



Response template

Completing this questionnaire - instructions

Please provide your completed response to the Call for Information by 5pm on Tuesday 1 October 2019. You should send your response to CRMFCall@wearepay.uk.

Please provide your response in a Word document.

Where information you provide is commercially sensitive, please identify it by labelling it [CONFIDENTIAL] and yellow-highlighting it in the Word response.

Should we receive responses to this Call for Information relating to the merits of alternatives model we will pass these comments on to UK Finance for its consideration – if you want your views to be shared with UK Finance on an anonymised basis please indicate this in your response.

| About you | |
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| Name: | Alastair Reed |
| Email address: | alastair.reed@which.co.uk |
| Telephone: | 0207 770 7847 |
| About your business | |
| Company name: | Which? |
| Participant type: | Consumer organisation |
| Confidentiality | |
| Does your response contain confidential information? | NO |
| Do you want your responses to this Call for Information relating to the merits of alternatives models to be passed on to UK Finance for its consideration on an anonymised or attributed/names basis? | NAMED OR ATTRIBUTED BASIS |
| Overall view of the proposal | |
| Do you support the proposed rule change? | YES |
| Please give a brief summary of your reason. | <p>Which? strongly supports the proposal by UK Finance to introduce a Faster Payments Scheme rule requiring users to pay a fee to refund victims of authorised push payments scams in 'no blame' scenarios. Pay.UK should go further to help to communicate this to consumers in the form of a new Faster Payments guarantee, similar to the guarantee that Pay.UK oversees for direct debits.</p> <p>Two years on from Which?'s super-complaint to the Payment Systems Regulator on authorised push payment scams, the launch of the Contingent Model Reimbursement Code was a major step forward. As well as setting out standards that sending and receiving payment providers should follow to mitigate the risk of APP fraud, it establishes the principle that victims should be fully reimbursed if they have met a requisite standard of care when making a bank transfer.</p> |

However, victims who should be reimbursed under the terms of the Code could still face losing life-changing sums of money from January 2020. This is because no agreement has yet been reached on how to fund reimbursement in 'no blame' scenarios, where both payment providers have met the Code's standards as well as the victim, or where the victim was vulnerable to the specific scam.

Which? therefore welcomes UK Finance's proposal for a long-term funding mechanism. We urge members of the Faster Payments Scheme to support this proposal, and for Pay.UK to approve the proposal and then urgently introduce the proposed fee before the end of 2019.

UK Finance's proposed rule change is rightly based on the principle that firms should collectively fund the reimbursement of victims in no blame scenarios. This principle was agreed by the APP Scams Steering Group, which had an equal number of representatives of consumers and industry as well as an independent chair.¹ The Steering Group had considered a wide range of potential funding sources. It consulted on seven options in particular, receiving responses from 34 stakeholders including many Pay.UK participants. This proposal was the preferred option.

The proposed fee would provide an ongoing financial incentive all firms involved in push payments to individually and collectively reduce APP scams. Financial incentives on payment providers firms have driven improved fraud protections for other forms of payments, which shows how payment providers can help to protect their customers from fraud.²

¹ This was confirmed most recently by the chair of the Steering Group while giving evidence to the Treasury Select Committee.

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| | <p>The protection the fee would help to provide to consumers could benefit payment providers and Pay.UK by strengthening trust among consumers in the Faster Payments Scheme which is currently at risk of being undermined. Pay.UK would need to work with participants to help communicate the new protections that this fee would introduce, especially for customers of non-signatories to the Code. We propose that Pay.UK should introduce a Faster Payments guarantee, similar to the one it oversees for Direct Debits, to help communicate these new protections to consumers.</p> <p>While each payment provider is able to decide if they want to charge consumers directly for bank transfers and to determine any charges, we do not think that the introduction of UK Finance’s proposed fee would mean that this would be necessary. Payment providers already pay fees to the Faster Payments Scheme, and UK Finance’s proposal is for a relatively small additional charge of just 2.9p per transaction on some but not all transactions. We also do not think that simply passing on the cost directly to consumers would be in the spirit of what was agreed by the APP Scams Steering Group.</p> <p>Which? does not typically comment on the detailed design of industry levies, unless these could affect the effectiveness of redress schemes. The rest of our submission therefore focuses on such issues.</p> |
| <p>Question Group A - The use of the FPS Rules to support a voluntary industry initiative</p> | |
| <p>A1) What are your views on using an FPS Rule to provide a funding mechanism for the Code’s no-blame fund?</p> | <p>Which? supports the use of a Faster Payments Scheme rule to provide funding for the Code’s no blame fund. While we welcome that 8 firms, covering 17 banking brands and 85% of push payments, have signed up to the reimbursement code, there are around 400 banks and payment providers who offer Faster Payments. Any funding source that is collectively funded by industry should have the broadest coverage possible, to ensure</p> |

