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Re: Joint further consultation on enhancements to the OTC derivatives reporting regime for Hong Kong

Dear SFC and HKMA,

The International Swaps and Derivatives Association (ISDA) appreciates the opportunity to provide comments to SFC and HKMA on the joint further consultation on enhancements to the OTC derivatives reporting regime for Hong Kong to mandate – (1) the use of Unique Transaction Identifier (UTI), (2) the use of Unique Product Identifier (UPI) and (3) the reporting of Critical Data Elements (CDE).

Question 1 - Mandate the use of UTI from 29 September 2025

2. Our members agree with the proposal to mandate the use of UTI in submitting transactions to HKTR from 29 September 2025. Members appreciate that SFC and HKMA were receptive to the industry’s request to stagger Hong Kong’s implementation of the reporting rewrite rules after Singapore and Australia’s implementation in October 2024. This will give the industry more time to make sufficient preparation for the new reporting requirements and reduce implementation risk.

Question 2 – Proposed Steps for UTI Generation

3. The proposed UTI generating party waterfall logic is broadly consistent with those of other jurisdictions, and we welcome the guidance to disregard the “traded in” nexus transactions from the “sooner of” test. However, our members

have some concerns on the operational challenges, as experienced with other jurisdictions' proposed waterfall, and would like to highlight the need for flexibility to allow bilateral agreements.

4. Most of our members share similar challenges that industry participants are facing around UTI generating party waterfall logic in other jurisdictions, for example:

- (i) a counterparty to the trade might not be able to successfully identify all the jurisdictional scope of the other party it is facing. The proposed waterfall entails an implicit need to systematically identify, assign and track the regulatory reporting regimes of every counterparty, including tracking any potential future regulatory changes in reporting timeline, which could prove to be resource intensive operationally;
- (ii) if the two counterparties report to different jurisdictions, where both have the same reporting deadline (e.g. are both T+1 reporting regimes), the counterparties then need to compare and determine which is the 'sooner' T+1 regime. There is no clear global guidance from regulators on what is meant by 'sooner' to report and how to determine this; and
- (iii) the counterparty identified as having the sooner reporting deadline may prefer (and have agreed to) the other counterparty being the UTI generating party. e.g. buy-side firms generally prefer not to be the UTI generating party.

5. In addition, we would like to highlight that the proposed UTI generating party waterfall in Para 25 does not provide flexibility for bilateral agreement in the event where a specified person faces difficulties in determining the UTI generating entity in accordance with the waterfall. Members note and appreciate that this is provided for in MAS' Guidelines to the Securities and Futures (Reporting of Derivatives Contracts) Regulation ("Guidelines"), where Para 3.6 of the Guidelines states that in the event where a reporting person faces difficulties in determining the UTI generating entity in accordance with the prescribed UTI generation table, a reporting person and its counterparty may choose to instead agree between themselves on who is to be the UTI generating entity¹. Members opine that having such flexibility for bilateral agreements in face of difficulties in determining the reporting counterparty could provide operational clarity and efficiencies in UTI generation.

6. Therefore, we would like to respectfully suggest that for trades not covered by step (a) and (b), and (c) where trades were not centrally confirmed by electronic means, an avenue for bilateral agreement in the event of difficulties in determining the UTI generating entity be included.

¹ https://www.mas.gov.sg/-/media/mas/news-and-publications/consultation-papers/2021-reporting-regs-amendments/annex-d---guidelines-to-the-sfrdcr_updated-27-nov-2023.pdf

7. With these challenges, our members are supportive towards a recent proposal on UTI ISDA Logic that ISDA has come up with with input from our members across jurisdictions. It aims to address some of the implementation challenges highlighted above with a more simplified and achievable approach that industry can choose to adopt. Hence, we would like to ask HKMA to consider ISDA's proposal as an acceptable approach. ISDA had released a paper on 'UTI - Summary of Proposal for determining generating party' in March 2024 (see Annex A), based on the discussions held globally across regions. This is still a live document, once EMIR Refit has gone live for a few weeks, ISDA intends further assess with members whether the proposed waterfall logic within is appropriate or needs further refinement.

