

Meeting Minutes

Meeting details

Meeting date: 10/01/2018

Meeting name

Implementation Entity Steering Group (IESG)

Meeting time

09.00 to 12.00

Meeting location

Sidney Suite, Grange Tower Bridge,
45 Prescot Street, London, E1 8GP.

Scribe

Julie Mitchell

Classification

Confidential

<i>Name</i>	<i>Role</i>
Andrew Laidlaw (AL)	FCA
Andrew Slough (AS)	HSBC
Andy Booth (AB)	Barclays
Anne McAdam (AM)	HM Treasury
Bill Roberts (BR)	CMA
Caroline Ambrose (CA)	Barclays
Daniel Ehreich (DE)	Bank of Ireland
Daniel Globerson (DG)	Royal Bank of Scotland
Dora Guzeleva (DGu)	Payment Systems Regulator
Ed Colley (EC)	OBIE Programme Director
Emma McDowell (EM)	Danske Bank
Faith Reynolds (FR)	Consumer Representative
Gavin Littlejohn (GL)	FinTech Representative
Helen Ginter (HL)	FCA
Henry Kuang (HK)	OBIE
Hetal Popat (HP)	HSBC
Ian Major (IM)	TPP Representative
Imran Gulamhuseinwala (IG)	OBIE Trustee
James Whittle (JW)	PSD2 Representative
John A Hutton (JH)	Nationwide
Kunal Jhanji (KJ)	OBIE Policy

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Liam Curran (LC)	Danske Bank
Mark Chidley (MC)	SME Representative
Mark Mullen (MM)	Challenger Representative
Matthew Alder (MA)	HM Treasury
Nuala Jackson (NJ)	Santander
Paul Horlock (PH)	NPSO
Phillip Mind (PM)	UK Finance
Richard Henshall (RH)	Nationwide
Richard Lindsay (RL)	OBIE Communications
Richard Rous (RR)	Lloyds Banking Group
Robert White (RW)	Santander
Roy Hutton (RH)	Allied Irish Bank
Stephen Smith (SS)	Lloyds
Thaer Sabri (TS)	Electronic Money Association
Walter Mccahon (WM)	UK Finance

No.	Agenda item
1	Housekeeping

IG: Opened the meeting, introducing Julie Mitchell (JM) as the new secretariat for IESG.

FR: Advised that she would leave the meeting at 10:15

JW: Advised that he would leave the meeting at 11:30

KJ: Advised he would leave the call and would re-join at 11:30

IG: Advised the agenda would be adjusted to start with Item 4 after Housekeeping.

FR: Requested an amendment to the minutes to capture her absence from the meeting on 3 January 2018.

IG: Confirmed the minutes had been circulated and all comments/amendments had been included and after any further amendments, confirmed the minutes as approved.

RW: Requested that the discussion on Opt-out was in competitive space was not a standards issue and should be reflected in the minutes.

ACTION - IESG_2018_301_8 - RL to update attendees and Opt-out commentary.

EC: Confirmed that the draft pitch document is available for review. **IM** and **GL** to review w/c 15 January 2018.

ACTION - IESG_2018_301_18 - EC to provide pitch documents to IM and GL to review

IR: Confirmed Action Item IESG_2018_301_3 and IESG_2018_301_4 closed, following the required papers submitted to this Steering Group meeting.

IR: Advised that IESG_2018_301_5 action was closed. Discussions had taken place with some of the CMA9 and other stakeholders. This item was also discussed in more detail during the meeting. **IR** also closed IESG_2018_301_6, citing that papers were circulated in the previous weeks pack.

RL: Confirmed that item IESG_2018_301_7 is not scheduled for closure until 31 January 2018.

GL: Questioned the Liability Summary and Howell Lovell/OBIE Redirection Report which had been discussed at the end of the meeting on 3 January 2018. **GL** expressed concern regarding the depth of the discussion and due to late circulation of the paper, felt there was little chance for teams/individuals to provide comments before the meeting.

IR: Advised that there was a discussion; however no amendments or comments have been received to date.

ACTION - IESG_2018_301_9 - KJ to discuss Liability Summary with GL and reflect comments in next reiteration of report.

