

# The Future of Open Banking - Strategic Working Group

## ECOSYSTEM COMMITTEE QUESTIONS

<b>Submitted by:</b>	Fliss Berridge
<b>Company name:</b>	Ordo
<b>Contact Details:</b> email & mobile	

As set out in its Terms of Reference, the Strategic Working Group (SWG) is expected to produce a report setting out views on how Open Banking should be developed beyond its current requirements, why certain priorities should be considered, and what the suggested costs and benefits are of the proposals put forward for the Joint Regulatory Oversight Committee's consideration (Committee).

We welcome evidence-based responses to the questions posed by the Committee. Please complete your responses in the box below each question in Word format. Written submissions will not be attributed to you, your firm or association and will be presented in any report on an anonymous basis unless otherwise requested by the contributor.

You can choose to answer or omit any of the questions.

Where you wish to provide supporting evidence, please provide these in the Appendix section. Please do use hyperlinks, if necessary, however, please do not send another other attachments. The preferred format for submitting this document is in docx.

## ECOSYSTEM STRATEGY SPRINT QUESTIONS

### ***Rules and standards***

#### **QUESTION 1:**

What Are there any gaps in current guidance and standards to ensure efficient and safe customer journeys and support broader use cases? If so, what is missing and what needs to be changed?

Please see our answer to question 1 in our Payments sprint response regarding Higher Value Transactions and non-sweeping VRP.

#### **QUESTION 2:**

Is there a need to improve API availability and performance? What is the evidence and how could it be addressed?

Please see our answers to question 1 in the Payments sprint regarding bank availability of non-sweeping VRP APIs.

#### **QUESTION 3:**

What areas would multilateral agreements and updated standards covering services beyond the Order and existing regulations need to cover in order to facilitate continued development of open banking in a safe and efficient manner? Why?

We do not believe there is much for which a multilateral agreement is needed. Please see our answers regarding multilateral agreements in our Payments sprint response to questions 3 and 1.

## QUESTION 4:

Are there blockers in developing multilateral agreements? Please provide rationale and evidence. Who should be responsible for administering, ensuring compliance with, and taking forward future changes to such agreements?

We do not believe there is much for which a multilateral agreement is needed. Please see our answers regarding multilateral agreements in our Payments sprint response to questions 3 and 1.

## QUESTION 5:

Identify current gaps and identify what may be needed to put in place effective dispute management, redress and resolution mechanisms and processes across ecosystem participants, e.g., between ASPSPs and TPPs, between end-users and ASPSPs and TPPs

Liability for **payments** going wrong, and therefore how disputes should be resolved, is set out in the Payment Services Regulations. In over two years of live operation of our Open Banking platform transferring over £10m, we have not had a single payment disputed. Secure customer authentication and the display to the payer of the account title of the biller asking for payment is intrinsic in Open Banking payments, consequently, Open Banking is a far more certain and secure payment method than Faster Payments alone or card payments, and this is reflected in the lack of mistakes, disputes and propensity for fraud. Please see further our answer to question 5 in our Payments sprint response.

## QUESTION 6:

Discuss and consider the development of a crisis management strategy and plan.

No comment.

## ***Trusted ecosystem with visibility and clarity of roles***

## QUESTION 7:

Is something needed to further strengthen consumers and other end users' trust in open banking? Should tools such as trust marks be considered or not? Please provide rationale and evidence.

We do not believe a trust mark is necessary or of benefit. It would take time, money and resource for an unknown body to advertise an unknown trust mark representing an unknown technology; whereas there is more awareness of the FCA and, if any financial comfort is needed, the fact that TPPs are authorised and regulated by the established FCA should be focussed on. What could be helpful is a common label to refer to Open Banking payments; this may become 'Pay by Bank', or 'Pay by Bank Transfer' etc, but this label will emerge from public use rather than as a result of an industry ascribed term. Please see further our Payments sprint response to question 2.

## QUESTION 8:

Are further tools or guidance needed (or not) to increase consumer understanding and awareness, including in considering consent management? Please provide rationale and evidence.

There is no need to explain Open Banking to consumers with regard to Open Banking **payments**. Adoption will come from advertising the benefits of making an Open Banking payment over and above using alternative payment methods (greater security, speed and convenience at lower cost\*). For the most part, consumers will receive an Open Banking payment request from a business they deal with and whom they need to pay, they will be expecting a bill and recognise the amount, and the bill will be presented white labelled in the branding of the business with whom they have a relationship. This existing relationship and expectancy to receive a bill, coupled with the greater convenience and security Open Banking offers, is likely to be enough to mean an online/mobile banked consumer will pay using Open Banking.

