



Who we are

4th October 2024

Refundee is a UK limited company that helps victims of authorised fraud to access their rights to receive reimbursement for any loss that they have incurred. We seek this financial redress from the banks involved in making and receiving payments in relation to the fraud who have failed in their regulatory obligations. We are regulated by the Financial Conduct Authority (FCA), the primary financial regulatory body in the UK.

Our founding team is made up of people who have worked at the FCA, the Financial Ombudsman Service (the UK equivalent of the AFCA), in banking and in related technology. We are experts in banking regulation, the banking sector's obligations to reimburse victims of fraud and the Financial Ombudsman Service's approach to dispute resolution in fraud-related cases. One of the founding team is married to an Australian citizen.

We are often the first party that a fraud victim will reach out to when they realise that they have become a victim. This puts in a unique position where:

- We see where both paying and receiving banks are succeeding and failing to prevent fraud.
- The extent to which these banks are fulfilling their regulatory and other obligations to consumers, both before and after they have become victims of fraud.
- The effectiveness of the current external dispute resolution mechanism through FOS.
- The evolution of all aspects of the fraud landscape through time.

We are often called upon as experts in this field and we feed into wider policy decisions or media coverage on this area.

Once implemented, we consider that the joined up nature of this legislation with precedent setting in its approach encompasses all key sectors that are best placed to prevent fraud.

What we are commenting on

We are keeping our commentary brief and on the areas where we feel we can add the most value. Our commentary specifically relates to the 2 questions here:

- 1) Does the draft legislation effectively achieve the policy objectives set out in this document?

2) Does the draft legislation include an appropriate level of detail, noting subordinate legislation can provide more prescriptive obligations?

Summary of feedback

- The Scam Prevention Framework is major step forward in the prevention of fraud.
- Claims for redress could become complex with multiple 'entities' involved from all three 'sectors'.
- A victim's bank is the most obvious 'entity' for a victim of fraud to engage to seek redress.
- We think that the victims' banks should be responsible for paying financial redress, with a high level cost allocation to other 'entities' in the same and other 'sectors' operating at arms length from the victim.
- Financial redress should directly relate to the victims' loss.

Strengths of the draft Scams Prevention Framework

We consider that the following elements of the Framework are well formulated and/or make the intentions clear:

- The definition of scam in 58AG is well formulated.
- The six overarching principles set out in division two make clear the high level functional obligations of the regulated entities.
- The multi sector approach covers the key sectors through which fraud proliferates.
- The External Dispute Resolution (EDR) mechanism and single EDR scheme for all three initial sectors designated under the framework should provide efficiencies.
- There is a financial incentive for the regulated entities to abide by the overarching principles which is the tiered penalty regime.



Where we are uncertain as to how the Scams Prevention Framework is designed to work and/or how effective it will be in achieving the policy objectives is in relation to the EDR.

Observations based on our experience

We agree that banks, telecommunications providers and digital platform services all represent significant vectors of scam activity and hence we understand why you have determined them to be the initially designated sectors.

However, we would make two observations in relation to these initially designated sectors:

- While we see material authorised fraud that is carried out without an interaction with digital platform services or, in a meaningful way, with telecommunications providers, we never see authorised fraud carried out without the involvement of a sending bank and a receiving bank (which can be the same bank).
- Of all of the entities involved, the only entity with whom the victim of the fraud has a direct, contractual relationship in relation to payments that the victim authorised is with their own bank, the sending bank.

Our view is that:

- The clearest indication that a fraud has happened is through the reporting of a fraud by its victim. It is from this starting point of a victim's report of fraud the wider information about the fraudulent web is uncovered.
- The victim of fraud needs to have direct redress against the entity which they authorised to make the payment, and only that entity. All victims of authorised fraud are by definition vulnerable after the event and often before. We think that the burden and complexities of seeking redress from multiple entities may be confusing and off putting.
- An Internal Dispute Resolution (IDR) process will regularly fail for the most material frauds (either on an individual or aggregate basis) because of the innate conflict of interest that the entity has. Any EDR process has to have some form of check and balances to ensure that the imbalance of power (between fraud victims and entities) doesn't result in regulatory capture.
- The nature of the redress that the victim has, needs to be sufficiently clear and financially material to ensure that the victim engages and the fraud is reported. If this



happens, an investigation can begin, lessons can be learnt and preventative measures can be strengthened. If the victim isn't incentivised to seek redress, or the process of seeking redress is too daunting for them at such a vulnerable time, then they won't seek the redress that they are due and may not even report the fraud.

- If the redress mechanism is implemented in a way that is realistically accessible to all victims, it will be a significantly more effective mechanism to ensure adherence to the six overarching principles than the threat of fines.

Recommendations based on our experience

Primary Recommendation

- A seventh overarching principle of 'reimbursement' is added. This would place an obligation of the sending bank such that when a customer has been the victim of an authorised fraud their bank should reimburse them.

Secondary Recommendation

- There is a process to distribute an amount of the loss, incurred by the sending bank in reimbursing the victim, to the other entities involved in the authorised fraud landscape. (Practically speaking this attribution would need to be done on a high level basis in the same way that, under 'Mandatory Reimbursement' in the UK the receiving bank is required to reimburse the sending bank for 50% of the amount that the sending bank has reimbursed their customer, regardless of detail of the specific fraud.)

We acknowledge that, where a victim of fraud has a right to financial redress, as recommended above, this creates a need and an opportunity for representation of victims of fraud in this redress process. Where this representation is commercial in its nature, there is an additional need to regulate this representation which, if it doesn't already exist, will need to be established outside of the Scam Prevention Framework.

Summary

In summary, we think that the reimbursement of scam losses is a crucial element that is required to incentivise the improvement of standards and should therefore feature as one of the key principles. We are delighted to see that social media platforms in particular are to be held accountable and this is something that is lacking in the UK despite being the place where a huge proportion of scams originate.

However, we think that holding multiple parties accountable should not make the access of redress more complicated or difficult for scam victims who should have one place they need to go to in order to report fraud and obtain redress.



When Refundee started in 2021, we would frequently see cases where hundreds of thousands of pounds left people's accounts to scams without a single transaction being questioned by the bank. The landscape has now completely changed and we almost never see a scam case that has recently occurred where banks have failed to intervene. While UK banks are still quite often failing in the quality of such an intervention, standards have significantly improved and more scams than ever are being stopped as a result. We look forward to seeing such improvements in Australia and more importantly, we look forward to seeing scam victims being able to recuperate all or some of their devastating losses.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'SMcFadden'.

Stuart McFadden
Co-founder
Refundee