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| | <p>that the financial incentives to prevent scams are consistent across the industry. Any gaps could lead to weaknesses in the system, which we know fraudsters seek to target. The vast majority of push payments are made via the Faster Payments Scheme, and so are the vast majority of authorised push payment scams. It is also the payment scheme that is most widely used by payment providers.</p> <p>This funding model will help ensure FPS will be a regime that is fit for the future. As consumers' payment options, and platforms continue to evolve it will ensure that the appropriate redress mechanisms, and incentives to continually protect consumers are in place if things go wrong where they are not to blame.</p> |
| <p>A2) If you are a PSP, what are your views on paying a CRM Fee?</p> | <p>N/A</p> |
| <p>A3) If you are a PSP, would the implementation of the proposed FPS Rule have any cost implications for you (other than the CRM Fee itself)?</p> | <p>N/A</p> |
| <p>A4) What are your views on the interaction between the proposed FPS Rule and the proposed FPS CRM Fee Governance Group?</p> | <p>N/A</p> |
| <p>A5) If you are a PSP, do the proposed governance arrangements to deal with changes to the CRM Fee provide you with sufficient ability to be able to influence and manage fluctuations in the level of the CRM Fee?</p> | <p>N/A</p> |
| <p>Question Group B – End-user benefit</p> | |
| <p>B1) Do you think that the proposed rule supports improved consumer outcomes? Does this vary</p> | <p>Yes, the proposed rule would mean that there is long-term funding for victims of authorised push payment scams who should be reimbursed under</p> |

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| <p>depending on whether the consumer's PSP has or has not signed up to the Code?</p> | <p>the terms of the Contingent Reimbursement Code. This includes people who were vulnerable to the specific scam. By introducing an industry-wide funding model, this also particularly improves outcomes for customers of the almost 400 payment providers that have not signed up to the Code. These customers can only be reimbursed from the no blame funding pot if they have made a complaint to the Financial Ombudsman Service, whereas customers of signatory firms can be reimbursed regardless of whether they take a complaint to the Financial Ombudsman. This means that outcomes may vary, and the process to securing reimbursement is likely to be more onerous for many customers of non-signatory firms. Nonetheless, this rule change could dramatically improve outcomes for victims of APP scams across the sector, while maintaining an incentive for firms to sign up to the Code to provide a greater level of protection to their customers.</p> |
| <p>B2) Would the proposed rule create incentives for PSPs to invest further to help reduce fraud for their own customers?</p> | <p>Yes, while payment providers are predominantly reliant on other payment providers to reduce the level of scams, which in turn will reduce the proposed fee that they will pay in future, many fraud protection initiatives require payment providers to work together. Confirmation of Payee, for example, requires at least a critical mass of payment providers to be effective. A single PSP can certainly not introduce it on their own. By creating a direct financial incentive for firms to reduce the level of authorised push payment scams, this can help encourage payment providers to introduce measures such as Confirmation of Payee.</p> |
| <p>B3) Are these improved consumer outcomes dependent on the proposed CRM Fee, or do you think that there are alternative ways that these improved consumer outcomes could be delivered (e.g. a different FPS rule or other means altogether)? Please provide an explanation of your view.</p> | <p>Securing a long-term funding mechanism for the reimbursement of victims in no blame scenarios is fundamentally important for fair outcomes. As UK Finance's proposal makes clear, the APP Scams Steering Group considered a wide range of potential options. An industry levy was the Group's preferred option, following its own external consultation and detailed further work.</p> |
| <p>B4) How do you currently plan to ensure your customers are reimbursed in 'no blame' situations? Would this</p> | <p>N/A</p> |

