

## Consultation Response

### **Which? response to the Payment Systems Regulator's consultation on *Confirmation of Payee: Requirements for further participation in CoP (CP22/2)***

**Which? strongly supports the Payment Systems Regulator's (PSR) proposal to require approximately 400 payment service providers (PSPs) to implement Confirmation of Payee, as fraudsters continue to exploit the current lack of coverage of the service to facilitate authorised push payment (APP) fraud**

Which? welcomes the PSR's consultation on further participation in Confirmation of Payee and strongly supports the regulator's proposal for requiring approximately 400 PSPs to offer the name-checking service to their customers, both as payers and payees. Which? has long called for the widespread adoption of Confirmation of Payee by banks and other PSPs to help detect and prevent APP scams. Given the significant benefits that implementing Confirmation of Payee can potentially bring if fully adopted across the payments industry, we firmly believe that it should form part of the minimum standards for all providers offering payment services.

No PSPs introduced the service until the PSR mandated the introduction of Confirmation of Payee by the six largest banking groups in August 2019. We have now seen only a small number of non-directed PSPs opting to voluntarily introduce the service. Yet the implementation of the service by some PSPs has proved to be a major step in the fight against fraudsters: in May 2021, the PSR's data analysis showed that between Q3 and Q4 in 2020, PSPs that had implemented Confirmation of Payee saw a reduction in the value and volume of relevant types of APP scams received from the directed SD10 banks.<sup>1</sup>

However, the decision by the PSR not to require all PSPs to introduce Confirmation of Payee has led to the partial implementation of the service by providers across the payments industry, considerably undermining the service's potential benefits. The majority of providers using Faster Payments have not yet introduced the service and continue to show little commitment to doing so. This lack of initiative from PSPs to implement Confirmation of Payee is hugely disappointing, especially as APP scam levels continue to rise: UK Finance's latest Annual Fraud Report shows that in 2021, losses due to APP scams were £583.2 million, up by 39% from 2020, with case volumes at 195,996, an increase of 27% from the previous year,<sup>2</sup> demonstrating clearly the need to take further action and to do so quickly.

<sup>1</sup> Payment Systems Regulator (May 2021) Confirmation of Payee: Call for Views, p.17. Available at: <https://www.psr.org.uk/media/ehfnk4gh/cp21-6-confirmation-of-payee-call-for-views.pdf>

<sup>2</sup> UK Finance (July 2022) Annual Fraud Report 2022, p.47. Available at: [https://www.ukfinance.org.uk/system/files/2022-06/Annual%20Fraud%20Report%202022\\_FINAL\\_.pdf](https://www.ukfinance.org.uk/system/files/2022-06/Annual%20Fraud%20Report%202022_FINAL_.pdf)

We have consistently made clear that all PSPs must implement Confirmation of Payee in order for it to be effective across the payments industry. In 2019, Which? strongly disagreed with the PSR's proposals to limit its Direction to just six banking groups, and has repeatedly warned that fraudsters would simply shift focus and target PSPs that do not offer Confirmation of Payee.<sup>3</sup> Though the PSR said that any such movement would be limited and would not materially undermine the benefits of the Direction, the regulator's own data analysis from May 2021 demonstrated that while there had been a reduction in the relevant types of APP scams sent to PSPs who had enabled Confirmation of Payee, APP scams sent to PSPs not participating in the service had increased.<sup>4</sup> It is likely this is due to fraudsters exploiting gaps in coverage between PSPs to harness accounts without Confirmation of Payee in order to facilitate APP fraud.

We are therefore very supportive of the PSR's proposal to require delivery of Confirmation of Payee by more PSPs which, if effectively implemented by providers and enforced by the regulator, is likely to have a significant impact across the payments market in preventing APP scams. Given the rising level of APP fraud in the UK, it is vital that coverage of the service grows.

Moreover, we are pleased to see the PSR respond positively to the view taken by some respondents in its Phase 2 Call for Views that a ubiquitous service would not be delivered without regulatory action, by proposing to use its powers to mandate PSPs to act. The evidence is apparent, from both the Contingent Reimbursement Model (CRM) Code and Confirmation of Payee, that neither voluntary initiatives nor competition alone can be relied upon to provide the minimum, industry-wide levels of protection that are required in payments. This must be underpinned by robust standards, supervision and enforcement.