8. The paper, as it stands, specifies the assumption that any bilateral agreement will hold precedence over the whole waterfall logic (notwithstanding placing this at step 5). In terms of bearing on this consultation paper [Paragraph 25, (c) (i), this would mean that for cross-jurisdictional transactions where Hong Kong is the sooner deadline, firms should have the flexibility to prioritize bilateral agreement over confirmation platform as the UTI generating party.

9. In other words, if an OTC transaction is not centrally cleared, not executed on a venue, and does not have any of the reporting counterparties (RCP) as a Swap Dealer (SD) / Securities Based Swap Dealer (SBSD), firms can accord precedence to bilateral agreement over other steps to determine the UTI generating party.

10. Considering the same, we believe that it would be helpful if SFC and HKMA can provide guidance to this effect, in terms of allowing firms to prioritize bilateral agreement as explained above.

11. Lastly, on the point that "the trade repository shall be responsible for generating the UTI", we would like to ask if more details would be provided by HKTR, e.g. in the supporting documentations (i.e., AIDG, SRI, FAQ or other).

Question 3 – (a) Provide/Obtain UTI in a timely manner; (b) report an interim-UTI; and (c) subsequently report UTI within two business days after obtaining it.

12. Members are generally agreeable with (a), (b) and (c) as they are aligned with other jurisdictions' requirements.

13. Specifically, we would like SFC and HKMA to consider clarifying/specifying the below:

- a) First, we would appreciate if SFC and HKMA could provide guidance on how reporting entities should update an interim UTI with the actual UTI when received subsequently. Our members would like to ask if SFC and HKMA could coordinate with other regulators to align on a single preferred

approach by regulators and provide the necessary guidance to the industry. In this relation, while ASIC and MAS have not provided guidance, JFSA has indicated in its Q&A document that reporting entities could clear/exit the temporary/interim UTI with Action Type: 'EROR' and report the actual UTI with Action Type: 'NEWT', Event Type: 'TRAD'.

- b) Second, when an interim UTI is updated with actual UTI, we would like to ask if SFC and HKMA could specify that the interim UTI could be reported under 'Prior UTI', should the actual UTI be agreed or provided by UTI GP in more than two Hong Kong business days. Current 'Prior UTI' field definition mentioned in Appendix B only refers to business scenarios such as novation or clearing².
- c) From trades matching perspective, if UTI is a matching field, in the case where an interim UTI is reported, we would like to check with the authorities/HKTR if this would be considered a matching break, and if so, we appreciate it if the authorities/HKTR could provide clarifications on how such matching breaks would be treated and the timeframe to remediate.
- d) Due to booking model differences between reporting entities, package transactions may be booked differently among firms – some firms may book a transaction as multiple trades while some may book it as one single trade. This would result in a different number of tickets and hence UTIs. It would be challenging to align reporting of same UTI by both counterparties without global alignment. As such, we would like to propose trades with “package identifier” field populated to be exempted from trade linking and matching requirements should the authorities/HKTR intend to enforce linking and matching requirements.

14. We also have a minor suggestion to replace “policies” in Para 31 of the consultation paper with “procedures”, or “policies and/or procedures”, as firms typically establish procedures for the intended purpose.

**Question 4 – (a) Fully adopt UPI Technical Guidance and ISO 4914 standard;
(b) mandate use of UPI from 29 September 2025**

15. On (a), while members are generally supportive towards the adoption of the UPI Technical Guidance and ISO 4914 standard, at this stage, the UPI service is still a fairly new set-up by the designated UPI provider, Derivatives Service Bureau (DSB). From the experience of the US CFTC rewrite rules implementation, there have been some technical challenges implementing UPI across all products. For example, the industry is facing challenges in obtaining UPI for products with equity

² Definition of Data Element - Where applicable: UTI assigned to the predecessor transaction that has given rise to the reported transaction due to a lifecycle event, in a one-to-one relation between transactions (e.g., in the case of a novation, when a transaction is terminated, and a new transaction is generated) or in a one- to-many relation between transactions (e.g., in clearing or if a transaction is split into several different transactions).

underliers that do not have ISIN. If such issues were to persist, SFC and HKMA would need to consider providing guidance on the reporting approach, such as using "other:other:undefined template" or allowing flexibility in the reporting of non-UPI product identifiers.