JW: Advised the role and objectives of his team have transitioned fully to the NPSO from 2 Jan. This does not impact his role in IESG as he represents the PSD2 Stakeholder Group. The terms of reference of the SG are being updated to reflect this change in line with the objectives and mandate of the NPSO. This will likely not alter anything in the short term but he will revert as appropriate to IESG should the need arise. Also relevant to this is the MoU that is being formed between NPSO and OBIE.

IR: Questioned if there were any implications on OBIE interaction.

JW: Explained further that he had the support of the EC to chair the API Evaluation Group in Europe and that if that were to be the case it may have a bearing upon his role in the OB programme should there be a conflict between evaluating OB at European level and being part of the initiate. **JW** would work that through within the developing governance of the evaluation group being agreed with the EC and update IESG as and when

IG: advised that PH has joined the Group as an observer, representing the NPSO.

2

Update on Opt-out Functionality

IG: Stated that Opt-out has developed into a larger issue due to some ASPSPs looking to incorporate it ahead of any formal evaluation or investigations. Furthermore TPPs consider it to be anti-competitive with the main misconception aired by the media being this is an Opt-out service and not an Explicit Consent service. **IG** also stated that an OBIE perspective, some of the core infrastructure that was expected to be in place is not and that this meeting is the last opportunity for members to air their perspectives on approaches to Opt-out, ahead of the Managed Roll-out and the formal evaluation/investigation.

RW: Stated that there appeared to be a lack of definition of what Opt-out is .

IG: Agreed there is no clear definition and suggested a universal Opt-out will allow a consumer to turn off an Open Banking API.

GL: Stated that in order to turn them off, they need to be turned on in the first instance. GL then shared his view of the five step process; from the consumer being marketed by the TPP to consent of data sharing, citing it is simply an Opt-out from competition. He also quoted research that demonstrated a level of concern of a data free for all and no additional customer protection.

EC: Advised that the media and the customer see Open Banking not as an API but as any access to accounts, not something which has API interaction. The customer believes they are turning off Open Banking, so the definitions are very different.

IM: Felt that Opt-out is not necessarily a planned pre-event matter, e.g. once the customer has opted-in to several services, they could then switch all of them off. IM followed that a TPP service moving forward will need to understand why it can no longer access the customer's data, however the customer will be confused as to why that particular service as stopped functioning.

GL: Suggested a working definition of "Revocation" is required. **GL** held the view that the customer would be switching something off that is on and Opt-out settings, something to off that isn't on in the first place.

IM: Advised this already exists and explained the process.

IM: Disagreed with this and stated that the message needs to clearer on all sides.

FR: Expressed concern that there is a propensity for customers to be manipulated and sign up for items they don't really want/need. Stating consent is not just linked to data and Terms and Conditions (T&Cs). FR advised it is difficult to separate them out and many customers do not read T&Cs. FR believes there is an opportunity in the market to gather data to evidence the way Opt out works.

IG: Questioned if FR believed the Opt-out responsibility sat with the Banks or the TPP.

FR: Responded that it should be the customer's responsibility to turn off, it is their decision to not share their data. It needs to be a clear, permission led Opt-out.

BR: Advised there is nothing in the Order, or in the report on this particular aspect that would give anyone the powers to mandate an Opt-out. If there were, it would frustrate the objective of the initiative. The Group needs to look at this in greater detail, how it would work and what the consequences would be.

ACTION -IESG_2018_301_19 -KJ to provide a scope for assessing Opt-out

FR: Viewed that this is time bound and that data sharing is likely to become the normality. However there is still a need to meet FCA regulatory requirements.

GL: Advised that one bank is due to go live in the near future, contesting that this is still an evaluation item as agreed by the Steering Group to be dealt with in the Roadmap. **IG** stated that the Steering Group could not agree on a meaning of Opt-out. **GL** rejected that, citing that it was an evaluation subject matter, and was to be dealt with at a later date. **GL** asked what Open Banking's response is to the bank that is not adhering to the roadmap.

