

Treasury Scams Taskforce
Market Conduct and Digital Division
The Treasury
Langton Crescent
PARKES ACT 2600

29/01/2024

Via email: scampolicy@treasury.gov.au

Treasury Consultation – Scams: Mandatory Industry Codes

Dear Treasury Scams Taskforce,

Australian Payments Plus (**AP+**) welcomes this next step in the Government's commitment to fight scammers and organised crime. Government, regulators, and industry each have a role in making sure scams are identified and stopped before they can harm Australian consumers and businesses. The Scams Code Framework (**Framework**) defines suggested roles and responsibilities across the economy, with an initial focus on banks, telecommunications and digital platforms, to make Australia an even harder target for criminals.

AP+ owns and operates several domestic payment schemes, namely the New Payments Platform (**NPP**), eftpos and BPAY. Each of these schemes have robust fraud control rules which apply to all participants. AP+ also operates fraud monitoring and fraud control technologies for and on behalf of our scheme members. AP+ is also an active member of the Australian Financial Crimes Exchange (AFCX).

AP+ also continues to deliver products and solutions which build resilience against fraud and scams, including **PayID** which helps prevent payment misdirection scams by displaying the linked business/account holder name on the payment confirmation screen, **PayTo**, Confirmation of Payee (**CoP**) and **ConnectID**, our national digital identity exchange which will help prevent identity theft by making Australian's identities harder to steal. Given our expertise, AP+ has also been seeking a greater role in the newly formed National Anti-Scams Centre (NASC).

We raise the following key issues for Treasury consideration:

A Scam Code for Banks – The framework proposes that the sector specific code that applies to banks be overseen by ASIC, AP+ is supportive of this approach. However, AP+ highlights for both Treasury and ASIC the fact that the scheme rules of payment rails like the NPP and eftpos impose a significant number of mandatory obligations to detect, deter and prevent scams, fraud and protect consumers, which can mirror, complement, or even conflict with any future scam obligation ASIC may possibly design for banks. Therefore, the framework will only succeed where ASIC undertakes genuine co-design of obligations which includes payment system operators in each and every step, not just major banks. AP+ would welcome the opportunity to bring our expertise to that ASIC table from 'Day 1' as we, as operator of Australia's domestic payment infrastructure, are uniquely placed to offer unique insight into all participants (banks/non-banks) in the payment flow of a transaction on all our payment rails.



Sector specific scam codes and scam standards – The Government proposes to lift certain effective voluntary scams initiatives into legislation by, where appropriate, establishing them as either ecosystem-wide obligations or sector-specific obligations within the Framework.

AP+ is supportive of the approach but is firmly of the view that the only appropriate authority to drive the design of detailed sector scam standards if necessary, are regulators, as this preserves competitive neutrality and regulatory efficiency within the Australian payment system. AP+ highlighted the term “if necessary” as it is important to note that the banking and payments sector has proven it can introduce appropriate solutions to detect, prevent and deter criminals who seek to scam Australians. For example, AP+ is currently working with NPP Participants to deliver a COP service for payments made using BSB and Account numbers on the NPP. COP will help reduce certain types of scams that involve misdirection of payment to an account that does not belong to the intended payee as well as avoid mistaken payments to incorrect account numbers.¹ This work by AP+ is an excellent example of how individual entities/sectors can implement the most appropriate technical solution to meet the obligation without the need for a specific scam standard or prescriptive regulatory requirement.

Following our experience in designing a cross sector COP solution for account-based payments, AP+ considers that many ecosystem-wide obligations or sector-specific obligations are best stated in clear language in the code(s) and the obligation clear enough that it allows individual entities/specific sector to then implement the most appropriate technical solution to meet the obligation, e.g., COP. This also allows entities to work with regulators to continue to evolve and uplift their solutions in response to the activities of these criminals.

To be clear, AP+ is supportive of the potential role of AusPayNet to become an authorised standard-setting body (ASSB) for the Australian payment ecosystem, thereby undertaking the task of the development of relevant technical standards that would apply to the entire payments ecosystem, i.e. tokenisation, CNP, DNDC, ISO 20022 migration, etc. However, for the reasons outlined above, AP+ considers that ASIC (in consultation with the Reserve Bank of Australia) is best placed to co-design with industry, and mandate payment-platform specific scam standards and obligations when necessary.

Risk Based Friction - AP+ understands and supports the intention behind the idea of risk-based friction in certain payment transactions but finding balance in the right solution is a complex economic challenge for countries like Australia which has a real time payment system at the heart of its payments ecosystem infrastructure. Experience has shown that if the balance is wrong in any platform specific risk-based friction obligation (particularly when paired with a poorly designed liability framework) a likely result is that some Payment Service Providers will unnecessarily apply friction to a higher percentage of payments, which is not an optimal outcome for Australian consumers and businesses who have embraced the economic benefits of real-time payments faster than most other jurisdictions across the world².

¹ AP+ Media Release: Development of industry Confirmation of Payee Solution, <https://www.auspayplus.com.au/development-of-industry-confirmation-of-payee-solution>

² RBA Speech, An Efficient, Competitive and Safe Payments System, 14 Dec 2022. Available at: <https://www.rba.gov.au/speeches/2022/sp-gov-2022-12-14.html>



AP+ considers that many ecosystem-wide obligations or sector-specific obligations like risk-based friction could be stated in clear language in a code and the obligation clear enough that it guides individual entities to then implement the most appropriate technical or rules-based solution to meet the obligation. The obligation should also ensure it allows entities to continue to evolve their solutions in response to the activities of the criminals and also technology advances.

Here again, like the AP+ COP initiative, in the case of risk-based friction, regulators should only consider a scam standard when the effectiveness of any industry led initiative is assessed and understood. To further uplift the risk control capability in our payment rails AP+ has recently mandated that participants on some specific AP+ payment rails must now include a set of additional data elements in each payment. This additional data is intended to enhance the ability of payment service providers to make better risk-based decisions about delaying certain high-risk payments. This AP+ led initiative will both protect vulnerable consumers and preserve the benefits of real time payments for the vast majority of users of the payment system.

Finally, an observation – payment ecosystems across the world, including Australia’s domestic payment rails are comprised of bank and non-bank payment service providers. With the introduction of Payment Licencing and Open Banking regimes it is no longer a fact that a single bank has full control or oversight of a payment initiated by a third party (e.g., non-bank payment service provider / Open Banking accredited entity). This reality is recognised in Treasury’s proposals³ to regulate Payment Service Providers (PSPs) in Australia, including a proposal that all PSPs who seek a payment licence must have both financial resources and arrangements for compensating retail clients for losses they suffer as a result of a breach by the licensee (or its representatives) of their payment licence obligations. It would therefore be unjust for a scam standard and any associated liability not to recognise that there are many participants who can have obligations in a single payment transaction flow. AP+ therefore recommends Treasury consider whether it is appropriate for a code for just banks or whether a framework which covers all Payment Service Providers is more appropriate.

This Government’s coordinated public-private sector approach to scam detection and prevention is most welcome. Overseas experience shows that this Australian approach of early-intervention, information-sharing, and public-private partnerships is the right approach to harden the Australian jurisdiction against criminals who seek to scam Australians.

Yours sincerely,

Aidan O'Shaughnessy
Public Policy, Government & Regulatory Affairs, AP+

³ Treasury Consultation, Payments System Modernisation (Regulation of Payment Service Providers), available at: <https://treasury.gov.au/consultation/c2023-469663>