### **We believe the PSR has likely underestimated the benefits of its proposals for extending Confirmation of Payee coverage**

If effectively introduced and enforced, the PSR's proposed requirements on firms to deliver Confirmation of Payee have the potential to bring significant benefits for users of payment services across the industry. It will be a major step in preventing and detecting APP fraud and in strengthening consumer protections within payments.

The PSR's previous estimate on the impact of Confirmation of Payee has proved to be an overestimate. In November 2018, the regulator initially forecasted that Confirmation of Payee could help prevent around £150m a year of losses due to maliciously misdirected APP scams.<sup>5</sup>

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<sup>3</sup> See Which?'s response to the PSR's consultation on Confirmation of Payee: Consultation on specific direction (June 2019), and Which?'s response to the PSR's consultation on CP21/6 - Confirmation of Payee - Phase 2 Call for Views (June 2021), both available at: <https://www.which.co.uk/policy/money/3552/consultation-responses-payments>.

<sup>4</sup> Payment Systems Regulator (May 2021) Confirmation of Payee: Call for Views, p.17. Available at: <https://www.psr.org.uk/media/ehfnk4gh/cp21-6-confirmation-of-payee-call-for-views.pdf>

<sup>5</sup> Payment Systems Regulator (Nov 2018) CP 18/4 - Consultation on general directions for the implementation of Confirmation of Payee, p.32. Available at: <https://www.psr.org.uk/media/12rhciu/psr-cp-18-4-consultation-general-directions-confirmation-of-payee.pdf>

In reality, Confirmation of Payee has reduced APP scams by 10% in value terms, relative to those PSPs that have not introduced checks.<sup>6</sup>

However, it is likely that the limited impact of Confirmation of Payee thus far has not been because of any issue or fault with the system itself, but because of the significant gaps in coverage across the payment services market; gaps which fraudsters continue to exploit to facilitate APP fraud. This has effectively 'muted' the potential benefits of the service. Hence, rectifying this by requiring approximately 400 PSPs to implement Confirmation of Payee is likely to have a profound impact on reducing APP fraud losses - to a value significantly greater than the £4 million estimated by the PSR. This is because there will be far fewer places for fraudsters to shift their activities to within the Faster Payments and CHAPS space, reducing their abilities to facilitate APP fraud from accounts that do not offer Confirmation of Payee.

The PSR also states that its proposed Direction for Group 1 PSPs would see an increase in Confirmation of Payee coverage from 92% of transactions made via Faster Payments to 99%. Which? has previously noted that estimates for the proportion of transactions made via Faster Payments and CHAPS by the SD10 banks is based only on the share of sending providers that offer Confirmation of Payee, whereas Confirmation of Payee requires both sending and receiving providers to participate.<sup>7</sup> Therefore, we could expect the actual increase in coverage as a result of these new proposals to be higher than that forecasted by the PSR.

### **The PSR must also prioritise instituting a system of mandatory reimbursement for APP scam victims to ensure the strongest possible protections for payment services users**

We have always viewed Confirmation of Payee as part of a suite of tools which can help consumers and providers identify potential fraud, but we have never seen it as a silver bullet in the fight against APP fraud. Extension in coverage of Confirmation of Payee alone cannot tackle the sheer scale of APP scam losses for victims.

