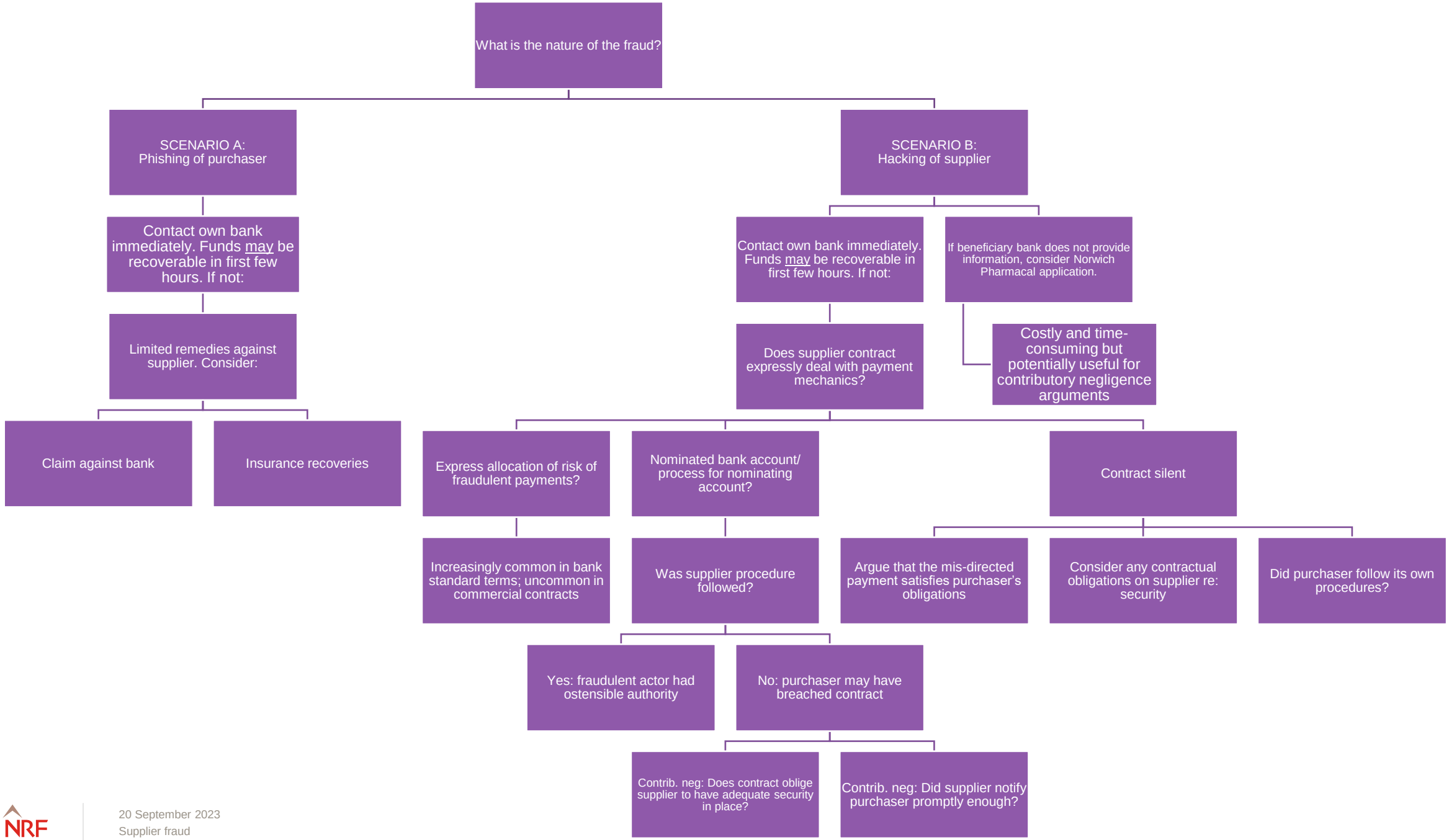
What is the nature of the fraud?
SCENARIO A: Phishing of purchaser
SCENARIO B: Hacking of supplier
Contact own bank immediately. Funds may be recoverable in first few hours. If not:
Limited remedies against supplier. Consider:
Claim against bank
Insurance recoveries
Contact own bank immediately. Funds may be recoverable in first few hours. If not:
If beneficiary bank does not provide information, consider Norwich Pharmacal application.
Costly and time-consuming but potentially useful for contributory negligence arguments
Does supplier contract expressly deal with payment mechanics?
Express allocation of risk of fraudulent payments?
Nominated bank account/ process for nominating account?
Contract silent
Increasingly common in bank standard terms; uncommon in commercial contracts
Was supplier procedure followed?
Argue that the mis-directed payment satisfies purchaser's obligations
Consider any contractual obligations on supplier re: security
Did purchaser follow its own procedures?
Yes: fraudulent actor had ostensible authority
No: purchaser may have breached contract
Contrib. neg: Does contract oblige supplier to have adequate security in place?
Contrib. neg: Did supplier notify purchaser promptly enough?