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Mr Pearse Doherty T.D.  
Dáil Éireann  
Kildare Street  
Dublin 2

2<sup>nd</sup> May 2023

Dear Deputy Doherty,

Thank you for your email of 24 March date regarding financial fraud, including authorised push payment fraud.

We welcome your views on this issue and the specific examples you have raised from other jurisdictions. We recognise the impact that fraud has on individual consumers. Our recently published [Consumer Protection Outlook Report](#) has again highlighted technology driven risks, which includes cyber-security and the potential for technological delivery to be a focus for frauds and scams, as an area we expect firms to continue to take action on.

## EU engagement

Irish Payment Service Providers are subject to the requirements of [Directive 2015/2366/EU on payment services](#) (or “PSD2”). PSD2 is a maximum harmonisation directive and, insofar as the directive contains harmonised provisions, member states shall not maintain or introduce provisions other than those laid down in this directive. PSD2 was transposed into Irish law with effect from 13 January 2018 by the European Union (Payment Services) Regulations, 2018 ([S.I. No.6 of 2018](#), hereafter referred to as the PSRs). The PSRs set out the industry requirements concerning liabilities for unauthorised payment transactions and the applicable security requirements to help protect consumers against fraud, however, authorised push payment fraud liabilities are not set out in the PSRs.

During the recent PSD2 review, the European Commission (EC) issued a call for advice to the European Banking Authority (EBA) and the matter of authorised push payments/social engineering was raised. The EBA in their response (publically available [here](#)) outlined that they have “*identified the increased risk of social engineering fraud as an area where further improvements in the legal framework are needed to address the increase of fraudulent transactions, in particular authorised push payment fraud where fraudsters use social engineering scams (i.e. phishing) in combination with more sophisticated online attacks*”.

In their response to the EC, the EBA proposes that any revised PSD2 should introduce a combination of measures that could have a positive effect and further mitigate these types of risks. The measures could include:



- *Introducing specific requirements in the Directive on educational and awareness programs for applicable risks;*
- *Incentivising PSPs to invest in more efficient transaction monitoring mechanisms by covering payment transactions that have been authorized by the payer under manipulation of the fraudster within the scope of unauthorized payment transactions; and*
- *Facilitating the exchange of information between PSPs in relation to known cases of fraud, specific fraudsters and accounts used to carry out fraud.*

The Central Bank fully supports the need to better address the issue of authorised push payment fraud in the legal framework. We will continue to actively engage on all potential solutions and mitigants through the European legislative process.

### **Review of the Consumer Protection Code**

We are also currently conducting a comprehensive review of the Consumer Protection Code 2012. The Review began with the launch of a 'Discussion Paper' on the topic of consumer protection in financial services. The purpose of this paper is to stimulate discussion and obtain feedback and views from consumers and stakeholders on key discussion topics before considering and publishing proposed revisions to the Code. It also discussed frauds and scams from the perspectives of both financial literacy and vulnerability. So, consideration of these topics, and the input we have received (including your letter), will form part of our deliberations and next steps in the Review, and our wider work on the matter of frauds and scams.

### **The information provided on the individual complaint**

While the Central Bank does not have a statutory role in dealing with individual customer complaints, we welcome information about specific cases, which are provided to the relevant supervisory teams to inform our work and our supervision of financial firms. I note the specific issue in the material supplied that has been raised with the Financial Services and Pensions Ombudsman (FSPO). For the sake of completeness and clarity, the Central Bank is not in this letter making any comment on the details of the individual complaint.

### **Our approach on unauthorised activity**

In relation to our role on unauthorised activity, the Central Bank has a dedicated unit, the Unauthorised Providers Unit, which investigates alleged instances of unauthorised activity carried out by individuals or entities that are not authorised or regulated by the Central Bank. Members of the public can report alleged instances of unauthorised activity to the Central Bank. Details for making a report can be found on the [Central Bank's website](#).

All instances of alleged unauthorised activity are investigated by the Central Bank and all statutory reporting obligations are complied with over the course of the investigations. The UPU liaises closely with An Garda Síochána, in respect of unauthorised activity to effectively address these wrongdoings through crime prevention and consumer protection initiatives. The Central Bank is bound by strict statutory obligations of confidentiality and therefore is precluded from commenting on any specific investigation.



The Central Bank advises that consumers should take the SAFE test before making any financial decisions or providing any personal information:

S – Stop: Stop, think and ask yourself – What? Who? Why? Do I feel rushed to act?

A – Assess: Make sure the firm is legitimate

F – Factcheck: seek advice to ensure service or product is genuine

E – Expose and report: any concerns contact the Central Bank

The Central Bank has paid for services from online platforms to highlight public awareness campaigns and adverts relating to fraud and scams. In July 2022 the Central Bank ran an online public awareness campaign titled [“How can I protect myself from financial scams?”](#). This campaign sought to inform the public how to recognise a potential scam, and provide them with information about how to protect themselves using the SAFE test. A featured video also highlighted the fact that the Central Bank will never contact anyone directly asking for money or for personal data such as a Personal Public Service (PPS) number. This video was promoted via paid-for adverts on the platforms LinkedIn and YouTube, as well as organic posts on Twitter and has been viewed over 160,000 times to date across all channels.

I hope this outline of our approach is helpful to you in understanding the role of the Central Bank in relation to this issue.

Yours sincerely,

A handwritten signature in blue ink that reads "Colm Kincaid".

Colm Kincaid  
Director of Consumer Protection