

Specific Requirement 1 on the Faster Payments Scheme operator to insert APP scam reimbursement rules into the Faster Payments Scheme rules

Specific Requirement 1
(Faster Payments APP scam
reimbursement rules)

December 2023

Specific Requirement 1: Faster Payments APP scam reimbursement rules

1 Recitals

Whereas:

- 1.1** Authorised push payment (APP) scams happen when a person uses a fraudulent or dishonest course of conduct to manipulate, deceive or persuade 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 scam payments made over the Faster Payments Scheme (FPS) by the end of February 2024.
- 1.3** The PSR has decided to implement a policy that requires APP scam victims to be reimbursed by the sending payment service provider (PSP). This is known as the FPS reimbursement requirement.
- 1.4** The PSR has decided to implement this policy by requiring the Faster Payments Scheme operator to put the FPS reimbursement requirement into the Faster Payments Scheme rules. The resulting rules will be known as the FPS reimbursement rules.
- 1.5** The PSR has also decided to direct in-scope participants in the Faster Payments Scheme to comply with the FPS reimbursement rules. This is to ensure that these rules apply to both members and non-members of the Faster Payments Scheme, so that all participants in the Faster Payments Scheme and their consumers are, as far as possible, placed on an equal footing.

2 Powers exercised and purpose

- 2.1** The Faster Payments Scheme is designated by the Treasury as a regulated payment system under section 43 of Financial Services (Banking Reform) Act 2013 (FSBRA) for the purposes of Part 5 of FSBRA.
- 2.2** The PSR imposes this specific requirement in accordance with section 55(1) of FSBRA. In accordance with section 55(2), this requirement applies to a specified person.
- 2.3** Pay.UK is a payment system operator with responsibility for managing and operating the Faster Payments Scheme. This direction refers to the operator of the Faster Payments Scheme as the 'Faster Payments Scheme operator'.
- 2.4** In making its decision to use its section 55 powers, the PSR had regard to section 62 of FSBRA (Duty to consider exercise of powers under the Competition Act 1998).
- 2.5** Under section 72 of FSMA 2023, the PSR must introduce a reimbursement requirement for APP scam payments made over the Faster Payments Scheme. The PSR imposes this specific requirement to fulfil this duty. It hereby requires the Faster Payments Scheme operator to include a reimbursement requirement for APP scam payments made over FPS in the scheme rules.
- 2.6** The PSR imposes this specific requirement for the reasons and purpose set out in its policy statement PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023)¹:
- to incentivise the payments industry to invest in fraud prevention, increasing consumer protections so most victims of APP scams are swiftly reimbursed
 - to pursue its long-term ambition for the Faster Payments Scheme operator to tackle fraud by improving the Faster Payments Scheme rules

¹ www.psr.org.uk/publications/policy-statements/ps23-3-fighting-authorised-push-payment-fraud-a-new-reimbursement-requirement/

Requirements

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

3.1 The PSR requires the Faster Payments Scheme operator to change the Faster Payments Scheme rules by 7 June 2024 in the ways set out below, to achieve the specified purpose of incorporating the reimbursement requirement and additional exceptions and provisions into those rules.

3.2 The Faster Payments Scheme operator must implement the rule changes from 7 October 2024.

3.3 The Faster Payments Scheme rules must use, refer to and contain definitions of the terms listed below, and the definitions must be taken from the 'Interpretation' section of this specific requirement, insofar as that wording is appropriate for the Faster Payments Scheme rule book:

- a. account controlled by the consumer
- b. agent
- c. authorised push payment (APP)
- d. APP scam
- e. FPS APP scam claim
- f. authorisation
- g. business day
- h. consumer
- i. consumer standard of caution exception
- j. Faster Payments Scheme
- k. FPS APP scam payment
- l. FPS reimbursement requirement
- m. FPS reimbursement rules
- n. indirect access provider
- o. member of the Faster Payments Scheme
- p. operator
- q. payment system
- r. Payment Systems Regulator (PSR)

- s. payment service provider (PSP)
- t. receiving PSP
- u. reimbursable FPS APP scam payment
- v. relevant account
- w. repatriation
- x. service user
- y. sending PSP
- z. victim
- aa. vulnerable consumer

3.4 The Faster Payments Scheme rules must contain reimbursement rules (the FPS reimbursement rules) that produce the outcomes set out below.

