

## JROC's proposals for the Future Entity for Open Banking April 2024

### Ordo response

Submission to: [jroc@fca.org.uk](mailto:jroc@fca.org.uk) by 20 May 2024

*The following information is the property of The Smart Request Company Ltd, trading as Ordo ("Ordo") and is provided to you in response to the above only.*

*The information is only to be used by you in connection with the consideration of your response expanding variable recurring payments, it is not to be used by you for any other purpose. The **REDACTED** version only may be published in response to this consultation, without alteration.*

**This response and may be published**

*The commission of any unauthorised act in relation to the information may result in civil or criminal actions being taken by Ordo in relation to this matter. Any licences issued by the Copyright Licensing Agency Limited do not extend to this matter. All opinions and forecasts contained herein are the opinions of Ordo and are made in good faith at the time of publishing.*

## Introduction

### What does Ordo do?

Ordo's fully hosted and customisable open banking-enabled payments managed services provide businesses – large and small – with low cost, highly secure, real-time and easy to use [Request to Pay, e-commerce, Point of Sale/QR Code, invoice and contact centre payments](#) direct from their customer's ASPSP accounts into their own ASPSP accounts for both single and variable recurring payments (VRP).

Businesses can access the Ordo managed service in a number of ways: though an Ordo Merchant Acquirer/PSP payments partner, such as Access Group's Pay360 platform, directly via Ordo's business level APIs, and for smaller businesses, through [Ordo's web/app interfaces](#).

Ordo also uses open banking to enable refunds and secure customer pay outs as well as account validation services and has fully managed VRP enabled services live with several clients for sweeping, but which require no further build or development to be rolled out for variable recurring payments beyond sweeping. Our platform allows businesses to take advantage of the latest open banking technology with minimal development and integration effort.

Ordo's cloud-hosted managed service is fully white-labelled allowing business's own brand and look & feel to be incorporated into all customer interactions, giving a consistent customer experience but without the overhead of developing, ensuring regulatory compliance and keeping up to date their own open banking customer journey.

### Who are Ordo?

Ordo was founded by the former [management team](#) of the UK's Faster Payment Scheme in 2018 to use Open Banking payments to provide businesses with a much-needed alternative to slow, high-cost card payments and insecure direct ASPSP payments. Ordo launched its VRP service for sweeping clients in 2023. Ordo is authorised by the Financial Conduct Authority as an Authorised Payments Institution to carry out Account Information Services and Payment Initiation Services (FRN [836070](#)).

## *JROC proposals – the design of the Future Entity for Open Banking*

We are pleased to see JROC's proposals for the Future Entity for Open Banking published. The next phase of Open Banking is key for the UK. Fuelled by unrestricted Variable Recurring Payments (VRP), it will enable fintechs, like Ordo, to effectively compete with banks, Visa and Mastercard. It will allow fintechs to innovate and provide better services, at lower cost, to consumers and businesses, delivering growth for the UK economy.

To achieve this, an independent, not-for-profit entity with a clear and statutory public purpose is needed to efficiently manage the ecosystem. With the exception of a statutory underpinning of a public purpose (which can be long-term only), this is needed *immediately* as well as for the long term. This kind of entity must have independent, appropriately skilled and experienced, and public good focussed, leadership.

To enable Open Banking to make the biggest difference possible, this structure and focus needs to be put in place immediately and efficiently. This is best achieved by non-CMA Order work continuing to be run out of Open Banking Limited (OBL), rather than setting up a separate Interim Entity. The then current entity could also evolve to fit the criteria required by the long-term regulatory framework, as set out in the Data Protection and Digital Identify bill.

### **Immediate term**

We do not think the proposals for setting up an Interim Entity are a best use of ecosystem funds or time. We do not believe the benefits of having Order and non-Order work sitting in separate legal entities outweigh the cost and time it would take to set this up. Not only will this structure incur another raft of set up time and costs, but it will also incur two sets of ongoing overheads. In addition, largely the same people working for two different companies also risks confusion and unnecessary complication.

Whilst, no doubt, the process and governance proposed is to achieve fairness, it is laborious and cumbersome. It will incur high costs and a lot of time, without necessarily reaching the best version of the outcome needed to make a success of the future of Open Banking: independent, strong leadership focussed on a public good.

### *Structure and purpose*

The ecosystem is operating today with OBL carrying out both CMA Order and non-Order work. We think it would be more efficient for this method of operating to continue. Instead of setting up a separate Interim Entity (incidentally, supplementing OBL which was itself anticipated to be interim), JROC could take this opportunity to **re-set** OBL's purpose. It could begin a new phase, evolving once more, to become fit for purpose for now this second interim stage, by:

- i) Drafting and adopting a public purpose – Open Banking is for the good of the UK, its businesses and consumers, and this should guide the decisions OBL makes (both CMA Order and non-Order work) and the actions it therefore takes;

and to achieve this,

- ii) Retaining and/or recruiting leadership and staff that understand and support this goal. The leadership team must be: independent, and seen to be independent, from ecosystem participants, have requisite skills and knowledge to lead a central orchestration body in a competitive market, and be strong enough to manage the many different and sometimes opposing views that are inherent in a competitive financial ecosystem. A chair and/or CEO with a bank and/or cards background and bank and fintech NED positions is not the right choice at this stage.