16. On this note, as SFC and HKMA are proposing to maintain certain product-related data fields in the reporting requirements and will only consider removing those product-related data fields at a later stage, we would like to ask SFC and HKMA/HKTR to consider allowing the flexibility of reporting non-UPI product identifiers when obtaining an appropriate UPI is not feasible.

17. We would like to ask SFC and HKMA to consider stipulating a timeline (e.g. 6 months post relevant data becoming available within UPI reference data) to review whether the legacy / non-UPI data fields would still be required. We note that SFC and HKMA are proposing to maintain certain product-related legacy data fields in the reporting requirements even though UPI is mandated, citing the UPI service being a new set-up. However, the UPI service by DSB would have been live for almost 24 months with firms already reporting relevant UPIs for major jurisdictions such as CFTC, EMIR, UK EMIR, MAS, ASIC and JFSA regimes by Sep 2025. Additionally, some of the global regulators such as CFTC and ASIC have already considered removing product related data fields during UPI go-live. Examples of such fields include indicator of the underlying index, option type etc.

18. Creating/retrieving UPI from DSB requires firms to populate product attributes to fetch the appropriate UPI at DSB. We envisage challenges in being able to provide the correct product attributes related to warrants for fetching an UPI at DSB. Members would like SFC and HKMA to provide guidance on the warrants related product attributes to be used by firms to fetch UPI at DSB as reporting of warrants is specific to SFC and HKMA's requirements only. The industry would not have any prior precedence in using the correct product attributes required to create/retrieve UPI at DSB.

19. Product classification of corporate bond forwards and corporate bond options in different regulations – Based on various regulatory and industry discussions, firms understand that there is a lack of consensus among industry participants in respect of product taxonomy classification and these products can fall under both interest rate (IR) and credit (CR). Based on previous regulatory discussions, some members currently report these trades with asset class "CR" and utilizes "Hybrid-Other Asset Class" field to indicate "IR". However, in Appendix B, "Hybrid-Other Asset Class" field will no longer be available following UPI adoption.

20. Sourcing UPI information from DSB is dependent on the product attributes provided by firms where it can be either IR or CR for products, subject to individual firm's interpretation in providing product attributes related to IR or CR. As such,

we request SFC and HKMA to consider these scenarios and provide the flexibility to report such products in either of the categories i.e. CR or IR.

21. On (b), members are agreeable with the timeline, and appreciate that SFC and HKMA agreed to stagger the implementation of the rewrite rules in Hong Kong to allow reporting entities more sufficient time to meet the new OTC derivatives reporting rules in Hong Kong, reducing implementation risk.

Question 5: Proposed data elements and their definitions, formats and allowable values

22. We note that SFC and HKMA are proposing 209 data elements, which is considerably more than the data elements required by other APAC regulators – 56% more than MAS’ requirement of 135 data fields³, 50% more than JFSA’s requirement of 139 fields, and 40% more than ASIC’s requirement of 150 data fields. ISDA and our members strongly support and advocate for alignment and harmonisation in the reporting rules of OTC derivatives across jurisdictions. In line with the spirit of alignment and harmonisation, which is the key rationale behind the rewrite of the reporting rules so that global derivatives data are aggregable, we would like SFC and HKMA to consider aligning with the other APAC major regulators and global jurisdictions as much as possible to minimise additional resources and effort to report these fields for Hong Kong jurisdiction only. If these data are only collected for Hong Kong, it will increase the compliance effort of operating in Hong Kong.

23. We have the following specific comments on these proposed data fields:

- LEI requirement on Counterparty 2 – We note that LEI is proposed as the entity identifier to identify all entities involved in OTC derivatives transactions. We would like to highlight that in other jurisdictions (ASIC, JFSA and MAS), if LEI is not available, other identifiers such as pre-LEI or tentative LEI, AVOX ID, SWIFT BIC and client code are allowed as entity identifiers, and reporting entities are to report LEI as soon as reasonably practical after the LEI is available to the reporting entity. We propose for HKMA to align with other jurisdictions⁴ and allow other identifiers to identify counterparties of the OTCD transactions.

³ MAS added an additional field in its final regulations – row 130 “Other payment date” in its final rules published on 13 May 2024.