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| change if the proposed FPS Rule were (or were not) implemented? | |
| Question Group C - Competitive effects | |
| C1) What are your views on the FPS Rule being used to fund reimbursement in relation to no blame APP Scams executed over FPS, CHAPS and on-us transactions? | N/A |
| C2) What are your views on the likely development of the level of no blame APP Scams executed over FPS, CHAPS and on-us transactions in the future? | <p>This is extremely difficult to predict. The Lending Standards Board, Pay.UK, the Payment Systems Regulator and other stakeholders need to carefully monitor and evaluate the Contingent Reimbursement Code, including the cases that are ruled to be in the no blame scenario. Faster Payments Scheme participants will in particular have a strong incentive to hold each other to account on the fair use of the no blame funding pot, since under UK Finance's proposal these firms would collectively fund these reimbursements.</p> <p>All relevant parties will need to continue to work together and continually evolve to ensure that the appropriate structure and fee levels are in place.</p> |
| C3) Do you think the CRM Fee would cause your firm, or PSPs generally, to consider using alternative payment systems for transactions? | N/A |
| C4) If you are a PSP, and given your particular business model and use of FPS, do you think the CRM Fee would have a noticeable effect on your overall costs? (How would these costs compare to those you would incur through the approach you described at B4?) | N/A |
| C5) Do you think that uncertainty over the future level of the CRM Fee would create challenges for your firm or PSPs generally? (How does this compare to the uncertainty attached to the approach you described at B4?) | N/A |

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| C6) What are your views on using the volume of transactions as the basis for calculating the CRM Fee, or would a different metric be better? | N/A |
| C7) What are your views on the calculation of the CRM Fee being based on sending transactions only as opposed to applying on both sending and receiving transactions? | The sending firm chooses what payment methods to offer its customers, so its customers benefit from any protections against scams offered by Faster Payments. We therefore support the proposal for sending firms to pay the proposed fee. We also propose that the new fee should form part of a new protection guarantee for customers similar to the Direct Debit Guarantee. This would benefit the sending firm primarily. |
| C8) Do you think that there will be any cross-subsidisation between PSPs and, if so, would this be likely to be significant? | N/A |
| C9) If you are a PSP - in the case of a large APP scam, do you value the risk-sharing or insurance element of the no blame fund or would there be alternative ways you could offset this risk and maintain the same protection for consumers (without recourse to the no blame fund)? | N/A |
| C10) Are there other benefits of sharing the risk of no blame APP scams that Pay.UK should be aware of? | To provide an incentive for payment service providers to work together to prevent APP scams, since reducing the level of APP scams is likely to reduce the CRM fee paid by all firms in future years. |
| Question Group D – Proportionality | |
| D1) What are your views on the principle of having exemptions from the requirement to fund the no blame pot? | We support a proportionate funding system that avoids putting up barriers to new entrants and smaller firms. We do not have comments on the specifics of how the proposed fee should be levied in terms of the types and level of exemptions. |
| D2) What are your views on exempting Payments Originating Overseas and Returns from the CRM Fee? Do you have any evidence that this would be an appropriate exemption? | N/A |

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| D3) What are your views on exempting small FPS Direct Participants from making a contribution to the no blame fund? Do you have any evidence that this would be an appropriate exemption? | N/A |
| D4) What are your views on using 100,000 as the level of transactions at which to set such an exemption? | N/A |
| D5) What are your views on exempting PSPs who do not have current or payment account offerings? Do you have any evidence that this would be an appropriate exemption? | N/A |
| D6) What are your views on exempting transactions to pre-set accounts from the CRM Fee? Do you have any evidence that this would be an appropriate exemption? | N/A |
| D7) What are your views on exempting individual transactions below £30 from the CRM Fee? Do you have any evidence that this would be an appropriate exemption? | N/A |
| D8) Is £30 the appropriate cut off point for any low value payment exemption or should this be set at a higher or lower level? | N/A |
| D9) Are there any exemptions that are missing, in particular any the lack of which could make the proposed funding mechanism disproportionate for any particular PSPs or transactions? | N/A |
| D10) What are your views on the proposed FPS Rule retrospectively funding the interim no blame fund? | N/A |
| Question Group E – Operational and practical considerations | |

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| E1) Can you foresee any challenges from an operational or practical perspective in implementing and administering the proposed arrangements that Pay.UK should be aware of? | N/A |
| E2) If you are a PSP, are there any tax implications for you relating to the payment of the CRM Fee and the making of claims from the no blame fund? | N/A |
| E3) What are your views on the administrative costs associated to operating the no blame fund? | N/A |
| E4) What are your views on the proposed enforcement process? Do you have any other suggestions for how the CRM Fee should be enforced? | N/A |
| E5) Would the proposed enforcement process be effective in cases of non-payment of the CRM Fee? | N/A |
| E6) What would be your views on Pay.UK sanctioning an FPS Participant for failing to comply with an FPS rule requiring a contribution to a funding mechanism for a voluntary industry Code? | N/A |
| E7) What are your views on the proposed different escalation process for the proposed FPS Rule compared to Pay.UK's normal escalation and sanctions processes? | N/A |
| Other (please provide any other comments you have here | |