DG: Requested that the discussion should be correctly framed and felt that the business side of the market was being ignored. **DG** supported BR and FR comments. Suggested that it could be the responsibility of one of the governing bodies to challenge any bank that deviates, stating that the roadmap needs completing within the next 18 months, as well as evaluations, discoveries, definitions and standard setting within the next six weeks. **DG** suggested a working group to see if there is buy-in, make sure it includes all use cases and not just presumptive, single, personal accounts.

JW: Advised that the position was similar Europe six months ago and the outcome was that both entities have a relationship with the customer and they choose to offer services to them based on consent. Banks offered an Opt-out and TPPs believed it was anti-competitive, leading to possible manipulative behaviour that could result in friction being added to the journey. **JW** referred to it as a problem for OBIE, stating prevention needs to be understood and this along with it being an implementation issue, it needs to be defined and the impact on the market analysed. **JW** questioned if it sits within the standards of OBIE or is it a market placing and how an institution deals with its customers.

AL: Observed that it is important to evaluate quickly to obtain impact information on TPPs and customers. Additionally there are features of OBIE that will need to be monitored and a more immediate concern is how this is presented to the customer. **AL** advised that the FCA would have strong cause for concern if the customers were advised that they need to keep their data safe, when you switch this on. Where does the management of customer consent sit? Is it in the banks on-line environment or the TPPs, or somewhere else? It will need additional reviewing.

IG asked **AL** if he saw any relevant precedence. Are there any other examples of Opt-outs that have been used successfully?

FR: Advised that there are some industries that are providing Opt-out, gambling for example and quoted Squirrel and Money Locker as working examples. It is the customer that places the restriction on themselves. If OBIE is serious about giving customers control then Consent versus Control needs to be evaluated.

AL: Advised that consideration of the customer needs is important and what do they do if they Opt-out and decide at a later date they need a service. **AL** questioned how many "digital hoops" would the customer have to go through, and will this provide a barrier for TPP marketing.

AMC: Disagreed with the gambling analogy, stating that OBIE is not about protecting the customer from their on-line activities. The question is about whether a customer thinks that sharing their data is safe, they need to believe security is reliable therefore they will accept the T&Cs. **AMC** stated that it was not clear how the banks would deliver the Opt-out. Having a blanket Opt-out coming from the ASPSP side, the TPPs might not know that it's there and would therefore be unable able to provide a service.

AB: Advised it is not just about customers making decisions. GDPR has raised the bar in terms of control of customer data

SS: Stated that there are respectable arguments on all sides and believes it would be preferable to see what happens during Managed Roll Out. If it is observed that the banks have the Opt-outs, it raises an obvious question as to why it is being done and is it a problem.

IG: Suggested that the banks provide MI to OBIE to capture customer data from Opt-out, believing it will prove useful for any modifications and analysis to the API standards and to review what is good/bad practice for the Opt-out process.

PM: Noted that one point that had not emerged for evaluation related to Payment Initiation. Definition of the Opt-out in relation to what services.

IM: Stated the concern that has been aired by the TPPs, is that once Opt-out has been implemented it will be very difficult to advance with whatever the service is. On Monday (15 January) the MI will be available and what could come to light is, do customers understand what Opt-out means for the future.

AMC: Questioned what is the value of the MI obtained during the Manged Roll Out and is wary of how useful it will be as these are staff accounts that are being tested.

GL: Stated that the TPPs will abide by anything that comes out of the evaluation, in the consensus of this Group and as a representative of the TPPs, he utterly rejected the right of any independent entity to go on their own and deliver this, if the TPPs are going to continue to work together as an eco-system. **GL** observed that the TPP community worked hard to meet the ASPSP community half way and viewed this action as competitive positioning and doesn't offer any additional customer protection. **GL** requested the Group advise the TPPs on the proposals to deal with this and would like to see the banks that are intending to release, to switch off until the evaluations have taken place. If it is decided in the evaluation that this is a good thing, then the TPPs will abide by it.

FR: Questioned whether the customers worries are justified or not. Stating that people should have the opportunity to make decisions for themselves and this Opt-out facility. **FR** suggested that the banks do their own analysis and doesn't believe the APIs need to change, stating if numerous people sign up it should be a strong indicator that there is a problem with trust.