Around March 2021, the CMA consulted on the form of the central body for Open Banking. Unfortunately, this exercise seemed overly dominated by UK Finance and its instruction to Accenture and their proposed model. Of course, this consultation has been superseded, but Ordo's suggestion that a central Open Banking entity needed a public purpose with the Open Banking providers (the entities that are providing services to businesses and consumers) at its heart, was made then and is just as relevant now. Based upon our suggestion then, a purpose now, fully factoring in the role of open banking in promoting competition, could be:

*'Enabling TPPs to deliver the competition and innovation benefits of a highly efficient, safe and reliable Open Data and Payments market to UK consumers, small businesses and corporates, as well as continuing to provide a platform for UK financial institutions to meet their CMA and other regulatory requirements.'*

### *Funding*

OBL's funding would need to change to reflect this re-setting. On the one hand, the organisation would be orchestrating regulatory mandated work. On the other, activity which ecosystem participants are pursuing for profit. Some ecosystem participants are seeking to provide value-add services to businesses and consumers to earn a profit (fintechs, being the open banking providers); others will be seeking profit from allowing access to monopoly gateways (banks). In due course, more business value propositions will arise.

It seems sensible for OBL to provide this mix of services via a mix of funding sources that reflect the purpose the costs are incurred: regulatory – to continue to be paid for by the CMA9 banks; the management of value-add services – to be paid for by participants that want those services.

### *Equality of funding*

It is not always fair or equal to treat everyone the same. If the same adult height hurdles are used for adult and children's hurdle events, it does not make the events fair. Obviously smaller people are going to find smaller hurdles just as hard to clear as adults jumping over higher hurdles. Charging global banks (that are mature and low risk cash generators) the same as loss making fintechs (that are high risk, loss making businesses needing future risk capital to build their businesses) is not equal, it is prohibitory. Any fees should be proportionate to entity size with a particular focus on their profitability and market maturity.

*Ordo's experience in setting Purpose and innovation funding at Faster Payments Scheme Limited and Paym (the pre-cursor to Pay.UK for the real time online and mobile central bank payment system)*

The Ordo co-founders have experience of discovering, crafting, garnering support for, and leading a company in pursuance of, a public purpose. During our time running the Faster Payments Scheme Limited (“FP”), we ran an Access project to open up the Faster Payments system to beyond the original 8 to 10 incumbent banks. We also designed and implemented a method by which non-banks, like Ebury and (Transfer)Wise, could also directly connect. This project was very successful, and today, there are over 40 institutions offering the benefits of real time payments to all their customers.

As the Access project gained momentum, we considered the governance of the company. The then Articles of Association of FP stated that every participant of the Faster Payments system was entitled to appoint a director to the board. Whilst this may have been workable to some extent when there were eight participants in the system, it certainly wasn’t optimal once there were over 40. And nor did this structure set the right incentives for directors.

The FP governance project began by considering what the purpose of a central monopoly payment system was. We concluded that, as a natural monopoly, it was a public utility, to be operated for the good of the UK and its economy. We reached this conclusion by addressing each section of the Corporate Governance Code and applying it to a central payment system, and holding a number of workshops for bank participants to address this question with us. Finally, we crafted and then drafted our purpose at an FP strategy away day.

We changed the purpose of FP from being an asset of the banks to control and limit, to being a public utility to be operated for the good of the UK. Once this was in place, we could recruit those who were most suited to serve on a board of such an organisation, which involved independent directors as well as a couple of people who also happened to be employees at participant banks. We could also more easily enforce the Companies Act director requirements of independence and prohibition on unreasonable conflicts on the directors selected to the board. We did this by requiring any directors who also happened to be employees of participant banks to act in the best interests of FP, no matter the implication for their bank institution; and by absolutely disallowing any director who was also a director on the board of FP’s main supplier, Vocalink; a requirement later put in a general direction by the PSR.

To ensure FP had an appropriate budget for innovation, we added a small amount to the annually recovered fixed cost base of FP to contribute to an innovation fund which would pay for public interest service development. Such projects were, for example, the building of a run-at-cost alternative to otherwise price prohibitory trust services, UTSP Limited.

Something similar could be adopted by OBL to ensure innovation continues to develop and is not stifled by no party wanting to pay for development.

## Future

Following the above, OBL would have strong independent leadership focussed on and fulfilling its public purpose, it would then be fortified by empowering legislation, ideally putting the public interest purpose on a statutory footing. It would simply need to be renamed/re-set again, to acknowledge this long-term regulatory framework underpinning. This one company could also more smoothly transition to another newly incorporated company. The comments above regarding public purpose, independence, strong leadership, not-for-profit and funding level are equally applicable.

Confidential and Copyright © Ordo, the trading name of The Smart Request Company Ltd 2019 (11338545)  
Registered office: 1 High Street, Thatcham, Berkshire, RG19 3JG

A newly incorporated company limited by guarantee is the most fitting structure for a not-for-profit organisation. However, its board need to be distinct from its guarantors. The executive leadership team work with the board to develop an organisation strategy that will deliver the purpose. The executive leadership team lead the staff to implement the strategy. The board oversees the executive, and holds them to account for, implementing the strategy. The guarantors hold the board accountable for overseeing the executive and delivering the purpose.