



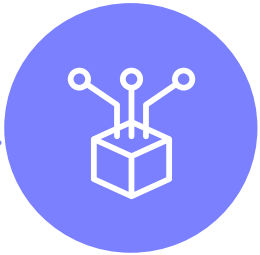
FCA CALL FOR INPUT: **OPEN FINANCE**

TrueLayer Response Summary, 7 May 2020



Start with access rights

As with PSD2, the development of Open Finance should start by securing the right for third-party providers to access their wider financial data via third-parties.



Mind the gap

Although transformational, PSD2 left gaps. These can be filled by Open Finance. When bringing different services into scope, authorities should be mindful of cutting across existing or potential business models.

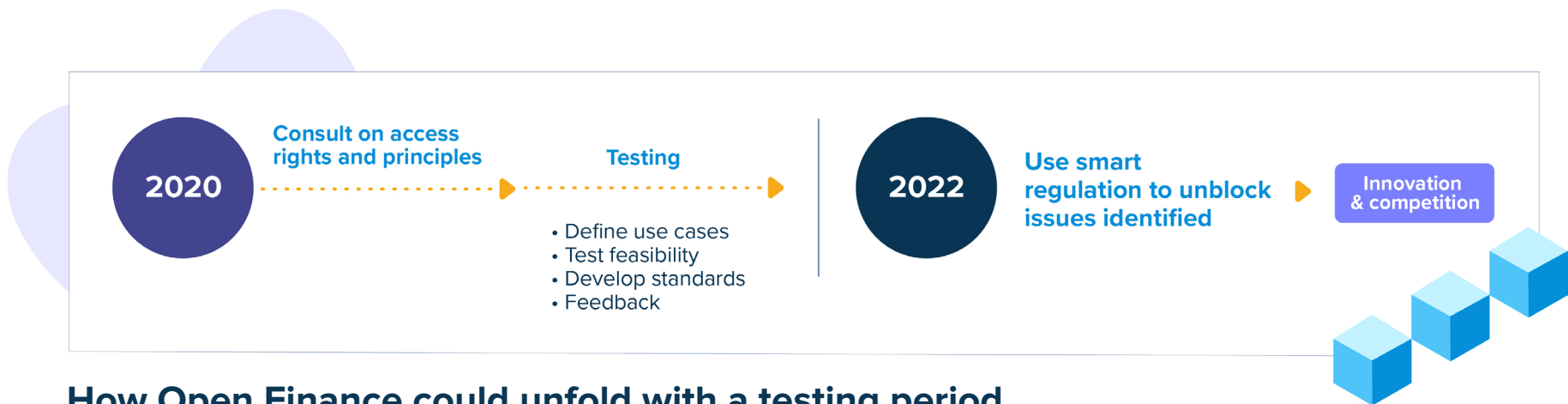


Testing before rules

Authorities should focus energies on bringing data holders and third-parties together to work out how to facilitate the access right, and to identify where the access right can have the most value for consumers.



How PSD2 unfolded



How Open Finance could unfold with a testing period



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30 POINTS FOR
OPEN FINANCE

Address poor bank API performance and implementations

- 1 The FCA should take transparent action against banks who effectively lock customers out of open banking for extended periods through API failures. This will help to restore trust and confidence in UK open banking at this critical stage.
- 2 The FCA should monitor the major retail banks to find out whether the level of support provided for their dedicated interfaces continues to be equivalent to the support provided for their own online channels (as required under SCA-RTS Article 32(1)).
- 3 The FCA's RegTech team should consider ways to make reporting problems with bank APIs easier for third-party providers (TPPs), and the resulting data more useful for the FCA. We suggest FCA explore the possibility of producing an API that TPPs can call when a bank is unavailable.
- 4 The FCA should publish a list of the banks with the most API problems. This would be similar to how banks are required to make information on major incidents publically available under the FCA service metrics initiative. The information should be published on the same page by the FCA.
- 5 The FCA should create a permanent dedicated open banking supervision team whose role will be to spot the worst performing banks, and work with individual bank supervisors to take necessary action.
- 6 As in other areas where the FCA 'confirms' industry guidance (JMSLG, Payments UK Guidance on BCOBs etc) the FCA should confirm or make a formal endorsement of the OBIE's Customer Experience Guidelines, and make clear that it expects all (not just CMA9) retail banks to adhere to these good standards for redirection screens (given the critical role they play in determining customer take-up of open banking services).

- 7 The FCA and/or the PSR should formally consult on how confirmation of payee and fraud risk screens should be treated in open banking customer journeys.

Extend API coverage beyond the CMA9

- 8 The FCA should use the opportunity of the Open Finance CfI to set out a pathway to migrate all retail banks with significant retail presence to APIs. We suggest the retail banks who should be migrated to APIs initially are the same banks subject to the voluntary or mandatory information on current account services).
- 9 The FCA should remove the default requirement to build a contingency mechanism. This punishes banks who seek to build APIs because they either have to build a second set of infrastructure (which in any case most TPPs who have discontinued screen scraping won't be able to use) or they have to undergo an extensive and costly exemption process with the FCA. Continuing this approach will push banks towards building modified customer interfaces which lead to poor consumer outcomes.

