

Specific Direction 21 to PSPs participating in CHAPS that provide relevant CHAPS accounts, to reimburse CHAPS APP scam payments and comply with the CHAPS reimbursement rules

Specific Direction 21 (CHAPS APP scam reimbursement requirement)

September 2024

Specific Direction 21: CHAPS APP scam reimbursement requirement

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 to send money to an account outside of their control.
- 1.2** The Financial Services and Markets Act 2023 (FSMA 2023) amends regulation 90 of the Payment Services Regulations 2017 to provide that it does not affect the liability of a payment service provider (PSP) under a relevant requirement imposed by the PSR in a case where a payment order is executed subsequent to fraud or dishonesty.
- 1.3** The PSR has previously implemented a policy that requires APP scam victims to be reimbursed by the sending PSP where payments are made over the Faster Payments Scheme. This is known as the FPS reimbursement requirement.
- 1.4** Following publication by the PSR of its policy on the FPS reimbursement requirement, the Bank of England announced its intention, as the operator of the CHAPS payment system, for comparable protections to be implemented for victims of APP scams perpetrated against consumers using the CHAPS payment system. The Bank of England has therefore created the CHAPS reimbursement rules, set out in an annex to the CHAPS Reference Manual.
- 1.5** To support this, the PSR has decided to create a relevant requirement by giving this specific direction, which imposes obligations on in-scope PSPs in the CHAPS payment system. This is known as the CHAPS reimbursement requirement.
- 1.6** The PSR is introducing the CHAPS reimbursement requirement to ensure consistency in the reimbursement of APP scam victims across different payment systems. The PSR has also decided to direct in-scope PSPs in CHAPS to comply with the CHAPS reimbursement requirement and the CHAPS reimbursement rules. This is to ensure that these rules apply to all participants in CHAPS, whether or not they are CHAPS direct participants, so that all in-scope participants in CHAPS and their consumers are, as far as possible, placed on an equal footing.
- 1.7** The PSR will also specify the information which PSPs must collate, retain, and provide to the CHAPS Operator to enable it to monitor and/or ensure compliance with the CHAPS reimbursement rules. This information will be specified by the PSR in the CHAPS Compliance Data Reporting Standards (CCDRS). Directed PSPs must comply with the requirements of this direction, including the requirement to comply with the provisions of the CCDRS.

2 Powers exercised and purpose

- 2.1** CHAPS is designated by HM 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 gives this specific direction in accordance with section 54(1) and (2) of FSBRA. In accordance with section 54(3)(c), this direction applies to persons of a specified description.
- 2.3** In making its decision to use its section 54 powers, the PSR had regard to section 62 of FSBRA (Duty to consider exercise of powers under the Competition Act 1998).
- 2.4** The PSR articulated its policy objectives in respect of the reimbursement of victims of APP scams in PS23/3, *Fighting authorised push payment fraud: a new reimbursement requirement* (June 2023)¹. In particular the PSR considers that a legal framework is necessary to give effect to reimbursement of victims in order:
- to incentivise the payments industry to invest in fraud prevention, increasing consumer protections so most victims of APP scams are swiftly reimbursed; and
 - to pursue the PSR’s long-term ambition for the operator of payment systems to tackle fraud by improving the rules by which those payment systems operate.
- 2.5** Following the PSR’s publication of this policy position, the Bank of England announced its intention, as operator of the CHAPS payment system, for comparable protections to be implemented for victims of APP scams perpetrated using the CHAPS payment system.
- 2.6** The PSR gives this specific direction to introduce a reimbursement requirement in respect of the CHAPS payment system and for the reasons and purposes set out in PS24/5.
- 2.7** The PSR hereby requires all in-scope PSPs to comply with the CHAPS reimbursement requirement, the CHAPS reimbursement rules, and any requirements imposed in the CCDRS. PSPs must also have regard to any other guidance and/or standards issued by the PSR as regards compliance with the CHAPS reimbursement requirement.

