Justiciable

📄 Download the PDF

Cyber Fraud Response Checklist: Immediate Steps After a Push-Payment Fraud

A practical guide for financial institutions, commercial litigators, and businesses, drawn from the landmark Malaysian case Zschimmer & Schwarz and the Persons Unknown.

1. **Act immediately — contact your bank and preserve evidence**
   The moment you suspect funds have been diverted, notify the receiving bank and your own bank. Request that the account be frozen if possible. Preserve all emails, payment instructions, courier documents, and internal records. The speed of your response can be decisive.

2. **Instruct your lawyers to seek urgent injunctive relief**
   In *Zschimmer & Schwarz*, the High Court granted a proprietary injunction and a Mareva freezing injunction against the unknown fraudsters. These orders can prevent the stolen funds from being dissipated or moved further. Where the money has already flowed into other accounts, the court can grant further injunctions against those recipients to follow the trail.

3. **Apply for substituted service against "Persons Unknown"**
   If the fraudsters' identities are unknown, the court can permit substituted service of court papers via the very email addresses and communication channels used in the fraud. In *Zschimmer & Schwarz*, the court even allowed a Dropbox link to be included because the full set

of papers was too large to attach. This ensures the fraudsters receive notice, even if they remain anonymous.

4. **Consider a Spartacus Order (self-identification order)**
   If the fraudsters remain unidentified, the court can order them to identify themselves by responding to a newspaper advertisement within seven days. Failure to comply can lead to committal proceedings for contempt. This novel tool, granted for the first time in Malaysia in the *Zschimmer & Schwarz* case, turns the table on anonymous wrongdoers.

5. **Document everything and work with your legal team**
   Keep a clear, chronological record of all events, communications, and losses. The court will rely heavily on documentary evidence. A well-documented case significantly increases the likelihood of obtaining urgent relief and ultimately recovering the funds.

For a detailed analysis of the landmark case that inspired this checklist, read Zschimmer & Schwarz and the Persons Unknown.

Need help strengthening your internal protocols?
We'd be glad to talk.
hello@justiciable.media

← Back to Free Resources