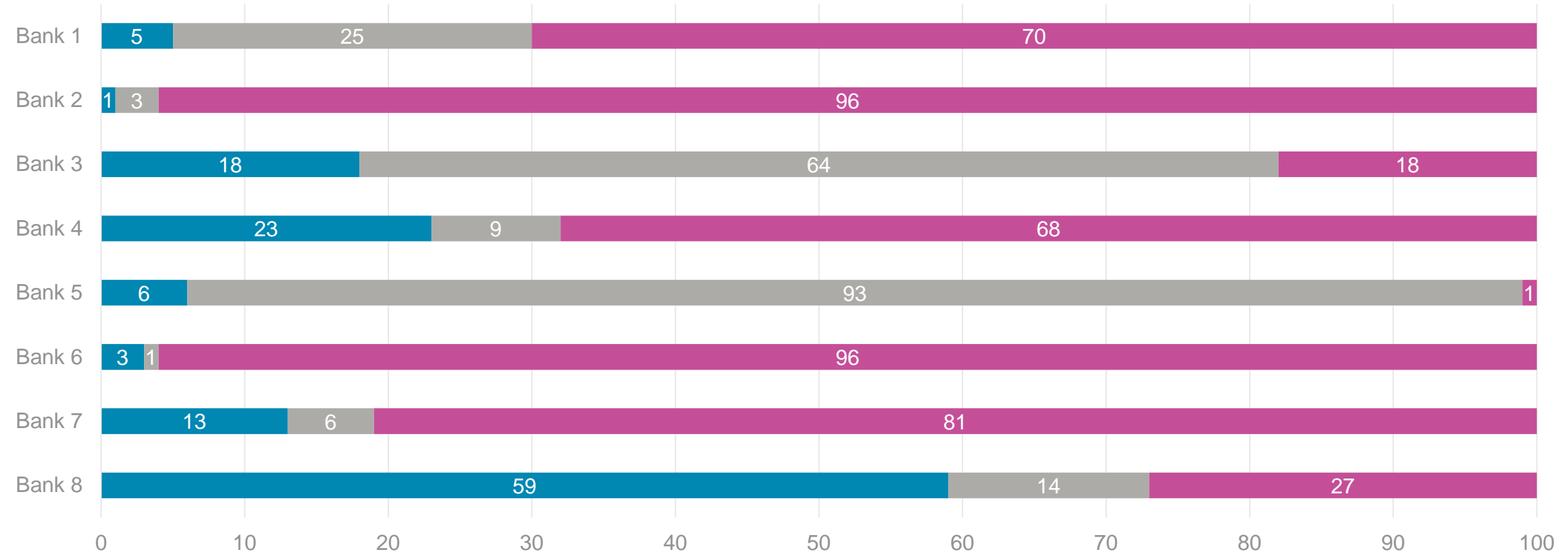
Source: UK Finance Fraud the Facts 2020

2

Reimbursement by cases varies significantly across Code PSPs with full reimbursement generally a small percentage