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

Direction

NOW the PSR gives the following specific direction to all PSPs participating in CHAPS that provide relevant CHAPS accounts

3 The reimbursement requirement

The CHAPS reimbursement requirement

- 3.1** When a victim reports a reimbursable CHAPS APP scam payment to their sending PSP, the sending PSP must reimburse the victim in full. This is the CHAPS reimbursement requirement.

The scope of the CHAPS reimbursement requirement

- 3.2** The CHAPS reimbursement requirement applies to all reimbursable CHAPS APP scam payments executed on or after the implementation date. The implementation date is 7 October 2024.
- 3.3** The CHAPS reimbursement requirement applies in line with the exceptions and additional provisions set out in the CHAPS reimbursement rules. These exceptions and provisions shall be applied in respect of the CHAPS reimbursement requirement subject to any specific definitions or requirements which are applicable in the context of that requirement.

4 Requirement to comply with the CHAPS reimbursement rules

- 4.1** From 7 October 2024 all directed PSPs must comply with the CHAPS reimbursement rules.

5 PSPs to inform consumers of their rights

- 5.1** All directed PSPs which are capable of being sending PSPs must inform their existing consumers of their rights under the CHAPS reimbursement requirement and the CHAPS reimbursement rules. This includes informing consumers of the changes which will be made to their contractual terms and conditions as required by paragraph 6.1.

- 5.2** For the purposes of this specific direction, a directed PSP is capable of being a sending PSP if it:
- a. Provides a relevant CHAPS account for a consumer.
 - b. From which it is or will be possible for a CHAPS APP scam payment to be made.
- 5.3** Directed PSPs which are capable of being sending PSPs must inform their consumers in accordance with paragraph 5.1 as follows:
- a. If a PSP has not yet complied with paragraph 5.1 of Specific Direction 20 (July 2024) by the date this direction comes into force, by 7 October 2024. A PSP may use a single communication to comply with both paragraph 5.1 of this direction and paragraph 5.1 of Specific Direction 20 (July 2024).
 - b. If a PSP has already complied with paragraph 5.1 of Specific Direction 20 (July 2024) by the date this direction comes into force, as soon as practicable and in any event no later than two months before the date on which the changes made to their consumers' contractual terms and conditions as required by paragraph 6.1 are to take effect.
 - c. If a PSP is not required to comply with paragraph 5.1 of Specific Direction 20 (July 2024), as soon as practicable and in any event no later than two months before the date on which the changes made to their consumers' contractual terms and conditions as required by paragraph 6.1 are to take effect.
- 5.4** From 7 October 2024 all directed PSPs which are capable of being sending PSPs must have arrangements in place to inform any new consumers of their rights under the CHAPS reimbursement requirement and CHAPS reimbursement rules and have informed them before they provide those new consumers with their services.
- 5.5** Consumers must be informed in the same manner in which the PSP would notify them of other changes to the way in which they provide their CHAPS services.

6 PSPs to amend their terms and conditions

- 6.1** All directed PSPs which are capable of being sending PSPs must amend the terms and conditions of their relevant contracts to provide that they will reimburse their consumers as and when required by the CHAPS reimbursement requirement and CHAPS reimbursement rules.
- 6.2** A relevant contract is a framework contract between a consumer who holds a relevant CHAPS account and a directed PSP which is capable of being a sending PSP.
- 6.3** All directed PSPs which are capable of being sending PSPs must amend their relevant contracts as provided for above at the earliest practicable opportunity, including by reference to contractual amendment cycles. In any event this amendment must be effected by 9 April 2025 at the latest.

