ECOSYSTEM STRATEGY SPRINT QUESTIONS

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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.

Where you wish to provide supporting evidence, please embed these or the links to them in the Appendix. Please do not email them as attachments.

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?

In the short term, the EMA believes that the following gaps in OB standards and guidance act as a brake on the ecosystem' ability to enable consumers and businesses to build up confidence in OB services and fully realise the benefits of open banking. We consider these items would address the key limitations in OBIE standards and guidance so that the ecosystem can move forwards while future regulatory and governance arrangements are put in place, and hence should be a top priority for JROC to address in the future Open Banking roadmap.

General
Limit optionality in standards to drive consistent, frictionless consumer experience of all Open Banking services. This could include simplifying SCA journeys, mandating population and consumption of TRI data, improving data element use, standardizing error codes etc.

Payments
- **Facilitating a risk-based approach to payment limits** for OB payments and supporting high-value payments,
- **Clarifying the scope of VRP for Sweeping**; in particular addressing the inconsistent treatment of e-money accounts as destination accounts for a sweeping transaction. This has particularly impacted our members, as Sweeping clarifications and guidance leave room for interpretation regarding e-money accounts and as a result has limited the number of use cases that TPPs have been able to develop for Sweeping.

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- **Drive adoption of commercial VRPs**:
    - Replace software statements as the means to register each merchant and identify customer facing entity in consent dashboard
    - Improve consent dashboard usability (see our comments under Question 8)

Data
- Extend UK RTS on SCA Art 10 exemption to enable access to a broader data set than balance and transaction history.

Longer term the OB standards should consider:

Payments

- **Align with wider UK payments initiatives**:
    - Support Confirmation of Payee (CoP) in PIS journeys,
    - Review the impact of the APP scams reimbursement framework (likely to be introduced by the PSR), and support where necessary in OB standards,
    - For some use cases, OB payments should be instant – assess impact of NPA and FPS product roadmap; align OB standards accordingly,
    - Assess the various digital identity initiatives being progressed in the UK, and identify any opportunities to leverage in the future Open Banking developments.

- **Improve payer/payee experience:**
    - Provide payment guarantee functionality (or payment confirmation messaging),
    - Improve customer authentication experience; standardise flows where possible (see also POS standards below),
    - Improve payment consent dashboards, and bank statement presentation of OB payments,
    - Pre-authorisation – reservation of funds and possibility to return to payer in case of fraud,
    - Standardised refunds for retail OB payments,
    - Standardise payment status and functional error codes to support end-user's experience,
    - API data-sharing to support fraud and transaction risk management,
    - Ensure consistent implementation of standing order and bulk payments APIs by ASPSPs,
    - Develop POS standards – QR code and NFC standards for exchanging OB payment credentials,
    - Electronic receipt standards.

- **Support low-value payments:**
    - Enable low-value payments without SCA
    - Develop Faster Payment pricing to support low value payments to support a viable economic model.

- **Support cross border transactions:**
    - Improve facilitation of cross-border transaction flows/interoperability with other API standard initiatives

Data

- **Open Finance:**
    - Standards for AIS for other account or data types – savings, loans,…
    - Prioritise data sets which support multiple use cases.
    - Explore voluntary data sets for inclusion in the standards
    - Consent management tools to support wider data sets and increased volume and complexity of consents.

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QUESTION 2:

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

The key improvement which we consider should be prioritised in the short term to address live ecosystem issues, and help drive forward a robust, highly reliable ecosystem so that third-party providers (TPPs) can deliver products and services.

Improve the visibility of API availability – our members report that the current solution for ASPSPs to broadcast their OB API availability and downtime (manually via the 'Transparency Calendar') to the ecosystem is less than ideal and can only cover scheduled downtime. Leading to customers being left unable to make payments or access account data when unscheduled downtime occurs, and often without a sufficient explanation to TPPs in error codes.

In some cases, our members have seen payments convergence rates drop dramatically (by over 45% over a 7-day period, in one case) when ASPSPs experiences unscheduled API downtime. Clearly, no system can operate 100% of the time without issue, but if TPP's could determine in real-time (ideally by API) when a particular OB API is unavailable then the impact on the end customer (merchant or consumer) could be better managed.

Given the ambition for open banking to provide viable alternative payment mechanisms for retail payments, and also extend the open data regime into Open Finance, there is a need to lift the resilience and performance of the OB API ecosystem.

In particular, the reliability and performance of OB Payments APIs must equal that of cards payment infrastructure in order to support retail OB payments (in-store or online) and deliver similar payer experience in terms of speed and ease of use. At present, OB API availability and performance varies widely across the ecosystem.

To address this, we suggest that where ASPSPs opt to join the OBIE ecosystem, they must adhere to service level targets for API availability and performance which are appropriate for the API usage. In effect, this would be extending OBIE's recommended performance benchmarks (contained in the Operational Guidelines), and applying more stringent service level requirements where appropriate.