\* It would be helpful if BEIS / HM Treasury re-visited the Consumer Rights (Payment Surcharges) Regulations 2012 and related guidance which was drafted to prevent card companies profiteering disproportionately from charging people using cards to pay for eg flights and businesses charging consumers to use cards. Whilst this was created to promote competition at the time, with the development of new technology, this is now hindering businesses from signalling to consumers there are cost differences in payment choices and catalysing the move to cheaper, instant and more secure methods. This legislation and guidance is also widely flouted, with card loyalty points and cash back breaching the prohibition on rewarding one payment method over another, and with even regulators such as the UK Intellectual Property Office amongst many other large corporates offering discounts if payers sign up to Direct Debit. This practice breaches the legislation but is not enforced, and it prevents retailers from giving price signals to consumers regarding the true cost of payments.

## QUESTION 9:

How can we improve the visibility over onward sharing? What is needed? (while taking into account the implication of GDPR and development of smart data legislation)

We don't understand the reason for this question. Open Banking is a new technology and should have been implemented with security by design in accordance with GDPR. Ordo has been built to collect the minimum amount of data necessary and only that which is necessary to provide our Open Banking solutions. We do not share, analyse or monetise the data through our system. We created a 'guest checkout' function to minimise barriers to people paying using Ordo's Open Banking service and there is consequently no requirement to register, download an app or sign up to be able to pay. In addition to collecting minimal data being transparent and a comfort to users, it means there is far less data to be leaked, unlike with cards, and far less security obligations with which to comply such as PCI DSS, meaning Open Banking is less of a regulatory and security burden for businesses to manage.

## QUESTION 10:

What needs to be done to define and clarify the roles and inter-relationships of key players in the ecosystem, including firms the information is onward shared with, as well as Pay.UK and retailers?

PSD2 roles are clear and governed by PSRs 2017 and, in respect of information sharing and security, GDPR and other UK Data Protection legislation together with FCA ongoing compliance.

With regard to other ecosystem participants, it is essential for competition and innovation to thrive that the purpose is identified for non-TPP/ASPSP roles, and the appropriate participant identified to fulfil that role, as follows:

Pay.UK - Payment System Operator - responsible for the safe and secure running of the UK's Financial Market Infrastructures, regulated by the Bank of England from a resiliency perspective as they are responsible for the running of the clearing and settlement layer, being the UK's payment systems today, and what will be the clearing and settlement layer of the NPA to come. This is a risk and resiliency role, central and regulated, and concentrates on the uninterrupted running of payments moving in the UK, it is tasked by the PSR to consider end users, it is not itself a regulator or competition innovator or enabler. To the extent it has central access to aggregated payment volumes, it is well placed to assist its outsourced provider, VocaLink/MasterCard, to run fraud tools such as mule account analysis. Aside from its central operational role, it should be concentrating on procuring the clearing and settlement layer of the NPA which has been significantly delayed. Given the conflict of interest of the outsourced infrastructure provider, MasterCard, also offering competitive payment solutions, a clear division of roles and commercial teams is essential.

OBIE - to hold ASPSPs and TPPs to account to comply with standards etc, to ensure the ecosystem functions well for users, this entity MUST be independent from ASPSPs and TPPs. It enforces compliance with rules and standards for the good of the ecosystem. Whilst not a regulator, it is empowered by HM Treasury, and should be enabled to act sufficiently on this delegated authority.

TPPs - comprise the competitive layer of payments. Whilst not moving funds themselves, they are therefore not regulated by the Bank of England from a systemic perspective (though should Open Banking become widely adopted it is likely to become regulated which is correct), but are regulated from a conduct and security perspective, with regard to appropriateness of people and systems to be handling and initiating payments and data - FCA regulated TPPs must be given the capacity to innovate.

ASPSPs - providing account holding facilities, amongst other services; regulated by the FCA, PRA and PSR to provide safe and secure banking services and in handling the transfers people make administered by the clearing and settlement of payment systems run by the payment system operator, Pay.UK today, and what will be the clearing and settlement layer of the NPA once procured. These entities were found to be anti-competitive and this resulted in PSD2, the remedial CMA Order and the creation of TPPs to provide innovative services in their stead.

Please also see our answer to question 7 in our Payments sprint response.

## QUESTION 11:

What capabilities/functionalities are needed for the ongoing successful operation of open banking? What may need to be provided centrally by the future entity (or another entity) versus distributed? Please provide rationale and evidence.

Please see our answer to Payments sprint question 1, and our answer above regarding roles to question 10.

## ADDITIONAL COMMENTARY:

Please add additional commentary if there are topics which respondents feel would warrant consideration by the Committee. Please provide rationale and evidence.

None.

## Appendix – Supporting Evidence Ecosystem Strategy Sprint