3.5 The FPS reimbursement rules must apply to all members of the Faster Payments Scheme that provide relevant accounts.

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

4 The FPS reimbursement requirement

Incorporating the FPS reimbursement requirement into Faster Payments Scheme rules

- 4.1** The operator must insert and not alter the FPS reimbursement requirement and its scope as set out in paragraphs 3.1, 3.2 and 3.3 of Specific Direction 20 (Faster Payments APP scam reimbursement requirement).

Exceptions to the FPS reimbursement requirement

The consumer standard of caution exception

- 4.2** PSPs are not required to reimburse any FPS APP scam payments where the consumer standard of caution exception applies. This exception does not apply if the victim was a vulnerable consumer when they made a FPS APP scam payment and this had a material impact on their ability to protect themselves from the scam.
- 4.3** The PSR sets the consumer standard of caution exception and publishes it on its website. The PSR may amend the consumer standard of caution exception from time to time.

Maximum level of reimbursement

- 4.4** PSPs are not required to reimburse APP scam victims above the maximum level of reimbursement. The maximum level of reimbursement applies to each FPS APP scam claim.
- 4.5** The PSR sets the maximum level of reimbursement and publishes it on its website. The PSR may amend the maximum level of reimbursement from time to time.
- 4.6** If a sending PSP reimburses its consumer above the maximum level of reimbursement, the part of the reimbursement above the maximum level will be a voluntary reimbursement as described in paragraph 5.18 of this specific requirement.

Time limit for claims

- 4.7** PSPs are not required to reimburse an FPS APP scam claim reported more than 13 months after the date of the final FPS APP scam payment of the claim.
- 4.8** If a sending PSP reimburses a claim reported more than 13 months after the final payment, this will be a voluntary reimbursement as described in paragraph 5.18 of this specific requirement.

5 Additional provisions to the reimbursement requirement

Time limit for reimbursement

- 5.1** The sending PSP must reimburse any reimbursable FPS APP scam payment to the victim within five business days of the victim making an FPS APP scam claim to the sending PSP, unless the sending PSP exercises the 'stop the clock' provision set out in paragraph 5.4 of this specific requirement.
- 5.2** The amount to be reimbursed by the sending PSP to the victim is to be known as the 'required reimbursement amount'. The required reimbursement amount is the full value of the FPS APP scam claim up to the maximum level of reimbursement, less any claim excess imposed under paragraph 5.16 of this specific requirement.
- 5.3** An FPS APP scam claim is deemed to be made when the victim tells the sending PSP it has happened with details of the FPS APP scam claim, and specifies at least one FPS APP scam payment.
- 5.4** The 'stop the clock' provision pauses the five business-day reimbursement timescale set out in paragraph 5.1. A PSP can stop the clock if it has asked for information to assess the claim and is waiting for a response. PSPs can only stop the clock for the following reasons:
- a. to gather information from the victim(s) (or their agent) or the receiving PSP to assess whether the claim is a reimbursable FPS APP scam claim
 - b. to verify that a claims management company is submitting a legitimate claim – for example, validating that the victim has authorised the company to submit a claim
 - c. to gather additional information from a victim to assess their vulnerability
 - d. in cases where the sending PSP has evidence of fraud on the part of the person who made the FPS APP scam claim, to gather additional information from the receiving PSP, law enforcement or other relevant parties
 - e. for multi-step scams, to gather additional information from the other PSPs involved
- 5.5** Where a sending PSP exercises the 'stop the clock' provision, the five business-day reimbursement timescale is paused at the point when the sending PSP sends its request for information. The five-day clock resumes as soon as the sending PSP receives a response.
- 5.6** A receiving PSP that receives a request from a sending PSP to provide information in relation to a reported FPS APP scam claim must respond in a timely and accurate manner.

- 5.7** The sending PSP can stop the clock as many times as necessary. However, it must close the claim before the end of the 35th business day following the reporting of the FPS APP scam claim by the victim (or their agent) to the sending PSP.
- 5.8** An FPS APP scam claim may be closed either by reimbursement of the consumer where appropriate or by rejection of the claim, with an explanation of the reasons.