Extend API coverage to non-payment accounts

- 10 The FCA should take action to enable access to non-payment accounts via APIs. Since non-payment accounts are not covered by PSD2, rules in this space would not be maximum-harmonising, or bring the UK out of alignment with EU rules.

Address gaps in API functionality (especially PIS)

- 11 The FCA should act on the conclusion of the Innovate Sandbox testing to publish guidance to confirm that VRP is permissible under PSD2. Otherwise, the VRP standard, even once developed by OBIE, will not be implemented by the banks.
- 12 FCA should act to clarify in written guidance that active notification (e.g. web-hook) is required from banks to TPPs, where PSUs have revoked access via banking app or website, so that those TPPs for whom it is critical to receive such a notification can choose to do so.

Address flaws in existing regulatory framework

- 13 The FCA and/ or HM Treasury should act to develop rules and guidance enabling TPPs to operate continuous, unattended access, without the need to provide authentication to the bank every 90 days.

Open Finance should be underpinned by legal requirements but developed through testing first

- 14 Open Finance should be covered by an overarching regulatory framework for sharing financial data, similar to the PSD2 right for customers to access payment accounts using third-party providers. This framework should address regulated roles and customer protections necessary for the purposes of sharing data, and it should build upon PSD2 and GDPR.
- 15 Open Finance **TPPs will need to be authorised** to access data in additional sectors. TPPs already authorised under PSD2 could be granted an additional permission for Open Finance.

- 16 Open Finance TPPs will need the **right to access Open Finance account data** with the customer's consent and data holders should not be able to re-confirm consent to release the data under GDPR, or block access.

- 17 Data holders will need to move towards **provision of the data via APIs**. Either voluntarily, or through legal requirements.

- 18 Before a full regulatory regime is crafted around Open Finance, the FCA and relevant authorities should use convening powers to provide an **Open Finance Testing Environment**, which can be used to test and develop use cases for Open Finance, and to identify where rules, guidance and further legislation might be needed.

- 19 Open Finance regulation should be based on high-level guiding principles, to ensure a level playing field. It should avoid, or give careful consideration to any prescriptive rules or guidelines. (It is positive that the FCA is already considering a set of high-level principles).

General Data Protection Regulation

- 20 UK Authorities should consider building on existing GDPR rules so that the right to data portability is fulfilled by Open Finance data holders through the use of APIs, and that data requests should be fulfilled in real-time. The EU Commission's data strategy already considers this.

Measuring open finance API performance

- 21 For Open Finance APIs, the FCA and authorities should agree on a single measurement methodology across sectors, or if that is impractical, one per sector.
- 22 FCA should consider taking a direct feed of availability and performance data using a technical provider (businesses such as API Metrics do exist to provide such services, although independence of the data and objectivity of the criteria would need to be determined).

- 23 FCA should publish open banking (and in future Open Finance) performance and availability statistics itself, using the data obtained through the REPO20 reporting form, or similar, although the methodology for the reporting should be reviewed, to ensure it accurately reflects API availability and performance.

Open Finance Definition

- 24 We agree that Open Finance should be based on API access. The modified customer interface continues screen scraping and credential sharing which is bad for trust and security. Furthermore, TPPs cannot and should not have to maintain systems to connect to banks via both APIs and screen scraping.
- 25 FCA should consider how providers can repurpose existing APIs, rather than building stand-alone single purpose APIs for Open Finance.

26 We recommend that 'write' terminology continues to be used to refer to enabling payments (or other actions) to be initiated on behalf of a customer, not as a reference to presenting a customer's data to them.

27 We recommend that any definition makes access to account data, and the onward sharing of data contingent on the customer's explicit consent and instructions, but not contingent on the undertaking the narrow activity of presenting a customer's data to them. A change should also be made to the Treasury definition of account information services to address this for open banking, in line with the European Banking Authority guidance.

Standards and governance

28 An entity charged with maintenance of open data standards should continue indefinitely, independently of bank control. While a mandatory framework for API provision exists - effectively a cost centre for banks - it is important to ensure the oversight of API provision is independent from the banks, so that performance monitoring and standard setting continues to be delivered for the benefit of the wider open banking ecosystem.

29 OBIE should be developed into an independent Open Finance Standards Entity, encompassing broader banking and non-banking financial services ready to achieve Open Finance. Such a body could be financed equitably from wider participation, drawn from the data supply side of bank, insurance, pension, mortgage and other providers, and the data accessing demand side (existing and new third-party providers - TPPs). Empowered with some statutory authority from the CMA (as is the case with OBIE) this body could be even more effective at ensuring open data is leveraged for the good of consumers.

FCA the lead Open Finance regulator

30 The FCA should remain responsible for regulating Open Finance (as its regulatory perimeter covers the majority of the providers already). FCA should make achieving the aims of Open Finance a commitment in its next business plan.



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