⁴ Similar guidance from MAS for reference:

Where “Counterparty 2” is a specified person, to use LEI or pre-LEI if LEI is not available. Where “Counterparty 2” is not a specified person, to use LEI or pre-LEI if LEI is not available or, if “Counterparty 2” does not have any LEI or pre-LEI, to use SWIFT BIC code, AVOX ID, any identifier issued by a licensed trade repository or licensed foreign trade repository, or client code. In the case of individuals, to use a client code.

In the event that SFC and HKMA were to proceed with mandating only LEI as the entity identifier, we would like to seek guidance on how to report LEI in the following scenarios:

- Currently, for counterparties that are located in the list of designated jurisdictions for masking relief, we report them as masked with LEI as blank (because LEI is not currently required). After implementation of these new reporting requirements, are reporting entities able to continue to report LEI as blank for these counterparties? If this is not allowed, we would like to seek SFC and HKMA's further advice as reporting the LEI will contradict the masking relief.
- In a nexus trade, a reporting entity only provides the pricing and is not a counterparty of the trade, and in most instances, both counterparty 1 and counterparty 2 does not have reporting obligation in Hong Kong and "counterparty 2" may not necessarily have a LEI (as it is not required in the counterparty's jurisdiction). For example, a Hong Kong "traded in" nexus trade between Bank A Taiwan branch and a Taiwanese client, because Bank A in Hong Kong provided the pricing for the trade, where both Bank A Taiwan branch and the Taiwanese client have no reporting obligations in Hong Kong and the Taiwanese client does not have an LEI as it is not required in Taiwan. We would like to seek clarification from the authorities on how to report such nexus scenario if both counterparties have no reporting obligation to HKMA and counterparty 2 does not have a LEI.
- Similarly, for trades which are booked in Hong Kong and where counterparty 2's LEI is not available, we would like to seek clarification from SFC and HKMA if reporting entities can report with a client code in the interim and report the LEI as soon as reasonably practical after the LEI is available to the reporting entities.
- We would also like to seek clarification from SFC and HKMA whether the LEI requirement is intended to extend to counterparties of the branches of the parent entity in Hong Kong, e.g. Bank A branches outside Hong Kong in Asia Pacific. If the answer is yes, we would like to seek advice on how to report counterparty 2 identifier noting that in some Asia-Pacific jurisdictions, LEI is not a mandated requirement, and it will be extra-territorial to impose SFC and HKMA's requirements on them.
- In addition, we would like to seek SFC and HKMA's guidance and alignment on the maintenance of LEI for counterparty 2. If the counterparty 2's LEI expires / lapses, members would appreciate if SFC and HKMA could clarify the expectation on reporting entities to track such expired LEIs, follow up with clients / counterparties for updated

LEIs and maintain them within their static data repository. The current market practice is to ensure that the counterparty has an LEI at onboarding. There is currently no way to ensure that LEI renewal status is tracked and updated at all times in the reporting entities' systems and checked prior to each transaction. The onus should be on each entity to ensure its own LEI is renewed before trading. The industry has raised this issue with other regulators such as ESMA and ASIC too, and ESMA and ASIC have since amended this requirement such that the renewal of the LEI will be validated only for the reporting counterparty and the entity responsible for reporting, while for entities other than the counterparty 1 and the entity responsible for reporting a lapsed LEI should be allowed. We also note that under §45.6 of the revised CFTC Regulations, Swap Dealers are only required to maintain and renew their own LEI. In addition, the proposed amendments to the *Trade Repositories and Derivatives Data Reporting Rule* published by the Canadian Securities Administrators on 9 June 2022 also specifies that a reporting counterparty is not required to verify that its counterparties to each transaction that it reports have maintained and renewed their LEIs. Reporting counterparties are only required to maintain and renew their own LEI. We hence ask SFC and HKMA to consider aligning with other regulators and not mandate renewed LEIs for counterparty 2 entities.