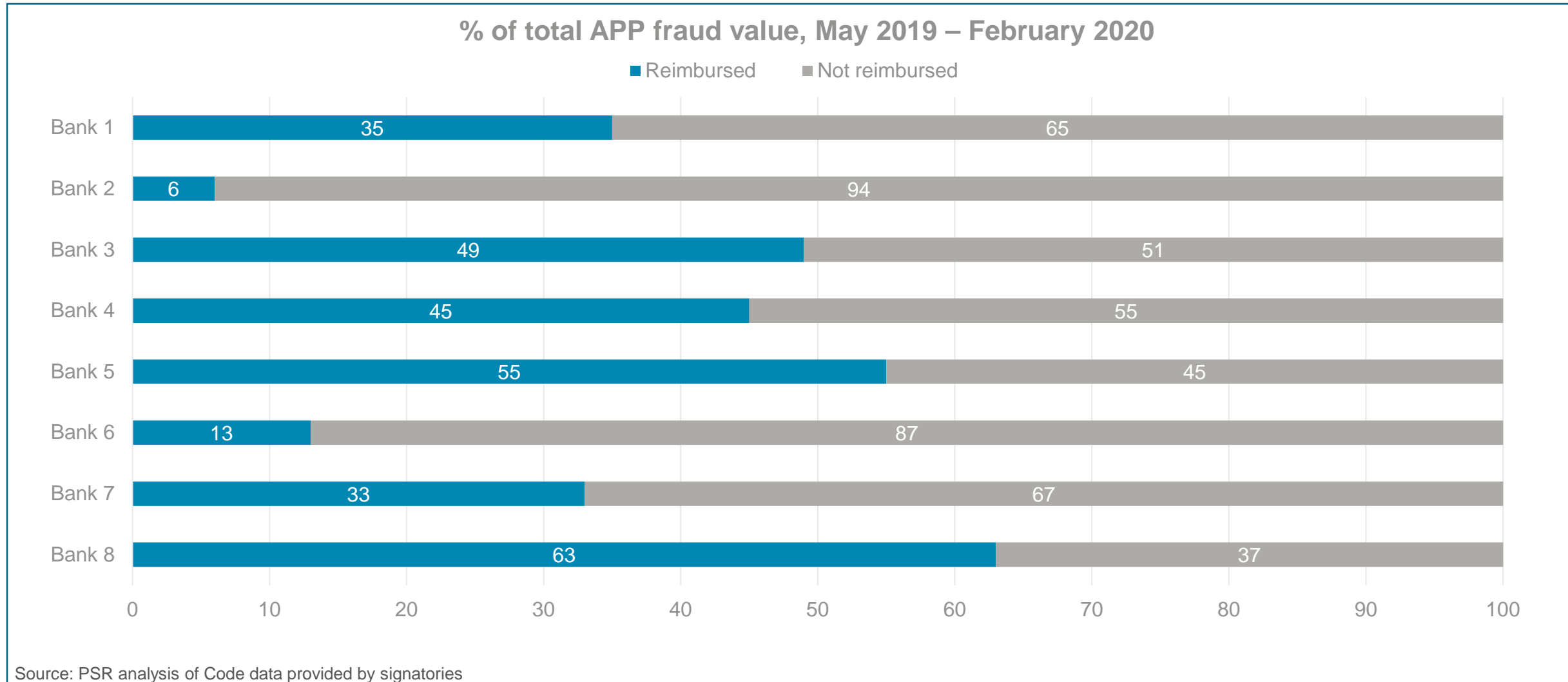
% of total APP fraud cases, May 2019 – February 2020

■ Fully reimbursed ■ Partially reimbursed ■ Not reimbursed



Source: PSR analysis of Code data provided by signatories

2 Reimbursement by value also varies significantly across Code PSPs



2 The LSB and Financial Ombudsman Service have identified a range of issues with the application of the Code

	Description
<p>Outcomes of the LSB's thematic review</p>	<ul style="list-style-type: none"> ▪ <i>Pre-release overview of the thematic review</i> ▪ <i>Report due to be published</i>
<p>Financial Ombudsman Service's experience of complaints</p>	<p>Themes from Financial Ombudsman Service cases:</p> <ul style="list-style-type: none"> ▪ Some firms are declining to reimburse based on generic warnings, without considering whether those warnings were 'effective,' or impactful in the circumstances ▪ There is evidence that some firms are inappropriately declining reimbursement because they've concluded the consumer did not have a reasonable basis for believing that the recipient was genuine ▪ In some cases firms have expected customers to display a higher degree of caution or knowledge of the scam than might ordinarily be reasonable in the circumstances of the transaction ▪ In some cases firms are offering partial reimbursements in circumstances where 100% reimbursement would be appropriate – risk that this may deter consumers from pursuing what might otherwise be a valid complaint