7 Indirect access providers to provide information about their indirect PSP customers

- 7.1** By 31 March 2025, and annually thereafter, all indirect access providers must give the PSR a complete list of all of their indirect PSP customers for the previous calendar year.
- 7.2** The PSR may specify in guidance additional requirements for the format and content of the list mentioned in paragraph 7.1.
- 7.3** By 30 April 2025, and monthly thereafter, all indirect access providers must give the PSR an update containing any changes to the list they provide under paragraph 7.1. They do not need to provide a report for months where there are no changes since the previous report.
- 7.4** Where a PSP also reports under paragraphs 7.1 and/or 7.3 of Specific Direction 20 (July 2024), that PSP may submit a single report which covers both those requirements and the requirements of paragraphs 7.1 and 7.3 of this specific direction.

8 PSP information obligations

Overarching duties

- 8.1** All directed PSPs which have not previously registered as required by paragraphs 8.1 – 8.3 of Specific Direction 20 (July 2024) must register as specified by the CHAPS Operator in the CHAPS reimbursement rules.
- 8.2** The obligation at paragraph 8.1 applies as follows:
- a. For PSPs participating in CHAPS and providing relevant CHAPS accounts at the time when this direction is given, paragraph 8.1 must be complied with as soon as is practicable and in any case by 7 October 2024
 - b. For PSPs which begin to participate in CHAPS and provide relevant CHAPS accounts at any date after this direction is given, and whilst it continues in force, paragraph 8.1 must be complied with before that PSP sends or receives live transactions using CHAPS.
- 8.3** From 7 October 2024, all directed PSPs must:
- a. collate and retain for a period of at least five years
 - i. the information identified in the PSR's CCDRS in respect of CHAPS APP scam claims
 - ii. any other information relevant to the CHAPS APP scam claim which is necessary to enable the CHAPS Operator to monitor and/or ensure compliance with the CHAPS reimbursement rules and which is specified by the CHAPS Operator in the CHAPS reimbursement rules

iii. any information which has been requested by the CHAPS Operator in accordance with paragraphs 8.3.d, 8.4 and 8.5

b. provide the information specified in the CCDRS to the CHAPS Operator

c. take appropriate and reasonable steps to assure themselves of the accuracy of any information provided, in the manner required by the CHAPS Operator and set out in the CHAPS reimbursement rules, before it is provided to the CHAPS Operator

d. provide timely, complete and accurate responses to reasonable and proportionate requests for information from the CHAPS Operator in order to enable it to monitor and/or ensure compliance with the CHAPS reimbursement rules.

8.4 For the purposes of paragraph 8.3.d the CHAPS Operator may determine a time frame within which a timely, complete and accurate response must be provided.

8.5 A reasonable and proportionate request for information by the CHAPS Operator is one which:

a. is made in circumstances where the CHAPS Operator has reasonable grounds to suspect that a directed PSP is not compliant, or that there is a reasonable likelihood that a directed PSP will not be compliant, with a requirement of the CHAPS reimbursement rules. The CHAPS Operator must include its reasoning and supporting evidence in the request

b. is appropriately scoped having regard to any time frame set for the response

c. may include, but is not limited to requests that:

i. enable the CHAPS Operator to monitor and/or ensure compliance with the CHAPS reimbursement rules

ii. relate to the CHAPS Operator monitoring and assuring the quality, accuracy, completeness and integrity of the data received

iii. enable the CHAPS Operator to undertake enhanced monitoring in response to any potential compliance issues identified.

8.6 Directed PSPs must ensure that any information collated, retained or provided pursuant to this direction (or other any other requirement or direction imposed further to the CHAPS reimbursement requirement) is retained in a manner which is secure.

9 PSPs' reporting obligations

9.1 All directed PSPs must comply with the reporting requirements specified in this section.

9.2 All directed PSPs must comply with the obligations set out in the PSR's CCDRS, as may be amended by the PSR from time to time.

- 9.3** The PSR will notify in writing the date on which any changes to the CCDRS will come into effect. The date will be no sooner than 90 days after the date of notification.