FR: Expressed neither concern that customer behaviour is not taken into consideration nor will they know what they are signing up to.

IG: Advised there is a precedent to set behaviour guidelines on what is and isn't acceptable.

ACTIONS

IESG_2018_301_10 - To scope Opt-out evaluation exercise, when to start, what to cover, conclusion. Present to IESG as soon as possible and encourage those with vested interest to provide input.

FR: Requested that guidelines and terms and conditions should be displayed by TPPs. It is not clear how customers will be able to understand how consent should be presented.

IG: Stated that it is clear on how TPP present consent, but agreed a discussion on how the TPPs display their guidelines and terms and conditions needs to take place.

BW: Advised that if a TPP contacted the CMA regarding a bank's conduct they would be obliged to review the issue. **GL** asked what the process would be. **BW** responded that a letter would be the first step.

DG: Suggested it would be useful to update the API responses so that there can be a positive response back to a TPP.

GL: Asked what should be done prior to evaluation? **GL** contested that because it's an evaluation item, no one should be able to take it to market until the evaluation is complete.

IG: Advised there is an approved mechanism for addressing this matter. **GL** questioned timescale. **IG** advised **GL** to write to the CMA. **GL:** confirmed a letter would be sent after the meeting.

IG: Confirmed that the IESG agreed and an evaluation was required and there was a need to consult on what the scope of that evaluation would look like. Were there are any specific parties who had concerns, if so; they

should raise them with the CMA, who are sensitive to anything that frustrates the intention of the Order. It will be looked at in a short time frame as this has been raised late in the day

3 Programme Update

EC: Provided an update on the Programme, going through the papers in more detail with the IESG members. **EC** advised the attestation gave no cause for concern, and the report would be with IG later in the day. **EC** also updated the IESG that the process is being audited by KPMG and IG will get also receive that report shortly. There was nothing flagged by KPMG as cause for concern.

IG: Advised the CMA9 if that want to read the KPMG, two page letter it can be reviewed under a Hold Honest letter and requested a direct approach sooner rather than later. **IG** stated that this report provides comfort that the attestation process undertaken by the OBIE is being taken seriously and there is a good process around it. **IG** assured the Group that KPMG are not validating the attestation it was more of an “eyes on the process approach”.

EC: Provided an update on the enrolment numbers and went into further detail of the programme update as well as covering the CMA9 status update, with a view to the Go Live at the weekend (13 January).

CMA9: Reported they were ready for Go Live, with more detailed updates from **AIB:** some challenges with the checklist relating to T&Cs sign off, changes within confluence which haven't been tested. However these are all procedural and will not cause any delays. **Nationwide** reporting an early decision to focus on testing phase and advised they were the first to prove on boarding capability with TPPs. Will provide detail to BW and IG. **RBS** have 99 customers ready for Go Live and there will be more TPP testing. Validation still needs reviewing. Will not impact Go Live.

IG asked **RH** about T&Cs advising that he believed they had been signed off. **RH** responded that they have been agreed. **RH** confirmed they have been through the regulator and legal working group and the final version has been distributed.

GL: Asked if there was going to be a discussion on the TPP preparedness at any stage.

IG: Advised it would be covered in Managed Roll Out.

DB: Provided an update on the risk register and reviewed the papers with the IESG and reiterated how the focus had changed. It was reviewed with the CMA9 and this adjusted some of the scores.

4 Updated on Managed Roll-Out

EC: Advised the Managed roll-out documentation is finalised and approved by PMG 10/01/18

Group agreed with PMG approval

EC: Reported that three TPPs have had “minded to authorise” notices from the FCA

AL said that further approvals would be clear once the FCA Register begins to update early in the afternoon of 13/01/18

GL: Queried the degree of support TPPs have had from the FCA through the registration process, particularly focusing on a lack of transparency on how to obtain a “MtA” notice

AL: Responded that the process requires a degree of confidentiality but that further “MtA” notices would be issued prior to 13/01/18

GL: Asked if any screen scraping companies who started after January 2018 and are therefore not covered by regulation automatically might be refused registration and, therefore, forced to cease trading

AL: Could not comment on the registration process in that level of detail

ACTION - IESG_2018_301_12 - At IG's suggestion, RL and GL agreed to co-ordinate around communications in that eventuality

EC: reported that he expected to be setting registered TPPs up with specific banks to begin testing.

