

From Enforcement to Redress

Summary of the EFRI proposal for a victim-redress pillar in the EU fight against online fraud

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This briefing summarises EFRI's proposal "From Enforcement to Redress — and from Redress to Recovery". The proposal remains under development and may be updated as the legal and policy framework evolves. Not legal advice.

1. The promise and the reality

For more than a quarter of a century, the Union has repeatedly stated that technological change must not reduce consumer protection. In 1999, the Council called for an equivalent level of protection for new technologies to that available in traditional consumer transactions. In 2007, the Commission said that EU consumer policy would have succeeded if citizens could shop anywhere in the Union, from the corner shop to a website, confident that they were equally effectively protected. The 2015 Digital Single Market Strategy defined the digital market itself by fair competition and a high level of consumer and personal-data protection. The Commission's 2020 New Consumer Agenda then stated that consumers should enjoy a comparable level of protection and fairness online as offline, while the 2023 European Declaration on Digital Rights and Principles stated that digital transformation should not entail a regression of rights and that technology should serve and benefit people. The 2030 Consumer Agenda placed access to effective remedies within consumer protection and committed the Commission to strengthen support for fraud victims in recovering their funds.

These are successive commitments extending over more than twenty-five years, not recently announced aspirations.

The promise is not being met today: the benefits of digitalisation accrue across the platform and financial ecosystem, while a disproportionate share of the losses generated by industrialised online fraud remains with the consumers whom the Union promised to protect.

Online fraud meanwhile operates at industrial scale. The EBA and ECB counted EUR 4.2 billion of payment fraud in the EEA in 2024; in credit-transfer fraud, users themselves bore about 85% of the loss because they had been deceived into authorising the payments. In the United States, the FBI recorded almost USD 21 billion of reported losses in 2025, with investment fraud the largest driver. The systems meant to trace, freeze and return the money do not work at the same speed or across the same borders.

In the Payvision complex a card payment was authorised in about one second; the European Investigation Order for the payment institution's records took 228 days. In a 2026 case investigated in Mainz, one victim's EUR 163,103 went to five institutions in four Member States. On the day the victim's EUR 54,000 arrived at one account, EUR 63,500 left it for Denmark; 18 days later the account was closed with a zero balance. Only two of the five institutions were approached, and the case was discontinued before any judicial (mutual legal assistance) request was sent. Six public bodies in three Member States dealt with parts of that one loss; none was responsible for the outcome.

Where money is recovered, returning it across borders fails too: in the P2P/B2G complex prosecuted in Cologne, injured parties are notified by a single notice in the German Federal Gazette and must register within six months. For a victim outside Germany, that is not notice.

Money moves in seconds. Evidence moves in months. Cross-border refunds do not move at all.

2. Enforcement has begun; redress has not

The Commission has imposed EUR 320 million in fines under the Digital Services Act (X, EUR 120 million, under appeal; Temu, EUR 200 million). Anti-money-laundering enforcement has a longer record: ING paid EUR 775 million in 2018 and ABN AMRO EUR 480 million in 2021, including EUR 280 million of disgorged profit; the residual entity of Københavns Andelskasse accepted a DKK 794 million penalty it could not pay. None of this money reached a fraud victim. Commission fines go to the general Union budget and reduce Member States' contributions; national settlements go to the State.

The next layer is already set on the same course. From 2028 the Anti-Money Laundering Authority (AMLA) will directly supervise and sanction selected cross-border financial institutions, and Article 26(2) of its Regulation already provides that its sanctions “shall be allocated to the general budget of the Union”. Because AMLA has not yet imposed a single sanction, this is the cheapest moment to change that destination.

Meanwhile, the Commission's Action Plan on Fighting Online Fraud, announced for “before summer” 2026, has not been adopted. Its preparatory materials speak of victim support. Support helps victims cope with a loss; redress returns the money. The drafting window is still open.

3. The principle: Punish. Remove the profit. Repair the harm.

At Union level, Europe operates only the first of three distinct functions against the enablers of online fraud; disgorgement appears only sporadically in national settlements, and neither reaches victims. A fine punishes and is rightly calibrated to the infringement, not to anyone's loss. Disgorgement removes the profit earned from the fraud. Redress repairs the harm to the person. Each needs its own instrument; conflating them produces bad law, and operating only the first leaves the profit with the intermediary and the loss with the victim.

The standard objection that Union budget law forbids assigning revenue to a purpose is not conclusive. Article 21(5) of the Financial Regulation expressly permits a basic act to assign revenue to specific expenditure. Article 43(6) DSA already uses that technique for the supervisory fees paid by very large platforms. More directly, Article 72(4) of Regulation (EU) 2025/2643 provides that fines imposed by the Commission under that Regulation constitute external assigned revenue and are directed to the Ukraine Support Instrument. Union law therefore already contains a direct example of Commission-imposed fines being assigned by legislation to a specified purpose. The preferred legal basis is Article 114 TFEU, on which the DSA, the AMLA Regulation and the Payment Services Regulation rest, adopted by qualified majority; Article 352, which requires unanimity, is the last resort. For Member States the sums are small: EUR 225 million of redirected sanctions would be about 0.1% of the 2026 EU budget, against billions of citizens' savings lost to fraud each year and the health and social costs of victims left without redress.