- There are 3 fields introduced for collateral portfolio code (Collateral portfolio code, Initial margin collateral portfolio code, Variation margin collateral portfolio code). Majority of regulators (CFTC, MAS and ASIC) have taken the approach to report initial margin and variation margin portfolio codes while EMIR only has one portfolio code field. We would like to request SFC and HKMA to align with other APAC regulators' approach i.e. to report initial margin and variation margin portfolio codes and remove the field - collateral portfolio code.
- Excess collateral posted by the counterparty 1; Currency of excess collateral posted; Excess collateral collected by the counterparty 1; Currency of excess collateral collected – We understand that only ESMA currently require these fields, and the industry working group could not come up with any scenarios that would meet the conditions specified for these fields. In the industry's engagements with ESMA, ESMA was also not able to provide any additional clarifications on when excess collateral is expected. Additionally, we understand that ROC may be looking to revise these fields in future versions of CDE. As such, we request SFC and HKMA to remove these fields; otherwise, we would appreciate it if SFC and HKMA could provide detailed guidance on the specific scenarios on how these fields should be reported.
- Swap Link ID – We understand that MAS is the other jurisdiction that has required this field, while other regulators have deferred to package ID. We

would like SFC and HKMA to consider removing this field to align globally if not, to align reporting requirements with MAS on this data field. MAS has provided specific guidance in their FAQ – Question 4.13⁵.

- Country of counterparty 2 – This data element is not adopted by MAS and is only adopted by ASIC when an LEI is not reported for counterparty 2. Not all reporting entities have reporting obligations to ASIC. As such, if SFC and HKMA were to require this field, many reporting entities in HK will have to build operational capabilities specifically for SFC and HKMA’s requirements, which will increase the cost of compliance for reporting entities. We would like SFC and HKMA to consider excluding this data element to enable harmonization as much as possible. If HKMA would still like to mandate this data element, we would like HKMA to provide additional guidance on this field, particularly when counterparty 2 is a branch of an entity - whether to report the country of the branch where available, or the country of the branch’s headquarter.
- Indicator of the floating rate - Leg 1 and 2; Name of the floating rate - Leg 1 and 2; Indicator of the underlying index – We would like HKMA to clarify whether the acceptable value is only limited to the list provided as we notice that some indices are not covered in the list, such as ‘AONIA’, ‘TONA’, etc. Otherwise, we would like HKMA to consider ‘OTHER’ as an acceptable value for this data element.
- Event Type - Members note that ‘INCP’ (Inclusion in position), which denotes incorporating an OTC derivatives transaction into a position when an existing derivative is terminated and a new position is created or the notional of an existing position is adjusted, is not included in the allowable value. Other major regulators like ESMA, ASIC, and MAS include ‘INCP’ in their field specifications to support position-level reporting. Table 1 summarizes the differences in the field requirements in relation to position level reporting across the major jurisdictions. While EMIR has a more comprehensive reporting framework with additional fields such as ‘Action Type’ = POSC (Position component), ‘Level’ = TCTN (Trade) or PSTN (Position), and ‘Subsequent position UTI’⁶, which supplements ‘Event Type’ to accommodate position-level reporting, this approach is not currently aligned with ASIC or MAS.
- We believe that the circumstances warranting position-level reporting would also be relevant for reporting in Hong Kong. To promote

⁵ <https://www.mas.gov.sg/-/media/mas/regulations-and-financial-stability/regulations-guidance-and-licensing/securities-futures-and-fund-management/regulations-guidance-and-licensing/faqs/faqs-on-the-securities-and-futures-reporting-of-derivatives-contracts-regulations-2013-15-feb-2024-3.pdf>

⁶ EMIR guidelines (Section 4.7 - Reporting at Position Level) provide a detailed explanation of the requirements for trade- and position-level reporting.

harmonization of reporting rules and requirements across jurisdictions, we recommend that SFC and HKMA consider the following:

- a) Align with other major jurisdictions by allowing position-level reporting and add 'INCP' as an allowable field value for 'Event Type'.
- b) Advocate for harmonization across jurisdictions in the reporting framework (by adopting a similar approach to EMIR).
- c) Provide clear guidance to the industry on position-level reporting, similar to the EMIR guidelines.