GL: Reported feedback from some TPPs that there is significant variation across the banks in terms of the structure of data received and conformance to the Security Profile.

JH: Refuted the idea that the 9 have not built to a standard and said that TPPs he has worked with often have not built to the specifications themselves

JH: Said that the managed roll-out would inevitable involve iterative development for all parties

GL: Reported that only NBS and LBG were fully available to TPPs in MIT

CM: Acknowledged challenges with the Profile but said that everyone – ASSPs and TPPs – needs to comply

ACTION IESG_2018_301_13 - R2 deliverables to be signed off at IESG.

4

Release 2 Activity Updates

IG: Provided an overview on the deliverables and evaluations. Deliverables are crucial to allow sign off to occur as per the time line for the implementation period and meet the target date for Release 2 (which is in August).

CD: Provided a high level overview of the papers, noting that 1.1 was published in August 2017 and goes live on Saturday (13 January). Since September 2017 OBIE have been looking at what happens next and what the market wants through Use Cases and SCA exemptions. It was on the 22 November 2017 that the Roadmap was published. **CD** advised that focus has shifted slightly on to the six items that are for a specific delivery in February 2018, with implementation in August 2018. There are two areas of focus: What is the CMA order and What is PSD2 and how they refer to the roadmap items.

IG: Expressed concern over timelines and asked CD to provide support in the approval process.

IG reviewed the delivery Items:

P1 Open date progressing well.

P2 Two way notification, looking at a simple approach.

P6 In terms of confirmation of funds, this has been looked at in a lot of detail and supports CBPIIs, There is a question over the utility of that

P12 and P20 comfortable with the approach.

P5 requires further discussion.

CD: Confirmed that all of the above will need to be signed off on the 19 February. If no agreement on scope it will be difficult to get the designs signed off.

IG: Asked if what the next step was after sign off? **CD** advised that once signed off received an early release candidate of Release 2 can be published for wider consultation and feedback. In February it will need to go through multiple iterations and reviews.

JH: Asked if it had been through PMG? **CD**: Confirmed P5 and P20 had been through the sharing process and feedback captured.

JH: Stated that he felt P5 language is conflicted and needs standardising as it could lead to different interpretations compared to what was in the original proposal.

IG: Asked **CD** to explain why the team, the TPPS and the CMA9 have been comfortable to date working up the scope that is contained within the document.

RH: Disagreed along with numerous others that they were not comfortable.

CD: Technically the CMA9 and the TDA are in support, in terms of design that will enable the SCA exemptions. There is a difference of opinion in some of the CMA9, which comes down to whether future dated or recurring payments are being discussed and where the mandate sits (i.e. with the TPP), which is also OBIE's interpretation of PSD2 - TPPs to have access to the account via an API rather than an API that can set up the future or recurring payment.

JH: Asked about the Direct Debits. **CD** replied that these are considered out of scope.

CD: Advised there are a couple of SCA exemptions which includes sweeping, also used e-commerce as an example where a payment might be made at some stage in the future. **DG** advised that SS raised this a few months previously, which is the opportunity in the space for orchestration of single immediate payments under a broader consent rather than trying to replicate all types of payment. The feedback at the time was that these are payments and they need replicating. TPP will not set up a future dated payment mandate.

CD Agreed, OBIE doesn't believe there are strong Use Cases of that are in the spirit of PSD2.

DG: observed that was what was agreed on the Roadmap.

IG: Disagreed that the Roadmap agreed to set up standing orders. **DG**: stated it was about replicating the payments that the banks offer today, as per what a customer sets up in their on line portal.

CD: Advised that the feedback OBIE has received is that technically this is a good solution to enable SCA exemptions. The TPP has a got a mandate and depending on what the conditions are and what the data field in that mandate is, can result in a longer token to initiate payments, those payments then don't subsequently require SCA.

IG: Advised this will need addressing in the next release.