As a minimum, ASPSPs should already comply with regulatory requirements of providing APIs which match the performance and availability of their other channels. Where they consistently do not, enforcement action should be taken by the FCA. As discussed above, OB retail payments APIs will require availability, capacity, and response times on par with card infrastructures to ensure merchant and consumer experience can be comparable to cards and consistent across the ecosystem. However, APIs which support lower volume or less time-critical use cases could be subject more flexible availability and performance service levels. Consistency across the ecosystem is key to building consumer and businesses trust in the OB ecosystem.

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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 have discussed the areas of the OB standards which we think should be updated to facilitate future open banking development under Question 1.

Payments
The EMA considers there is scope for a multilateral framework to drive forward OB payments and overcome some of the barriers that PSPs are facing in developing compelling propositions for consumers and merchants; in particular to support the rollout of commercial VRPs.

In order for OB payments to develop it has to be commercially viable for both account providers and TPPs. In the absence of a multilateral framework, the market can already be seen to be fragmenting with account providers exploring commercial opportunities for OB payments, but at the same time seeking to protect other revenue streams. As a result, the vibrant TPP community created by the CMA Order and PSD2 faces spiraling costs and barriers to growth.

A multilateral framework for OB payments could address:
- Compliance to relevant API standards, Operational Guidelines, and Customer Experience Guidelines,
- API service levels (SLAs) – availability, response times, and maintenance windows,
- Commercial framework - default renumeration to support viable propositions for both account providers and TPPs,
- Dispute management and resolution,
- Treatment of liability for disputed payments (outside of regulatory perimeter).

Data
With regards to the use of multilateral agreements to support the development of access to financial data, the EMA considers it is too early to determine whether this is necessary. In the absence of a regulatory strategy for open finance, it is unclear where multilateral agreements could help to drive the market forwards.

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?

The EMA believes there are three key barriers to the development of multilateral arrangements which may help to drive forward **OB payments**:

- **Uncertainty for PSPs on the investment case -** the number of changes in the UK payments infrastructure layer (RTGS renewal, the NPA, BACS and Faster Payments' product roadmaps,

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APP scams liability shift to PSP) leaves uncertainty for PSPs on the investment case for OB payments – on both the TPP and account provider sides of the market.

- **Absence of clear regulatory strategy** – regulatory intervention has provided the foundations for open banking, but we understand that a compliance-driven approach is not sustainable, nor necessarily, would result in the best outcomes for the future of open banking payments. We do advocate a customer and market led approach going forwards. However, we recognise that some regulatory intervention may be needed to galvanise industry to keep up the momentum for OB payments and fully assess the opportunity through a multilateral framework lens. So far, this approach has been successful in Europe in developing the SEPA API scheme, and we would urge JROC to consider similar models.
- **The market is already starting to fragment** – and protectionist strategies, coupled with unviable pricing for commercial APIs (VRP in particular) have begun to emerge. As a result, the pace of developing non-sweeping VRP propositions has slowed considerably. Leaving the market power to develop VRPs concentrated with larger institutions and the anti-competitive implications which may ensue.

An independent Future Entity should be responsible for coordinating the market-led assessment of the most suitable multilateral framework which could be applied to OB Payments in the future. This would include identifying the most suitable governance structure for ongoing administration and management of any multilateral framework.

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

Dispute resolution is a critical feature of any cooperative network of competitors and the EMA considers that as OB payments are increasingly used for retail payments (in-store and online) that a robust dispute handling mechanism between ASPSPs and TPPs will be key to success. Likewise a consistently applied complaints procedure, which is clearly communicated, will be central for building consumer and merchant confidence in OB payments.

However, we don't believe that the case for a separate dispute management, redress and resolution mechanisms for OB payments has necessarily been proven. The Payments Services Regulations (PSR) provides the basis for disputed payment resolution and we suggest that the only gap may be developing a consensus amongst ecosystem participants about how the legal requirements can be applied in a consistent manner to new OB payments use cases.

Introducing any new complaints handling procedures comes with significant operational overhead for PSPs and merchants. Where possible OB payments dispute resolution mechanisms should seek to build on current regulatory requirements and best practice, rather than introduce new obligations.

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The Future Entity should be tasked with assessing the requirements for dispute management under any multilateral framework for OB payments, including a central service to manage disputes between ASPSPs and TPPs for the ecosystem (as noted in our response to Q11).

QUESTION 6:

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

No comments.

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.

Payments

The EMA suggests that the single most important element of developing consumers and other end-user's trust in OB payments will be the clear and consistent user experience within each possible use case, particularly with regards to a consistent payer authentication experience. This emphasises the importance of developing and maintaining customer experience guidelines which are consistently applied by all participants across the ecosystem, and of addressing the gaps and limitations of current OB payment standards (as noted in our response to Q1) which result in an inconsistent end user experience.

