

Harriett Baldwin MP
Chair
Treasury Select Committee
House of Commons
SW1A 0AA

13 February 2023

Our ref: C230126A

Dear Harriett,

Re: Authorised Push Payment Fraud

Thank you for your letter of 25 January regarding Authorised Push-Payment (APP) scams, specifically 'on us' scams in which the victim and fraudster hold accounts with the same payment services provider (PSP). Our responses to your questions are below.

1. What steps has the FCA taken to ensure payment system providers are reducing levels of 'on-us' APP fraud?

Reducing and preventing financial crime is one of the commitments in the FCA's Strategy 2022-2025 and reducing the growth in APP fraud is one of three desired outcomes set out in this year's Business Plan. Whilst 'on-us' payments form a very small proportion of APP fraud (accounting for less than 1% of APP fraud payments in 2021, UKF fraud annual report)¹, those payment types are included in our work to tackle APP fraud summarised below.

We expect all payment services providers (PSPs), including banks, non-banks and e-money issuers, to establish and maintain systems and controls to comply with their legal obligations relating to financial crime and meet operational resilience and security requirements. These systems and controls include appropriate and risk-sensitive policies and procedures to deter and detect financial crime and an organisational structure where responsibility to prevent financial crime is clearly allocated.

We monitor and supervise through a combination of measures, including investigation and intelligence gathering. A dedicated team is currently undertaking assessments of firms' anti-fraud systems and controls to understand and evaluate how they are protecting consumers from fraud and that firms aren't being used by fraudsters. The outcome of this work will be communicated to firms to help improve standards across the industry in tackling fraud, including through 'on-us' payments. This may also result in the FCA issuing guidance to firms making clear our expectations.

We have also been supporting HMT and PSR with the legislative change to allow PSR to introduce mandatory reimbursement, feeding into PSR shaping of that scheme, and working with industry, HMT, PSR and other parties to understand and tackle potential blockers to reducing APP fraud.

¹ [Annual Fraud Report 2022 FINAL .pdf \(ukfinance.org.uk\)](#)

We organised in September 2022, jointly with the PSR, an APP Fraud tech sprint, bringing together industry participants to collaborate and design solutions using innovative technology. Over the three-day event, representatives from industry and regulators worked together to develop prototype technology solutions to detect and prevent APP fraud. These included solutions focused on transaction monitoring using behavioural analysis and machine learning, as well as better data sharing with other sectors such as telecoms and social media. This information has helped to inform our ongoing work on tackling APP fraud.

In addition, the FCA has been working on raising consumer awareness of APP scams. This includes the FCA ScamSmart campaigns which aim to empower consumers with the knowledge and tools to help prevent them falling victim to scams.

It is clear the industry needs to do more to prevent APP scams. This requires a collective effort – not just from the regulators, law enforcement agencies and the Government, but across financial services and other industries such as telecommunications and tech firms.

- 2. The PSR has said 'Victims are impacted the same way whether the scam payment is on-us or via Faster Payments. They should not have less right to reimbursement if the fraudster uses an account provided by the victim's own PSP.'² Do you agree?**
- a. Does the FCA intend to implement comparable measures to the PSR's reimbursement proposals for on-us fraud? And, if so, when?**
- b. Does the FCA intend to publish 'further complementary guidance or rules'³ for on-us fraud reimbursement?**

We agree with the principle that victims should be reimbursed where they have done nothing wrong – this includes in cases of 'on-us' transactions, where both the sending and receiving payment accounts are held with the same PSP. From a legislative perspective, there is nothing in the Payment Services Regulations 2017 (the "Regulations") which assigns statutory liability to a PSP for authorised push payment fraud (whether 'on-us' or some other form of APP fraud). We are considering the next steps, including whether legislative change may be needed, and working closely with HM Treasury, the PSR and the Bank of England to ensure planning around APP scam reimbursement intervention made by the authorities is coordinated effectively.

- 3. What actions is the FCA taking to coordinate its approach and the timing of any interventions regarding APP scams reimbursement with the PSR, Bank of England and other bodies?**

In our three-year strategy we highlighted the importance of working closely with partners in government, law enforcement and our regulatory partners to drive a whole-system response to tackling financial crime.

The FCA continues to work closely with the PSR to tackle APP scams, including in relation to the proposed measures which the PSR has consulted on, and in considering whether further regulatory consideration needs to be given to data sharing to better prevent fraud.

² [PSR CP22-4 APP scams reimbursement](#)

³ [PSR CP22-4 APP scams reimbursement](#)

Over the past year, we have also worked closely with partners to feed into the national response to financial crime through the Economic Crime Plan 2 and the National Fraud Strategy. The FCA plays a key role in the delivery of each of these strategies.

In addition, the FCA has a team dedicated to ensuring that we have effective engagement and intelligence sharing with the National Economic Crime Centre (NECC) and other law enforcement partners.

- 4. Financial Ombudsman Service (FOS) data showed that, when victims disputed a PSP's refusal to reimburse their funds under the Contingent Reimbursement Code, the FOS overturned the PSP's decision around 73 per cent of the time.⁴ What action has the FCA taken to date against firms who have adopted a 'perennial refusal' to reimburse victims? [Q383]⁵**

The FCA requires regulated firms to put in place appropriate management controls and take reasonable steps to ensure that in handling complaints it identifies and remedies any recurring or systemic problems. This includes, for example, carrying out root cause analysis (RCA) to understand the policies or processes that are causing complaints and, where reasonable to do so, correct them. Similarly, when assessing complaints, the FCA expects firms to take all relevant factors into account, which may include FOS guidance or previous FOS decisions. The FCA can – and does – intervene where it has evidence that firms are not complying, which can include taking supervisory or enforcement measures.

Where a PSP's overturn rate at the FOS appears high, this suggests that the FOS is carrying out its role of correcting firms' decisions where necessary and setting expectations for all firms.

Yours sincerely,



Nikhil Rathi
Chief Executive

⁴ [Banks wrongly denying fraud victims compensation in up to 8 in 10 cases - Which? News](#)

⁵ <https://committees.parliament.uk/oralevidence/11498/html/>