GL: Offered an alternative approach. The technical solution proposed enables the TPP to have a greater deal of flexibility and control on how they initiate payments in various circumstances. There are two methods of doing this, both have technical strengths, but how much does it cost to implement and will the TPP have more control of the customer data.

CD: Advised that this hasn't been presented as agreed.

DG: Believes there is a genuine misunderstanding on the roadmap relating to payment types and flexibility around single, immediate, faster payments for TPPs.

IG: Asked is the understanding that functionality for Release 2 is setting up and amending standing orders, stressing that it was late in the day for a new build.

CD: Advised that some initial design work has been done, however there is a very clear requirement from the markets and some of the Use Cases in the Roadmap, those methods will meet the Use Cases and other SCA Use Cases and every payment initiation is a single, immediate payment with a token that can be used for SCA exemptions. **CD** also stated that it met the core requirements that are on P5 and is also is future proof for other SCA exemptions. Additionally, PSD2 doesn't say that a TPP must be able to create and manage standing orders.

RM: Stated that the view from the market is that the OBIE has met their requirements and mirrors the understanding of what comes under PSD2. **RM** had not heard the arguments that inferred this wasn't going to deliver what was agreed on the Roadmap. **RM** is supporting the design as it stands at the moment.

AL: Suggested this needs more discussion and asked how the SCA exemptions are seen to be applied.

GL: Asked the CMA9 if they have concerns about this and is it primarily on cost or more power to the TPP. What is the main objection or have has it been misunderstood on the Roadmap.

AB: Stated that cost is one concern, however there are also issues around SCA exemptions, which could leave the banks open to the risk of fraud, resulting in compensation pay-outs.

CD: Advised that one of the challenges mentioned by the CMA9 was that it would be extremely challenging to set up a function to change standing orders.

IG: Suggested that many of the CMA9 are in a similar space and given timing requested they come together to write to him, explaining what the issues are with P5 and what the alternative proposition is, why it makes sense and what is therefore the deliverable for Release 2. **CD** would also do the same therefore enabling IG to compare.

DG: Requested IG look at the text on the road map to ensure they match and link up.

KJ: Requested feedback from the Group that allows better reflection on what is taken to PMG and TDA representatives. Along with the need to create governance that allows strategic discussions before anything is tabled.

RH: Stated he believed there was a discrepancy in what is being delivered as not everyone is in agreement.

IG: Asked **AB** if agreement to a single consolidated is reached, rather than multiple point feedback, would it be viable and what timeframe is acceptable. **AB:** Suggested a weeks' time – 17 January 2018.

ACTION IESG_2018_301_20 - AB to write to IG regarding bank's perspective of P5.

CD: Expressed concern that if there is not steering level agreement by the 19 January, OBIE will be unable to deliver the spec by end of February, due to the amount of work involved and need for proper thought, review and design.

DG: Asked if the "Or" path is taken, the SCA view is that this would be compliant. The "Or" being not replicating the establishment and edibility of future payments as standing orders and orchestrate those away from the bank. Would that be compliant?

IG: Confirmed there is guidance written by HMT on the requirement to edit a standing order.

CD: When the specs were launched in April/June 2017 for single, immediate payments the number one request from the TPPs in the payment space was to have the ability to have long live consent, albeit under SCA exemption. This was shared with the entire community before Christmas 2017.

IG: Confirmed that a set of wording relating to functionality has been agreed regarding payment types. The team, he understood in consultation, have come up with a solution which indicates there is an alternative way, with pros and cons, whether it be quicker to build or cheaper to build. **IG** requested the Group put their thoughts down on paper and requested that **CD** do the same. **IG** was also concerned about protecting the implementation period, stressing that if there is a chance that the February deadline is going to be missed then discussions need to take place sooner rather than later.

DG: Asked for a regulatory view of what PSD2 compliance looks like. OBIE needs to be compliant with PSD2 in this delivery and there will be a view from the CMA9 that is woven with their own take on compliance. **DG** asked if the OBIE can obtain regulator input on this.

IR: Asked if the IESG would want the OBIE to talk to Hogan Lovell and get a view on these issues, stressing the need to manage the timescales tightly.

IR Closed the meeting at 12:18.