Once a consistent OB payments experience can be ensured, there could be benefit from a consumer focused awareness campaign to support understanding, and to drive trust in, and usage of, OB payments. This approach has been successful in rolling out other cross financial-industry initiatives (CASS, confirmation of payee, chip and PIN, etc), particularly when backed by well-known users of the service, such as HMRC or a large retailer.

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Trust marks are fundamental in generating end-user's confidence in most payment types; they clearly signal the method for transferring value from the payer to the payee. However, OB payments isn't a new type of payment instrument, and the need for a trust mark in an Open Banking context has not been fully explored. For instance, would the trust mark be referring to the underlying Faster payment transaction? Or just the payment initiation by a TPP (possibly within the boundaries of a multilateral agreement)? And if OB payments trust mark was developed, how would this impact end-users' understanding and use of account to account payments in other channels (such as from online banking)?

Given these, and many other unknowns, regarding the need and possible effectiveness of an OB payment trust mark, the EMA suggests that the Future Entity should conduct a thorough requirement and impact analysis before developing any such trust mark.

Data

Consumer representatives have, in the past, highlighted the reluctance of end-users to willingly share their data with businesses. Our members describe how this reluctance can be exacerbated by the communication and guidance consumers receive from their account providers – such as informing customers they shouldn't share data via Open Banking, or even suggesting that an account has been blocked because the customer uses open banking. In the face of such messaging from trusted sources, end-users' confidence to share data with TPPs and other businesses cannot be established on a sustained basis. This situation also highlights the imbalance in the market that is created when established institutions can exert influence on an end-users choice to take-up TPP services.

We believe that addressing end-user understanding and trust about sharing their financial data is a key consideration for the development of Open Finance, and hence for developing open banking services. In the case of Open Banking, it could be as simple as an independent trusted source (such as the Government or Regulators) publishing clear guidance to end-users on data-sharing using Open banking. This would enable ecosystem participants to refer concerned users to the independent source of reassurance. Whilst at the same time ecosystem participants could commit to reinforcing the independent guidance in their customer service messaging and communications.

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.

Payments

The concept of a 'long-lived' consent was not applicable to OB payments until the introduction of VRP functionality in the latest standards because until then every OB payment only required a single one-off consent from the payer. Hence up until the introduction of VRP, the entire design of 'consent dashboards', and how they are presented to the end user, has been focused on presenting data access consents.

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OB Guidelines have not fully considered that payment consents are different than data-access consents, and may need adjustments in how they are presented to users. As a result, account providers combine VRP payment and data consents in a single dashboard, which is in a less prominent position in online or mobile channels to other payment consents (Standing Orders, Direct Debit mandates etc).

Our members have indicated this adds to friction to the end-users' experience of using VRPs, and the inconsistency of experience undermines trust in VRP. For this reason, OBIE standards and guidance should be updated to properly address long-lived payment consents and improve their visibility in online and mobile channels.

Data
Please see our response to Q7.

In relation to consent management, as the ecosystem for data sharing expands and end-users consent to share data to ever more providers and services, undoubtedly the existing OBIE consent dashboard guidelines will need to evolve to accommodate the increasing complexity. The future OB roadmap should explicitly support the maintenance and development of the consent management tools (on both TPP and account provider side) to meet end-user expectations.

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)

No comments.

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?

No comments.

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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.

The centralised model whereby OBIE has provided services to the ecosystem has been implemented in the UK with substantial investment by all participants over a prolonged period of time and has far exceeded original costs envisaged by regulators. The EMA considers that this investment should be leveraged to build the future operating model for the Future Entity responsible for open banking. Moreover, the centrally provided services relied upon by the live OB ecosystem should be protected, as change may introduce barriers to ASPSPs and TPPs looking to operate within the boundaries of the CMA Order or PSD2.

Therefore, a number of the services provided by OBIE should continue to be provided centrally by a Future Entity, such as:

– Maintaining and evolving the API standards, operating guidelines, and customer experience guidelines (CEG)
– Onboarding of ecosystem participants, including conformance testing
– Managing the security profile (trust framework) supporting the API standards
– Directory Service
– Fraud data-sharing hub
– Facilitate dispute management
– Service/help desk for ecosystem participants

We realise that this requires a mandate on the banks to provide further funding for core services for a period which is long enough for the ecosystem to develop a long-term strategic plan (i.e probably longer than 3 years). Otherwise, there is always going to be an inherent risk that some players pull out and jeopordise the core services relied on by the ecosystem.

However, we understand that this isn't sustainable, so we propose that the Future Entity's funding model enables the whole market to participate in funding non-PSD2/CMA Order developments if they want to, which in turn, could subsidise core services.

We also acknowledge that centralised services should be cost effective and may need to be reduced according to the economic model designed for the Future Entity. For this reason, services such as certificate issuance/management could be provided by the wider market. In designing the service capability of the Future Entity, we anticipate that a full cost-benefit analysis would be conducted to confirm the services which should be provided centrally.

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ADDITIONAL COMMENTARY:

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

Appendix – Supporting Evidence

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