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**Response by: Which?**

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## Consultation Response

### **Payment Systems Regulator's consultation on general directions on implementing Confirmation of Payee**

Which? welcomes the opportunity to respond to the Payment Systems Regulator's (PSR) consultation on general directions on implementing Confirmation of Payee. Which? strongly supports the PSR's proposals. We have long called for the widespread adoption of Confirmation of Payee by banks and other payment service providers to help detect and prevent authorised push payment scams. We have been disappointed that a voluntary approach has so far failed to introduce this much needed measure, so regulatory action is now required.

Payments made via Faster Payments and CHAPS are currently processed without checking whether the account name matches the account number. Confirmation of Payee will check whether the account name, which could be an individual or business, matches the customer's intended recipient before any money is transferred. If customers are provided with clear and reliable information and warnings, this measure could be particularly effective at tackling redirection scams, whereby the victim thinks they are paying a legitimate payee but are tricked into paying a malicious payee. It will also help to prevent accidentally misdirected payments.

Victims currently face losses of potentially life-changing amounts of money from authorised push payment scams. Whether a victim is reimbursed after a scam is dependent on the goodwill of their bank, or the success of attempts at repatriation. Most victims are therefore not reimbursed unless the sending and/or receiving firm decides it is at fault. Of the £92.9m lost by consumers from 31,510 cases of authorised push payment fraud in the first half of 2018, just £15.4m (16.6%) was returned to consumers.<sup>1</sup>

The PSR's latest modeling highlights that Confirmation of Payee has the potential to significantly reduce the incidence of maliciously redirected authorised push payment scams affecting consumers and businesses, by around £150m per year. This would significantly reduce the financial detriment suffered by victims of malicious redirection scams, which amounted to £93.9m for consumers and businesses in the first half of 2018,<sup>2</sup> or around £188m if this trend continued in the second half of 2018.

We agree that Confirmation of Payee will not prevent all malicious redirection authorised push payment scams. This is partly because Confirmation of Payee does not directly confirm the payee, as its title suggests, it only checks whether the name inputted by the customer matches

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<sup>1</sup> UK Finance (2018), 2018 half year fraud update, p.19

<sup>2</sup> Of which, £27.2m was subsequently returned to consumers. UK Finance (2018), 2018 half year fraud update: Annex

the one on the recipient's account. Scams are often highly sophisticated, and scammers will still find ways to convince victims that the account name is the payee they intend to pay. For example, by claiming that the business name on an account is different to the intended business' name because it is a related trading name, or by opening fraudulent accounts with names similar to legitimate businesses.

Nonetheless, Confirmation of Payee should make it harder for scammers to operate. It will also add an extra risk warning for customers and payment service providers to help them identify a scam. For customers, they may be told there is only a partial or negative match with their intended recipient name, which may alert them to a potential issue. For payment service providers, if their customer receives a negative match and tries to proceed with the payment then this should suggest a higher risk of the payment being a scam. Sending firms should therefore provide tailored warnings, and sending and receiving firms should subject any such payments and the accounts they are paid into to greater checks.

The draft contingent reimbursement code, which Which? is working with the PSR, industry and other consumer groups to help develop, aims to both reduce the occurrence of authorised push payment scams, and to reduce the impact of these crimes. The code makes clear that signatories to the code should implement Confirmation of Payee. However, it is at yet unclear which firms will sign up to the voluntary code.

Confirmation of Payee has been under consideration since at least as early as 2011 by the then Payments Council,<sup>3</sup> and later in 2015 by Payments UK.<sup>4</sup> Even now that Pay.UK has published the technical standards for firms to implement Confirmation of Payee, it remains unclear which firms would even choose to offer the service. To meet the PSR's aim to introduce Confirmation of Payee without unnecessary delay, and with widespread and quick adoption, a continued voluntary approach is therefore unlikely to be effective.

Which? recommends that the PSR's general directions should:

- **Require all payment service providers using Faster Payments and CHAPs to both respond to and send Confirmation of Payee requests.**<sup>5</sup> All firms that use these payment schemes benefit commercially from these payment schemes, and the credibility that such schemes offer their businesses. Given the net benefits identified by the PSR of implementing Confirmation of Payee, it should form part of the minimum standards for firms offering Faster Payments and CHAPs. This will also prevent scammers from targeting payments involving firms that do not operate Confirmation of Payee.