Reporting Standard A

- 9.4** The PSR hereby establishes reporting standard A, pursuant to which information must be collated, retained and provided by sending PSPs to the CHAPS Operator in accordance with this direction.
- 9.5** The PSR will set out the information which sending PSPs must report to the CHAPS Operator pursuant to reporting standard A in the CCDRS.
- 9.6** From 7 October 2024 all sending PSPs must collate and retain all information falling within the scope of reporting standard A as required in paragraphs 8.3 – 8.6 of this direction.
- 9.7** All sending PSPs must provide to the CHAPS Operator any information falling within the scope of reporting standard A set out within the CCDRS as follows:
- a. Each report must cover all cases closed in the reporting period
 - b. The first report is required to be submitted on 6 January 2025 to cover a reporting period of 7 October 2024 – 30 November 2024
 - c. Each subsequent report shall cover one month (the “reporting period”)
 - d. Each subsequent report is due by close of business on the last business day of the month after each reporting period.
- 9.8** Sending PSPs must report the information to the CHAPS Operator under Reporting Standard A using the method set out by the CHAPS Operator in the CHAPS reimbursement rules.
- 9.9** Where a sending PSP has not received any CHAPS APP scam claims in any reporting period, paragraph 9.7 does not apply and they are not obliged to submit a nil return.

Reporting to the PSR

- 9.10** The PSR may from time to time in writing require a sending PSP to provide it with a copy of any report provided to the CHAPS Operator under paragraph 9.7.
- 9.11** The sending PSP must provide the report required under paragraph 9.10 by the date given by the PSR.

10 Application

- 10.1** This specific direction applies to all PSPs participating in CHAPS that provide relevant CHAPS accounts.

11 Commencement, and duration and review

- 11.1** This specific direction comes into force on 7 October 2024.
- 11.2** This specific direction will continue in force until such time as it is varied or revoked by the PSR.
- 11.3** The provisions of this direction may, from time to time, be subject to review by the PSR. This may include circumstances where the CHAPS Reference Manual, including the CHAPS reimbursement rules, is revised by the CHAPS Operator.

12 Citation

- 12.1** This direction may be cited as Specific Direction 21 (September 2024) (CHAPS APP scam reimbursement requirement).

13 Interpretation

- 13.1** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 13.2** The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament, except where words and expressions are expressly defined.
- 13.3** 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.
- 13.4** The following definitions apply in this specific direction:

- **Account controlled by the consumer** means a relevant CHAPS account that a consumer can access and make payments from. It is not sufficient for it to be in the consumer's name.
- **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 CHAPS account to a relevant CHAPS 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 CHAPS reimbursement requirement, or the CHAPS reimbursement rules.

- **Authorisation** for the purpose of this direction, 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 direction, means any day (period of 24 hours beginning at midnight) that is not a Saturday or Sunday, or a bank or public holiday in any part of the United Kingdom.
- **CHAPS** means the regulated payment system designated by Order from the Treasury on 1 April 2015.

- **CHAPS APP scam claim** means one or more CHAPS APP scam payments made as part of an APP scam and made to the victim's PSP.
- **CHAPS APP scam payment** for the purposes of this direction, means an APP, authorised by a victim as part of an APP scam, that has all the following features:
 1. It is executed through CHAPS using a PACS 008 message.
 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 CHAPS 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.
- **CHAPS Compliance Data Reporting Standards (CCDRS)** means the document produced and published by the PSR, as may be amended from time to time, which sets requirements for the specific information which PSPs must collate, retain and provide to the CHAPS Operator pursuant to obligations imposed by this specific direction and to enable it to monitor and/or ensure compliance with the CHAPS reimbursement rules.
- **CHAPS direct participant** means an entity which satisfies the CHAPS system access criteria as specified in the CHAPS Reference Manual and is admitted to participation in the CHAPS System by entering into a CHAPS Participation Agreement with the Bank.
- **CHAPS Operator** means the Bank of England as the operator of the CHAPS payment system.
- **CHAPS Reference Manual** means the document published by the Bank of England on its website, as amended from time to time. It sets out obligations for direct participants and describes key elements of the CHAPS system's design, operations, risks and controls. The CHAPS Reference Manual forms a core part of the legal basis for the Bank's operation of CHAPS and aims to provide a clear and comprehensive description of the rules, requirements and key procedures.
- **CHAPS reimbursement directory** means the list of directed PSPs and their contact details which the FPS Operator maintains and which may be used for the purposes of managing CHAPS APP scam claims.
- **CHAPS reimbursement requirement** means the obligation conferred on directed PSPs under paragraph 3.1 of this specific direction.
- **CHAPS reimbursement rules** means the rules created by the CHAPS Operator concerning the CHAPS reimbursement requirement, which are set out in Annex A to the CHAPS Reference Manual.