4. EFRI's three requests

Request 1: Use the Action Plan now. The Communication should establish a victim-redress and recovery pillar distinct from victim support and, within existing law, (a) measure success by the value actually returned to victims and the time taken, reported annually alongside sanctions and confiscations, and (b) launch a pilot on multi-victim cross-border cases testing preservation of payment and platform data, victim identification, direct notice in the victim's language and a common claims-data standard.

Request 2: Legislate a gain-based, non-punitive disgorgement mechanism for revenue from fraudulent advertising. Where a platform earned revenue for an advertisement later established to be fraudulent, EFRI proposes that the attributable gain, meaning the revenue net of directly attributable costs, be surrendered in full and directed by statute to the Fund. The measure would be calibrated to the gain rather than to the gravity of the infringement; its precise characterisation and budgetary treatment under Union law require specialist analysis. Deterrence remains the job of the fine. For payment service providers, primary liability on a pay-and-chase model is generally the more effective victim-redress

instrument because attributable transaction revenue will often be small relative to the victim's loss. That does not exclude gain-based disgorgement where a payment intermediary derived material revenue from servicing a fraudulent scheme. In that situation, liability and disgorgement perform different functions and may operate alongside each other.

Request 3: Begin immediate design work on a European Fraud Victim Redress and Recovery Fund. A time-limited feasibility study should be entrusted no later than 31 December 2026 directly to the Commission's Joint Research Centre working with the EBA, avoiding procurement, with an interim report by 31 March 2027 and a final report by 30 June 2027, followed by preparation of the necessary legislative proposal before the end of 2027. The Fund should reimburse documented victims first, within a statutory cap, and then pursue recovery from those responsible. A dedicated part of the Fund should also finance recovery and representative actions in cross-border online-fraud cases where commercial third-party litigation funding is unavailable, uneconomic or would absorb a substantial share of victims' recoveries.

EFRI does not propose a new enforcement authority. Its proposals for reforming cross-border collective redress are set out in a separate paper.

5. How the Fund would work

Eligibility. Four cumulative conditions: documented pecuniary loss; a fraud episode recognised under published criteria; a sufficient Union nexus; and an officially registered criminal or fraud report with a competent police, prosecution or designated national reporting authority, evidenced by a verifiable official reference. Eligibility must not depend on how quickly a national system internally transmits that report. The victim does not first have to prove that a particular bank, payment institution or platform caused the loss.

Measure: documented net loss. All payments the victim made into the scheme, evidenced by the victim's own bank, card, e-money or crypto-on-ramp records, less everything received back, including sham "withdrawals", chargebacks, bank reimbursements, settlements and restitution. Fictitious balances shown on the fraudulent platform count for nothing. The rule is verifiable from documents, mirrors damages law, prevents double recovery at the point of payment and makes the Fund's exposure calculable in advance.

Cap. Net loss is reimbursed up to a statutory cap. In EFRI's dataset of 1,750 victims from 20 countries, 85% lost less than EUR 50,000 and only 3% more than EUR 250,000. A cap at the EU deposit-guarantee level of EUR 100,000 would fully reimburse 91% of these victims.

Deadlines. Preservation requests to every receiving institution named in the victim's payment records within two working days of a qualifying report; a reasoned decision within 90 days of a complete claim; payment beginning within 30 days of the decision, in full where funds suffice and otherwise as a first pro rata instalment completed in supplementary rounds. Every IBAN names its bank: finding the institution needs no mutual legal assistance request, only compelling it does.

Pay first, recover after, with victim priority. On payment, the Fund takes over the victim's claims by subrogation. Recoveries are applied, after recovery costs, first to everything the Fund has not paid the victim, meaning any unpaid pro rata balance and any loss above the cap, and only then to the Fund. This reflects the insurance-law principle that subrogation must not operate to the insured's disadvantage. The amount of the victim's entitlement is fixed when the claim is decided, and the first instalment never depends on recovery.

Residual by design. The Fund extends the pay-and-chase principle that the agreed Payment Services Regulation text adopts for bank-impersonation fraud and extends to online platforms that fail to remove notified fraudulent content, and that EFRI proposes for payment service providers generally. Where a liable provider pays under primary rules, the Fund is not engaged. It pays where no solvent, regulated

payer is liable or within reach: receiving accounts outside the Union, crypto-asset rails, resolved or insolvent institutions, or intermediary liability that would take years to establish. If a compartment is insufficient, admitted claims are paid pro rata, with supplementary rounds as further receipts come in.

Built on existing bodies. Victims file with the national crime-victim compensation authority in their own country, whose cross-border procedure under Directive 2004/80/EC would be extended to recognised fraud episodes. Their own bank or crypto-asset provider confirms the payments within 15 working days. Disputes about that confirmation go to the national financial ombudsman (FIN-NET). Asset recovery offices, strengthened by Directive (EU) 2024/1260 with a transposition deadline of 23 November 2026, preserve and freeze. A central unit, recommended at the European Banking Authority, manages the Fund and pays. No new national authority is needed.