Table 1: Comparison across jurisdictions

	EMIR	ASIC	MAS	HKMA
Action Type	POSC = Position component To indicate for trade that is included in a position on the same day	Currently do not have POSC = Position component as one of valid value under ASIC Re-write CDE requirement	Currently do not have POSC = Position component as one of valid value under MAS Re-write CDE requirement	Currently do not have POSC = Position component as one of valid value under HKMA Re-write CDE requirement
Event Type	INCP = Inclusion in position as one of valid value	INCP = Inclusion in position as one of valid value	INCP = Inclusion in position as one of valid value	Currently do not have INCP = Inclusion in position as one of valid value under HKMA Re-write CDE requirement
Level	Indication whether the report is done at trade or position level. TCTN = Trade PSTN = Position	Not included in ASIC Re-write CDE requirement currently	Not included in MAS Re-write CDE requirement currently	Not included in HKMA Re-write CDE requirement currently
Subsequent position UTI	The UTI of the position in which a derivative is included. This field is applicable only for the	Not included in ASIC Re-write CDE requirement currently	Not included in MAS Re-write CDE requirement currently	Not included in HKMA Re-write CDE requirement currently

	reports related to the termination of a derivative due to its inclusion in a position.			
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- Our members would also like to highlight that the below fields included in Appendix B are not adopted or not commonly by other APAC regulators. We would hence like to propose for SFC and HKMA to not require these fields to align reporting requirements with other major APAC jurisdictions. Otherwise, for fields unique to Hong Kong and where there are differences with the other regulators that require these fields as a minority in the region, there will be additional technical build and effort to test the reporting of these data fields for reporting to Hong Kong regulators.
 - Basket constituent number of units
 - Basket constituent unit of measure
 - Crypto asset underlying indicator⁷
 - Fixed rate notation - Leg 1
 - Fixed rate notation - Leg 2
 - Lower or only barrier⁸
 - Nature of the counterparty 1
 - Nature of the counterparty 2
 - Settlement location
 - Submitting Party⁹
 - Upper barrier¹⁰
 - Underlying asset price source
 - Underlying asset trading platform identifier

Specifically, on Nature of the counterparty 1 and 2 fields, these data elements are not adopted by other APAC regulators (ASIC and MAS), therefore building operational capabilities specifically for HKMA requirements will increase cost of compliance for reporting entities. These fields seem to be aligned with EMIR where EMIR has defined classification of counterparties like financial counterparty, non-financial counterparty. We propose for SFC and HKMA to not require these data fields as other APAC regulators do not require as well. Otherwise, we would like to ask SFC and HKMA to adopt the same counterparty classifications and definitions as EMIR so that there will be no special tech build and reporting logic for SFC and HKMA’s requirements. If SFC and HKMA were to decide to proceed and not follow EMIR’s classifications and definitions, the industry would need detailed guidance from SFC and HKMA on the

⁷ Only JFSA adopts it under “Derivative based on crypto-assets” field.

⁸ Only ASIC requires this.

⁹ Only ASIC requires this under “Report submitting entity”. This is also not a CDE field.

¹⁰ Only ASIC requires under “Upper barrier price” and “Upper barrier price notation”.

classifications and definitions of ‘financial counterparty’, ‘non-financial counterparty’ and ‘other’.

On the latter two fields, underlying asset trading platform identifier and underlying asset price source, we would like to add that they were newly added as part of CDE technical guidance – version 3 consultation document. In the joint industry response via ISDA, we have requested for both data elements to be removed from CDE (detailed reasons elaborated in the response¹¹). As there are no other jurisdictions requiring these 2 fields, we would like to propose that SFC and HKMA drop these two fields.

- We would also like to highlight the below data elements that are not CDE and are specific only to SFC and HKMA’s proposed requirements. We would like to ask SFC and HKMA to not require these fields until there is global alignment or at least regional alignment and consensus amongst APAC regulators to require these fields.
 - Base product
 - Forward exchange rate
 - Further sub-product
 - Intragroup
 - Non-standardized term indicator
 - Series Version
 - Sub-product

Otherwise, if SFC and HKMA were to decide to require these fields, we appreciate it if SFC and HKMA could provide detailed reporting guidance. For example, for ‘Non-standardized term indicator’, to illustrate the scenarios under which the Boolean indicator should be ‘yes’, as reporting entities have no knowledge and experience of reporting these fields in other jurisdictions. Also, for ‘Forward exchange rate’, there is already data element #83 (‘Exchange Rate’) for exchange rate information, and FX Swap is to be reported as 2 transactions for near and far leg (and linked by data element #194), hence it not apparent to us the usage of this data element.

- Business message identifier; Message definition identifier; Business service; Creation date; Number records; and Technical record identification – These fields are required as part of XML file submission, which may already be covered as part of ISO standard. We would like to request SFC and HKMA to delineate such fields required for technical file processing versus regulatory reporting data fields, i.e., remove from the list of data fields on Appendix B. These fields are not included in other APAC regulators’ list of regulatory reporting fields.

