

Ministerial Brief

MB23-000319

FOR INFORMATION - Briefing Request - UK Scams Model

TO: Assistant Treasurer and Minister for Financial Services - The Hon Stephen Jones MP**CC:** Treasurer – The Hon Jim Chalmers MP**KEY POINTS**

- Your office requested a brief outlining the regulatory responses to scams and online fraud in the United Kingdom (UK).
- UK and Australian approaches share several characteristics, including cross-sector responses involving banks, platforms and telcos. A key difference is the UK's approach to scam victim reimbursement, with the UK allocating more of the risk on to the banking sector.
- In the UK context, scams are often referred to as 'authorised fraud' or 'authorised push payment (APP) fraud'. In 2022, the UK finance industry reported £1.2 billion in losses to fraud, including £485.2 million in losses to authorised fraud. It is estimated fraud offences make up 40 per cent of all crime in the UK.

Fraud Strategy

- On 3 May 2023, the UK Government released a national Fraud Strategy. The Strategy outlines a plan for Government, law enforcement, regulators, industry and charities to reduce the number of reported incidents of fraud by 10 per cent from 2019 levels by the end of the Government's current term in 2024-25.
- Measures under the Fraud Strategy can be grouped into three key themes, including:
 - law enforcement measures to 'pursue fraudsters', including a £100 million investment to enhance law enforcement responses to fraud by establishing a National Fraud Squad with over 400 additional investigators
 - industry and regulatory measures to 'block fraud', including a ban on cold calling on all financial products, working with the UK communications regulator Ofcom to prevent number spoofing, and new anti-fraud partnerships with industry
 - measures to 'empower the public', including the development of a national anti-fraud awareness campaign, a new system for consumers to report scams, and legislating mandated reimbursement of APP fraud in the payments system.

- The UK Government also facilitates ‘Fraud Sector Charters’, which are voluntary agreements between industry and government to improve counter-fraud efforts.
 - In October 2021, the UK Government agreed Fraud Sector Charters with the telecommunications, retail banking, and accountancy sectors over two years. The content of Fraud Sector Charters includes action plans to address fraud risks in their sector, support victims, and increase awareness of fraud, including measures to share data and intelligence with industry partners, law enforcement and regulators.
 - The Fraud Strategy committed to the agreement of an Online Fraud Charter for the tech sector, to be finalised in late 2023. Potential commitments include improved data sharing, verification of advertisers of financial promotions, facilitating partnerships with law enforcement, and enhancing counter-fraud communications with the public.
- : We understand the UK Government is not proceeding with initial plans to require digital platforms to reimburse victims of online fraud on their platforms.

Mandated reimbursement

- The UK Payments Systems Regulator (PSR) is responsible for current and planned measures in the payments system to protect and reimburse consumers exposed to APP fraud.
- In May 2019, the PSR introduced the Contingent Reimbursement Model Code, a voluntary standard committing signatories to implement procedures to detect, prevent and respond to APP fraud and provide reimbursement to victims. The Code is signed by 10 firms representing 21 UK banks, including the UK ‘Big Four’ banks.
 - Reimbursement applies where a customer has been the victim of an APP fraud. Claims must be assessed by the firm as no-fault, excluding circumstances such as where customers ignore warnings or fail to take appropriate action.
 - Oversight of the Code is administered by the industry-led Lending Standards Board (LSB), with dispute resolution over decisions made under the Code administered by the Government’s Financial Ombudsman Service.
 - A review of the Code by the LSB in 2021 found that take up of the Code was slower than expected, and expressed concerns about inconsistencies and delays in how firms applied the Code to their customers.
- In June 2023, the PSR published a plan to implement a mandatory reimbursement model for APP fraud in 2024. Under this model, eligible claims must be reimbursed by payment operators, with costs evenly split between sending and receiving firms.
 - Reimbursement will be subject to several limits yet to be confirmed. Payment system operators will be able to impose limits to claims, a claim excess, maximum levels of reimbursement, and a thirteen-month time limit on claims. Assessment and dispute resolution will also be the responsibility of operators.

- The PSR plans to engage an independent payment system operator, Pay.UK, to implement the reimbursement system and enforce compliance under its real-time Faster Payment system.
- The Bill to enable the new reimbursement arrangements, the Financial Services and Markets Bill, passed the UK Parliament in June 2023. The PSR will undertake further consultation on draft legal instruments in late 2023, with the new arrangements expected to commence in 2024.
- The mandatory reimbursement model has been endorsed by consumer groups such as the Consumer Action Law Centre.
- If asked about the UK approach, draft talking points are at Attachment A.

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30 June 2023

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ATTACHMENTS

A. Draft Talking Points

ATTACHMENT A

Draft Talking Points

- The Government has committed to introducing tough new industry codes for banks, telcos and digital platforms, outlining their responsibilities in responding to scams.
- We want to raise the bar and set clear obligations on businesses to protect their consumers from scams.
- As part of this work, we are looking closely at overseas regulatory approaches, including in the United Kingdom.
- We intend to consult on these issues in the coming months.

Ministerial Submission

MS23-001808

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Agreed features of the Framework

- As you are aware, Treasury and DITRDCA have reached agreement on the following key features for the Framework:

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- strong penalties for breaches of the obligations in the primary law and the sector-specific codes, and

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- an external dispute resolution (EDR) mechanism (such as through the Australian Financial Complaints Authority) to determine redress and reimbursement of funds to a consumer where a bank has breached its obligations under the sector-specific code.

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SCAMS

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Policy Commitments

Scams Code Framework

- On 30 November 2023, Treasury and DITRDCA released a public consultation paper and survey to seek feedback on a proposed model for a Scams Code Framework, with consultation closing on 29 January 2024.

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- Where a regulated business does not meet its obligations under the Framework, clear dispute resolution pathways would ensure consumers have access to appropriate redress, such as compensation for scam losses. This would be complemented by regulator enforcement action and penalties for non-compliance.
- The consultation paper seeks stakeholder feedback on key aspects of the design and enforcement of the Framework, including:

- obligations to improve complaints handling and have internal and external dispute resolution processes in place for consumers,

Market Conduct and Digital

Briefing for Deputy Secretary – Markets Group international travel

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Consumer (s 22 scams) 4

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Scams

- Treasury is keen to better understand the UK's response to scams, particularly on obligations for digital platforms through the UK's forthcoming 'Online Fraud Charter'.

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Scams

- On 3 May 2023, the UK Government released a new Fraud Strategy. The Strategy focuses on law enforcement, including establishing a National Fraud Squad with over 400 additional investigators, to be jointly led by the City of London Police and the National Crime Agency.
- Other measures include banning cold calls on all financial products, and working with the UK communications regulator Ofcom to prevent number spoofing.
- The Strategy also includes the development of new ‘Fraud Sector Charters’, which are voluntary agreements between industry and government to improve counter-fraud efforts.
- This will include a new Online Fraud Charter for the tech sector, to be finalised in the second half of 2023. It is likely to incorporate industry commitments to improve data sharing with government and other private sector partners, ensure all advertisers of financial promotions are cross-referenced by digital platforms against a list authorised by the Financial Conduct Authority, publish regular data on the volume of fraudulent content, and make it easier for users to report fraud.
 - The Fraud Strategy does not include earlier proposals to force digital platforms to compensate victims of scams.
- In June 2023, the UK Payment Systems Regulator released details on forthcoming mandatory reimbursement requirements. This includes sending and receiving firms splitting the costs of reimbursement 50:50 (see <https://www.theguardian.com/money/2023/jun/07/uk-banks-to-reimburse-victims-under-new-rules-regulator-confirms>)