Allocating reimbursement between sending and receiving PSPs

- 5.9** When an FPS APP scam claim is reported to the sending PSP, it must tell the receiving PSP within the notification period, in order to maximise the opportunity for repatriating stolen funds. The notification period is to be set by the operator of Faster Payments Scheme and included in the reimbursement rules.
- 5.10** If requested by the sending PSP, the receiving PSP must pay the sending PSP 50% of the lower of:
- a. the amount the sending PSP has paid to the victim
 - b. the required reimbursement amount, if different
- 5.11** The sending PSP may only claim the amount specified in paragraph 5.10 (the 'specified amount') from the receiving PSP after the sending PSP has reimbursed the victim.
- 5.12** The receiving PSP must pay the sending PSP the specified amount within a reasonable period of time. This period is to be defined by the Faster Payments Scheme operator.
- 5.13** If the sending PSP chooses not to apply the maximum claim excess value (see paragraph 5.16 of this specific requirement), the receiving PSP may deduct 50% of the maximum claim excess amount from the specified amount.
- 5.14** Where a receiving PSP is able to repatriate funds in an FPS APP scam claim and the sending PSP has already reimbursed the victim, the repatriated funds should be apportioned as follows:
- a. 50% each to the sending and receiving PSPs, subject to the following maximum amounts:
 1. To the sending PSP, the required reimbursement amount, minus the specified amount.
 2. To the receiving PSP, the specified amount, not including any amount deducted under paragraph 5.13.
 - b. Any remainder to the victim.

- 5.15** Paragraphs 5.9 to 5.14 do not apply to, and the receiving PSP is not liable to pay any amount in relation to:
- a. any voluntary reimbursement (see paragraphs 5.18 to 5.19 of this specific requirement)
 - b. any payment the sending PSP makes to its consumer after it has closed a claim, whether by reimbursement or rejection. This includes any payment made as a result of a court or ADR decision subsequent to the closing of the claim.

Claim excess

- 5.16** Sending PSPs may apply a single claim excess to each FPS APP scam claim, up to the maximum claim excess value set by the PSR and published on its website. Sending PSPs may deduct the amount of any permitted excess from the amount they would otherwise be required to reimburse to the victim.
- 5.17** PSPs may not apply a claim excess if the victim was a vulnerable consumer when they made a reimbursable FPS APP scam payment, and this had a material impact on their ability to protect themselves from the APP scam.

Voluntary reimbursement

- 5.18** Any reimbursement or part of a reimbursement made by a sending PSP other than as required by paragraphs 4.1 to 4.8, 5.1 to 5.8 and 5.16 to 5.17 above is a 'voluntary reimbursement'.
- 5.19** A voluntary reimbursement is outside the scope of the FPS reimbursement requirement and the FPS reimbursement rules.

6 Notification requirement

- 6.1** The Faster Payments Scheme operator must notify the PSR of any proposed changes to the FPS reimbursement rules implemented under this specific requirement.
- 6.2** The PSR will be responsible for the core elements of the policy for the foreseeable future. The Faster Payments Scheme operator is required to include these elements in the Faster Payments Scheme rules but may not make any changes to them.
- 6.3** These core elements are the FPS reimbursement requirement and its scope, as set out in 3.1, 3.2 and 3.3 of Specific Direction 20 (Faster Payments APP scam reimbursement requirement)
- 6.4** The PSR requires the Faster Payments Scheme operator to place all other outcomes (those not fitting into the core elements above) into the Faster Payments Scheme rules as outlined in this specific requirement, and then keep them under review just as with other aspects of the Faster Payments Scheme rules.
- 6.5** The PSR requires the Faster Payments Scheme operator to notify it of any potential changes to the Faster Payments Scheme rules. The operator must send a formal notification before adopting the change. The notification should contain sufficient analysis for the PSR to understand the nature of the change, the reason for it, and its costs and benefits.

7 Application

- 7.1** This specific requirement applies to the Faster Payments Scheme operator.

8 Commencement and duration

- 8.1** This specific requirement comes into force on 19 December 2023.
- 8.2** This specific requirement shall continue in force until such time as it is varied or revoked by the PSR.

9 Citation

- 9.1** This specific requirement may be cited as Specific Requirement 1 (Faster Payments APP scam reimbursement rules).

10 Interpretation

- 10.1** The headings and titles used in this specific requirement are for convenience and have no legal effect.
- 10.2** The Interpretation Act 1978 applies to this specific requirement as if it were an Act of Parliament, except where words and expressions are expressly defined.
- 10.3** 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.
- 10.4** The following definitions apply in this specific requirement:

- **Account controlled by the consumer** means a relevant account that a consumer can access and make payments from. It is not sufficient for it to be in the consumer's name.
- **Agent** of the victim includes any claims management company.
- **Authorised push payment (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 uses a fraudulent or dishonest act or course of conduct to manipulate, deceive or persuade a consumer into transferring funds from the consumer's relevant account to a relevant account not controlled by the consumer, where:
 - the recipient is not who the consumer intended to pay, or
 - the payment is not for the purpose the consumer intended

For the avoidance of doubt, if the consumer is party to the fraud or dishonesty, this is not an APP scam for the purpose of the FPS reimbursement requirement or the FPS reimbursement rules.