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<sup>3</sup> Payments Council (2011), *National Payments Plan*

<sup>4</sup> Payments UK (2015), *World Class Payments in the UK*

<sup>5</sup> Answers to consultation questions 2,3, 4 and 8

- **Cover all payment channels that a payment can be initiated from (currently mobile, internet, telephony and in-branch).**<sup>6</sup> Without complete coverage of payment channels, scammers will simply target those payment channels that are not covered.
- **Apply only when a new payment mandate is being set up or changed, rather than for all payments.**<sup>7</sup> This is where there is the greatest risk of fraud occurring and where the benefits of introducing greater checks significantly outweigh the costs to consumers in terms of speed of making payments. The PSR should also keep under review whether this requirement should be extended to include making payments to existing payees under certain circumstances, such as transactions above certain amounts or transactions that are made within a certain period of a payment mandate being set up or changed. We would also expect signatories to the contingent reimbursement code to go above and beyond the PSR's proposed general directions if they find evidence that certain types of payment are at greater risk of authorised push payment scams and could benefit significantly from Confirmation of Payee.
- **Be mandatory for customers to use Confirmation of Payee.**<sup>8</sup> Checking the name matches the intended recipient should be an integral part of the transaction, since this process is so important for preventing authorised push payment scams and misdirected payments. We therefore do not think that this should be an optional step for customers.
- **Require firms to give effective warnings to customers who receive a partial or failed match with the name of their intended recipient, and for firms to subject any payments to failed matches to a greater degree of checks.** Effective warnings for partial matches are especially important as customers are likely to receive a high number of partial matches. Many of these will be in cases where the intended recipient is correct but the way they have written the name does not exactly match the form of the name on the account (eg due to a shortened first name or use of initials). We therefore support the principle in the the draft contingent reimbursement code that if a customer proceeds with a payment following a partial match this should not mean they will not be reimbursed if they are the victim of an authorised push payment scam. For failed matches, there is clearly a heightened risk of a payment being made to a fraudster. If having received a clear and effective warning following a failed match a customer still proceeds with making a payment then the firms' responsibility to prevent fraud should not end there. As set out in the contingent reimbursement code, there are a range of measures that sending and receiving firms can take to try to detect payments and accounts used for authorised push payment scams. Such measures should not be voluntary in response to failed matches. The PSR should therefore require

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<sup>6</sup> Answer to consultation question 5 (i)

<sup>7</sup> Answer to consultation question 5 (ii)

<sup>8</sup> Answer to consultation question 6

all payment service providers to conduct a greater level of checks in response to failed matches.

- **Come into force as soon as is practically possible.**<sup>9</sup> We understand that it will take firms time to implement the PSR's general directions and the technical requirements set out by Pay.UK. The deadlines proposed by the PSR – of 1 April 2019 for receiving and responding to requests, and 1 July 2019 for sending requests and presenting responses to customers – could arguably be challenging for some firms given that Pay.UK only relatively recently published its technical standards for firms. However, Pay.UK has been developing Confirmation of Payee in conjunction with firms for some time. Firms should therefore be expected to be well developed in their preparations. Unless there is clear evidence that the PSR's proposed deadlines could be detrimental to customers by undermining the effectiveness of the system, then the PSR should go ahead with the proposed deadlines.
- **Outline clear expectations of how Pay.UK and payment service providers should work together to communicate the launch of Confirmation of Payee.**<sup>10</sup> Consumers need to be given clear messages about how Confirmation of Payee will change how they make payments. We are concerned that Pay.UK plans not to take an 'active role in education'.<sup>11</sup> As the organisation responsible for introducing Confirmation of Payee and for overseeing the Faster Payments Scheme, which is by far the largest push payment scheme, Pay.UK should coordinate communication and customer education around the launch of Confirmation of Payee to ensure there is consistency across payment service providers.

In future, however, regulatory intervention should not necessarily be required to force the introduction of other types of system-wide fraud prevention measures where there are clearly evidenced benefits. Instead, the payment schemes (Faster Payments and CHAPS, which are led by Pay.UK and the Bank of England respectively) should take greater responsibility for reducing scams that take place on their payment systems by requiring all firms using these schemes to adopt effective new measures.

As the PSR concluded in response to our super-complaint, neither the Faster Payments scheme nor the CHAPs scheme have any rules, policies or procedures related to consumer protection against scams.<sup>12</sup> This is unlike other payment schemes, such as card schemes and direct debits, which have rules that protect consumers against fraudulent payments. These include

<sup>9</sup> Answer to consultation question 9

<sup>10</sup> Answer to consultation question 9

<sup>11</sup> 'Pay.UK's role is to deliver the market capability for PSPs to offer the service to their customers and Pay.UK will therefore not take an active role in education. Raising awareness of CoP, educating customers on how to get the most out of the service and ultimately changing customer behaviours will all be critical to the medium- to long-term success of CoP as a service. This is a role that needs to be undertaken by PSPs with their customers and Pay.UK will provide support and guidance to help PSPs with this important deliverable as part of the implementation of CoP.' Pay.UK (2018), *Confirmation of Payee: Understanding consumer and stakeholder perspectives*, p.11

<sup>12</sup> Payment Systems Regulator (2016), *Which? authorised push payments super-complaint: PSR response*, p.5

mechanisms for payments to be challenged and reversed. Therefore, Pay.UK and the Bank of England should incorporate the principles of the finalised contingent reimbursement code into the detailed scheme rules that firms using the Faster Payments and CHAPS schemes are required to follow.

### **About Which?**

Which? is the largest consumer organisation in the UK with more than 1.3 million members and supporters. We operate as an independent, a-political, social enterprise working for all consumers. We are funded solely by our commercial ventures and receive no government money, public donations, or other fundraising income. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.

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