In order to ensure the strongest possible protections for users making and receiving payments, and to build consumer confidence within the payments industry, both a mandatory system of reimbursement for APP fraud victims and the extension of Confirmation of Payee to all PSPs is needed. Which? has repeatedly called for the PSR to urgently commit to establishing mandatory industry-wide standards for fraud data sharing and consumer protection, including a fair and effective system of reimbursement that is underpinned by legislation. We therefore welcome the government's recent announcement that it will legislate to enable the PSR to require banks to provide mandatory reimbursement for APP fraud losses. The enforcement of this mandatory

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<sup>6</sup> Payment Systems Regulator (May 2022) Requirements for further participation in CoP, p.23. Available at: [https://www.psr.org.uk/media/gc1bfva1/psr-cp22-2-requirements-for-further-participation-in-cop\\_may-2022.pdf](https://www.psr.org.uk/media/gc1bfva1/psr-cp22-2-requirements-for-further-participation-in-cop_may-2022.pdf)

<sup>7</sup> See Which?'s response to the PSR's consultation on Confirmation of Payee: Consultation on specific direction (June 2019), available at: <https://www.which.co.uk/policy/money/3552/consultation-responses-payments>.



system will be crucial. Which? looks forward to working with the PSR to achieve this in due course.

### **The PSR should direct all PSPs to introduce Confirmation of Payee as soon as practically possible**

The PSR proposes imposing deadlines for all directed PSPs to implement Confirmation of Payee. The proposed Direction will require Group 1 PSPs to implement a system to enable send and respond capability by 30 June 2023, and Group 2 PSPs by 30 June 2024. Whilst we welcome the inclusion of specific deadlines, we believe providers should be required to offer Confirmation of Payee as soon as practically possible. It is vital that Group 1 PSPs in particular, who, in adopting Confirmation of Payee checks are likely to have the biggest impact in preventing APP scams, deliver the service with pace.

The regulator notes that Phase 1 findings show that it currently takes a group of 40-50 PSPs 9-12 months to deliver Confirmation of Payee. It also expects industry and Pay.UK to work together to understand how PSPs can implement Confirmation of Payee at a more rapid pace. Considering that PSPs without Confirmation of Payee account for a disproportionate share of the relevant types of APP scams,<sup>8</sup> the PSR, Pay.UK and PSPs should work together to identify the quickest way to implement a system of Confirmation of Payee for payment services users. The PSR should prioritise work on identifying and removing the technological barriers to uptake, if any, that may prevent providers from adopting Confirmation of Payee more quickly.

It is important that the pace of change in implementing Confirmation of Payee across industry is not based on the ability of the slowest provider to make changes. Instead, all providers should swiftly deploy the service as soon as they are able to do so, and not wait until the PSR-designated timescale if they do not need to.

As regulator, the PSR should also ensure that all PSPs treat the implementation of Confirmation of Payee as a priority themselves. In view of the sheer scale of APP fraud in the UK, the widespread adoption of Confirmation of Payee as proposed is a crucial part of efforts to mitigate APP scams.

### **Transparency measures should be included in the PSR's final Direction**

Which? supports the PSR's consideration to require providers to implement additional transparency measures, and we strongly recommend the regulator to include these in its final Direction. We agree on the importance of consumers being aware of which PSPs provide Confirmation of Payee or are experiencing/issues delays with their implementation, as this

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<sup>8</sup> Payment Systems Regulator (May 2022) Requirements for further participation in CoP, p.23. Available at: [https://www.psr.org.uk/media/gc1bfva1/psr-cp22-2-requirements-for-further-participation-in-cop\\_may-2022.pdf](https://www.psr.org.uk/media/gc1bfva1/psr-cp22-2-requirements-for-further-participation-in-cop_may-2022.pdf) .



information could be used by consumers to make informed decisions about which providers they bank and make payments with. Firm-level transparency could also provide some incentives for providers to adopt Confirmation of Payee quickly and effectively.

It should be noted that greater transparency on its own should not be relied upon to help protect consumers from the urgent and growing harm caused by APP scams. As explained, to make this a reality, the PSR should ensure all providers prioritise the implementation of Confirmation of Payee as soon as possible, whilst also following through on its commitment to establish mandatory industry-wide standards for fraud data sharing and consumer protection, including a fair and effective system of reimbursement that is underpinned by legislation.

### **About Which?**

Which? is the UK's consumer champion. As an organisation we're not for profit - a powerful force for good, here to make life simpler, fairer and safer for everyone. We're the independent consumer voice that provides impartial advice, investigates, holds businesses to account and works with policymakers to make change happen. We fund our work mainly through member subscriptions, we're not influenced by third parties and we buy all the products that we test.

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