2 We want to see more firms sign up to the Code

Removing potential barriers to new joiners and increasing participation

Description

There is a need to clarify and improve conditions in the Code that may discourage participation. For example:

- Ensuring that the code is clarified such that new participants have the option to self-fund (with no obligation to sign up to a shared funding scheme)
- Reviewing provisions that prevent smaller PSPs and PISPs from complying with the Code (e.g. requirement for a 24-hour helpline)
- Publicising broadly the benefits of becoming a Code signatory to encourage greater levels of participation
- Possibly moving towards a 'kite mark' or other tools to increase awareness of code membership

3 The long-term funding arrangement for no-blame has still not been settled

Overview of Pay.UK decision

The long-term funding arrangement for no-blame remains unsettled.

Pay.UK rejected the FPS levy as a method of funding no-blame reimbursements, for the following reasons:

- The approach of creating a socialised, shared fund may dampen individual incentives to invest in fraud controls
- Managing fraud risk in the same way could result in cross-subsidies and increased costs, impacting competition
- FPS rules should not be used to make a voluntary initiative (the Code) mandatory
- There was a lack of consensus amongst PSPs
- The proposal could not be implemented or enforced in practice

Given the issues outlined above, there are a number of ways forward from here.

3 There are several key take-aways for the way forward



Key take-aways

1. Need to be mindful of the impact on competition - this does not imply that FPS rules cannot mandate minimum standards of behaviour
2. Changes to FPS rules should be made in ways that benefit end users – that is, individuals and businesses
3. Participants need to comply with the rules, and if they do not, there needs to be proportionate sanctions

4 The issues outlined can be resolved in one of three ways

Option	Description	Owner
A Improve the current framework (the Code)	<ul style="list-style-type: none"> ▪ Industry works with the LSB and Financial Ombudsman Service to improve outcomes under the Code ▪ LSB pursues new actions to broaden Code participation ▪ Code PSPs implement a long-term funding mechanism for no-blame as soon as possible 	<ul style="list-style-type: none"> ▪ Code PSPs and LSB
B Industry pursues a scheme rule change	<ul style="list-style-type: none"> ▪ Industry pursues a rule change to embed consumer protections in FPS ▪ The rule change avoids the pitfalls identified by Pay.UK in its assessment ▪ At a high-level this would involve the following changes: <ul style="list-style-type: none"> ○ Introducing a new rule into FPS that requires reimbursement of customers who have fallen victim to an APP scam ○ Making sure that there are ways to enforce these rules against firms that do not comply with them ○ Allowing PSPs to choose how they fund no-blame 	<ul style="list-style-type: none"> ▪ FPS participants working with Pay.UK ▪ All FPS participants (direct and indirect) should be given the opportunity to input to any rule change
C The PSR pursues options to require reimbursement	<ul style="list-style-type: none"> ▪ If A or B are not pursued or do not result in a satisfactory outcome, the PSR would consider options for requiring APP scam reimbursement (acknowledging that a wider range of options may be available after the Brexit transition period) 	<ul style="list-style-type: none"> ▪ The PSR

4 Annex: Actions for Option A

Stakeholder	Actions
Code PSPs	<ul style="list-style-type: none">▪ Develop and implement action plans in response to the LSB's thematic review▪ Set a high bar for deciding a customer does not meet the reasonable basis provision 'R2(1)(c)'▪ Work with the LSB to make sure there is an appropriate and consistent approach across PSPs▪ Work with the Financial Ombudsman Service to better understand its case assessment experience and off the back of that implement improvements in applying the Code
LSB	<ul style="list-style-type: none">▪ Review and update the Code and Practitioners Guide setting expectations to improve outcomes▪ Consider available sanctions, should outcomes not improve▪ Make it clear that self-funding no-blame is an option▪ Identify and review Code provisions that may be a barrier to entry, and consider alternatives