6. Financing and order of magnitude

Sanctions are the core. EFRI proposes 75% as the modelling baseline, to be tested in the feasibility study, for qualifying DSA and AML/CFT sanctions: Commission fines, AMLA sanctions and, through national compartments, national penalties materially connected to fraud, fraudulent acquisition, fraud-related payment or laundering flows, or the failure of systemic controls relevant to fraud. Unrelated sanctions should not automatically finance the Fund. Other sources are revenue disgorged from fraudulent advertising, repayable Union start-up capital and recoveries after victims have been made whole. EFRI does not propose a new industry levy as part of this package; a risk-based contribution may be examined only as a fallback if the core sources prove structurally insufficient. Within the Fund, 75% of sanction and disgorgement income would go to victims and 25% to action against enablers. Those percentages should be tested in the feasibility study and, if adopted, fixed in the basic act rather than left to an enforcement authority.

It already works elsewhere. In the United States, every civil penalty obtained by the Consumer Financial Protection Bureau goes into a Civil Penalty Fund for victims. By September 2025 it had allocated USD 3.79 billion to victims, including about USD 1.88 billion for consumers of a credit-repair firm whose own court-ordered redress could not be obtained. Penalties from one case pay victims in another, which is the solidarity-first logic of this proposal already in operation.

What it would cost. The Fund carries no open-ended liability: where funds are insufficient, admitted claims are paid pro rata, so its outlay can never exceed its receipts plus capped, repayable start-up capital. The real choice is the reimbursement rate. On stated assumptions, annual eligible exposure in the EEA lies between about EUR 0.13 and 1.4 billion, with a central case of EUR 0.48 billion. Paying the central case in full would need about EUR 860 million of qualifying sanctions a year; EUR 300 million would pay about 35% in the first round, with the balance in later rounds. Enforcement already produces sums of that order: two Dutch AML settlements produced EUR 1.255 billion, and DSA fines total EUR 320 million. What is missing is the destination.

A ring-fenced budget against the enablers. 25% of the Fund's income from sanctions and disgorgement finances the Fund's own recovery actions and grants to qualified entities bringing representative actions for victims of the same episodes — a non-commercial alternative to litigation funders, who often avoid these cases or take a large share of recoveries. The budget revolves: recovered costs and unclaimed residues return to it; it can cover adverse-cost risk instead of funding cases in full; and it can co-fund with commercial funders if the funder's share is capped at 20% of the award. An independent panel decides under published criteria; recipients take no share of the proceeds; no applicant, EFRI included, takes part in decisions on its own application; and no qualified entity receives more than a quarter of a year's grants. Courts hearing victims' claims should be able to order disclosure from DSA, AML and criminal files. Declaration of interest: EFRI is a qualified entity and could apply only on the same criteria as any other.

7. The objections, answered

“The public should not pay for private investment losses.” These are not investment losses. The victims were deceived by scripted call centres, fake trading interfaces and, often, remote-access software operating their own accounts; the net-loss rule reimburses only money actually paid. The Fund is residual and financed by sanctions and disgorged revenue paid by undertakings for their own infringements and gains.

“Reimbursement creates moral hazard.” The UK’s mandatory reimbursement regime (cap GBP 85,000) was followed by an estimated GBP 73 million annual fall in APP fraud losses and about 35,000 fewer cases, according to the independent evaluation published in July 2026.

“Victims can sue the bank or platform, or consumer organisations can claim damages under consumer law.” Unfair-practice claims lie against the trader — here, the unreachable fraudster — and every private route runs into the same barriers of causation, applicable law, cross-border opt-in and funding. The Fund does not replace those rights; it pays first and pursues them afterwards.

“A fund becomes a licence fee for enablers.” It must not buy immunity: no sanction share or disgorgement payment releases liability, creates a presumption in the contributor’s favour or limits individual or collective rights. The recovery arm must be adequately resourced and genuinely adversarial.

8. Proposed Action Plan language

“Victim Redress and Recovery. The Union response to online fraud should connect prevention and enforcement to practical victim outcomes. The Commission will publish annual indicators distinguishing value returned to victims from value allocated to general public use; launch a cross-border pilot on preservation, victim identification, direct multilingual notification and common claims data; propose a mechanism requiring the surrender of the gain derived from advertising campaigns subsequently established to be fraudulent; begin immediate design work and launch a time-limited feasibility study on a European Fraud Victim Redress and Recovery Fund that reimburses documented net losses within a cap, recovers from those responsible and provides a ring-fenced non-commercial funding route for recovery and representative actions in qualifying cross-border online-fraud cases; and assess the legal route for dedicating a defined share of qualifying DSA and AML/CFT pecuniary sanctions to victim redress.”

European Funds Recovery Initiative (EFRI), Vienna | efri.io. EFRI is a qualified entity under Directive (EU) 2020/1828, designated in Austria. Full paper with sources and verification status: “From Enforcement to Redress — and from Redress to Recovery”, Version 5.20, 29 September 2026.