- **Consumer** for the purposes of this direction, refers to service users 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) 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 Trustee Investment (Scotland) Act 2005 or the Charities Act (Northern Ireland) 2008).
- **Directed PSP** or **in-scope PSP** means a PSP participating in the CHAPS to which this specific direction applies, as set out in paragraph 10.1. For the purposes of this specific direction, this means a PSP which provides a relevant CHAPS account, whether or not that PSP is itself a direct participant in CHAPS.
- **Directed PSP which is capable of being a sending PSP** means a directed PSP which:
 - Provides a relevant CHAPS account for a consumer.
 - From which it is or will be possible for a CHAPS APP scam payment to be made.
- **Faster Payments Scheme** or **FPS** means the Faster Payments Scheme, a regulated payment system designated by Order from the Treasury on 1 April 2015.
- **Financial Market Infrastructure (FMI)** means all the systems, networks, and procedures that facilitate the clearing, settlement, and recording of financial instruments i.e. payment systems, central securities depositories, securities settlement systems, central counterparties and trade repositories.
- **Framework contract** means any contract for payment services which governs the future execution of any payments using CHAPS whether from an existing relevant CHAPS account or one that may be set up in future.
- **Indirect access provider** or **IAP** means a PSP with access to CHAPS that has an agreement or arrangements with another person for the purpose of enabling that other person (the '**indirect PSP customer**') to provide services for the purposes of enabling the transfer of funds using CHAPS or to become a PSP in relation to CHAPS. An IAP does not have to be a CHAPS direct participant. Indirect PSPs can themselves provide indirect access (sometimes called a 'nested' access arrangement).
- **Indirect PSP customer** means a person that has an agreement or arrangements with an indirect access provider to enable the indirect PSP customer to provide services for the purposes of enabling the transfer of funds using CHAPS or to become a PSP in relation to CHAPS.
- **Information** for the purposes of this direction includes any information or data which may be required by either the PSR for the purposes of monitoring compliance with this direction or any other relevant regulatory requirement or the CHAPS Operator in connection with monitoring and/or ensuring compliance with the CHAPS reimbursement rules.
- **Notification in writing** by the PSR includes by means of publication on the PSR's website.
- **Operator** has the same meaning as under section 42(3) of FSBRA.

- **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.
- **Register** means providing the information specified by the CHAPS Operator in the CHAPS reimbursement rules, in the manner set out in those rules, as required by paragraph 8.1 of this specific direction. This information may be used to support the creation and maintenance of the CHAPS reimbursement directory.
- **Reimbursable CHAPS APP scam payment** means a CHAPS 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 CHAPS reimbursement rules.
- **Relevant CHAPS account** means an account that is provided to a service user, is held in the UK and can send or receive payments using CHAPS, but excludes accounts provided by credit unions, municipal banks, FIs and national savings banks.
- **Relevant contract** means a framework contract between a consumer who holds a relevant CHAPS account and a directed PSP which is capable of being a sending PSP.
- **Retain** means to keep information for the period specified, in a readily accessible electronic format where possible.
- **Sending PSP** means a PSP that provides a relevant CHAPS account for a consumer, from which one or more CHAPS APP scam payments were 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 CHAPS APP scam payments.

Made on 6 September 2024

David Geale

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Status of directions

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

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