- **Authorisation**, for the purpose of this requirement, in the context of a payment means that the payer has given their explicit consent to:
 - the execution of the payment transaction, or
 - the execution of a series of payment transactions of which that payment transaction forms part
- **Business day**, for the purposes of this requirement, means any day (period of 24 hours beginning at midnight) that is not a Saturday or Sunday, or a bank holiday in any part of the United Kingdom.

- **Consumer**, for the purposes of this requirement, refers to service users of PSPs. These are individuals, microenterprises (enterprises that employ fewer than ten persons and have either an annual turnover or an annual balance sheet total that does not exceed €2 million) or charities (a body whose annual income is less than £1 million per year and is a charity as defined by the Charities Act 2011, Charities and Trustees Investment (Scotland) Act 2005 or the Charities Act (Northern Ireland) 2008).
- **Consumer standard of caution exception** is defined by the PSR in its publication: The Consumer Standard of Caution Exception.
- **Directed PSP** means a PSP participating in the Faster Payments Scheme to which Specific Direction 20 (Faster Payments APP scams reimbursement requirement) applies.
- **Faster Payments Scheme** or **FPS** means the Faster Payments Scheme, a regulated payment system designated by Order from the Treasury on 1 April 2015.
- **FPS APP scam claim** means one or more FPS APP scam payments made as part of an APP scam and made to the victim's PSP.
- **FPS APP scam payment**, for the purposes of this requirement, means an APP, authorised by a victim as part of an APP scam, that has all the following features:
 1. It is executed through the Faster Payments Scheme.
 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 a relevant account in the UK that is not controlled by the consumer.
 5. The payment is not to the recipient the consumer intended, or is not for the purpose the consumer intended.
- **FPS reimbursement requirement** means the obligation conferred on directed PSPs under paragraph 3.1 of Specific Direction 20 (Faster Payments APP scams reimbursement requirement).
- **FPS reimbursement rules** means any rules created as a result of this specific requirement, imposed on the Faster Payments Scheme operator to create and implement rules on PSPs reimbursing their consumers when they fall victim to APP scams.
- **Indirect access provider** means a PSP with access to the Faster Payments Scheme that has an agreement or arrangement with another person for the purpose of enabling that other person (the "indirect customer PSP") to provide services for the purposes of enabling the transfer of funds using the Faster Payments Scheme or to become a PSP in relation to the Faster Payments Scheme.
- **Member of the Faster Payments Scheme** means a directly connected settling or directly connected non-settling participant.

- **Operator** has the same meaning as under section 42(3) of FSBRA in relation to the Faster Payments Scheme. The term Faster Payments Scheme operator is to be understood accordingly.
- **Participant** has the same meaning as under section 42(2) of FSBRA.
- **Payment system** has the same meaning as under section 41(1) of FSBRA.
- **Payment Systems Regulator (PSR)** is the body corporate established under section 40 of FSBRA.
- **Payment service provider (PSP)** has the same meaning as under section 42(5) of FSBRA.
- **Receiving PSP** means a PSP providing a relevant account into which APP scam payments are received.
- **Reimbursable FPS APP scam payment** means an FPS APP scam payment where the consumer standard of caution exception does not apply, the victim is not party to the fraud or claiming fraudulently or dishonestly to have been defrauded and the claim was made within the time limit set out in the reimbursement rules.
- **Relevant account** means an account that is provided to a service user, is held in the UK and can send or receive payments using the Faster Payments Scheme, but excludes accounts provided by credit unions, municipal banks and national savings banks.
- **Repatriation** means where a receiving PSP is able to detect, freeze and return funds transferred as part of an FPS APP scam payment.
- **Sending PSP** means a PSP that provides a relevant account for a consumer, from which the FPS APP scam payment was made.
- **Service user** means a person who uses a service provided by a payment system and is not a participant in that payment system.
- **Victim** means a consumer who has made one or more FPS APP scam payments.
- **Vulnerable consumer** has the same meaning as when the term is used by the FCA in its *Guidance for firms on the fair treatment of vulnerable customers*², 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.

2 www.fca.org.uk/publications/finalised-guidance/guidance-firms-fair-treatment-vulnerable-customers

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Status of requirements

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

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