¹¹ <https://www.isda.org/2022/10/31/isda-response-to-roc-consultation-on-cde-version-3/>

- Amongst the above, our members have feedback on data field #206 – ‘business service’. We would like to seek advice on the scenario that this data element will need to be populated. As per Appendix B, the allowable values are ‘trade’ or ‘valuation’ but as our members understand, trade and valuations are reported on different templates, and hence we do not foresee a ‘trade’ business service reported on a valuations template and vice-versa. Further, we do not see ‘collateral’ as an allowable value – we appreciate if this would mean that this field is not required on collateral reporting.

24. Please also refer to feedback provided in Appendix B for each data element.

25. Additionally, for fields which are currently required for reporting but will not be required post-rewrite after 29 Sep 2025, we would like to seek relief from SFC and HKMA from reporting in the interim period until the go-live date. We have sought similar exemption with ASIC and ASIC subsequently granted the [exemption](#) (13B Exemption 11 (2024 Transitional Information Reporting)).

Question 6: Other data elements that the HKMA and the SFC should include in Appendix B

26. There are no comments from members.

Question 7: Proposals regarding the above data elements for Hong Kong’s reporting requirements

27. Please refer to the feedback provided in Appendix B for the respective data elements. We would like to highlight that existing HKTR validation rules might differ to those adopted by various reporting agents that reporting entities might be currently leveraging for reporting transactions to HKTR. As such, we would value SFC and HKMA’s stance on, to the extent possible, requiring local reporting agents to align their validation rules to those published by HKTR, so e.g. transaction reporting rejection rules end up being the same. This would alleviate capacity constraints on the implementation efforts and reconciliation controls’ build.

Question 8: Difficulties in implementing the list of proposed data elements specified in Appendix B on the implementation date

28. On the proposed go-live date, our members would like to ask SFC and HKMA to provide reporting parties with a minimum 12-month implementation period from the publication of the consultation paper conclusion, updated TR (AIDG) and ISO technical specifications for sufficient preparation to reduce implementation risk.

Question 9: (a) Proposed approach of requiring re-reporting of live legacy transactions with maturity of more than one year as at the implementation date, and providing a six-month transition period for these reportable legacy

transactions to be re-reported; and (b) any particular data fields that a reporting entity may find challenging in re-reporting a legacy transaction.

29. Members envisage challenges and cost burden maintaining two parallel production systems to cater to the reporting of legacy trades with maturity within one year as at the implementation date in the legacy template and new trades in the ISO XML format. Additional technology work/ operation overhead will be incurred to maintain two separate report flow/controls in parallel for a year i.e. legacy flow & rewrite flow.

30. We would propose that SFC and HKMA adopt a single re-reporting approach to (i) require all new transactions to be reported in the new format from the go-live date; and (ii) reporting entities to re-report live transactions with maturity of more than one year as at the implementation date in the new format. Any lifecycle events on legacy trades should be reported in the new format aligning to the rewrite rules. This will lessen the burden of maintaining two production systems and this is also aligned with the approach taken by other APAC regulators.

31. In the event of re-reporting a live legacy transactions with maturity of more than one year remaining as the requirement, we would like the authorities/HKTR to propose a specific Event type/Action type to be used for re-reporting of these legacy transactions so that these set of trades will not be wrongly detected as late reporting/submission.

32. In addition, as a 6-month grace period would be given to the industry to re-report open positions, members would appreciate it if there could be written guidance from SFC and HKMA that linking/matching breaks would not be closely scrutinised within the 6-month period as counterparties may re-report at different timing/pace.

33. On (b), there would be challenges reporting new data elements for legacy trades, such as: Settlement location, Basket constituent unit of measure, Basket constituent number of units, Underlying asset trading platform identifier, Underlying asset price source, Series Version which are HK-specific fields in the rewrite rules. We propose for the authorities/HKTR to mark such fields as optional for re-reporting of legacy transactions, and to be supplied on a best-effort basis.

Question 10: Adoption of the ISO 20022 XML message standard

34. Members have no objection to the “big bang” approach. However, members would like HKTR to adopt the same XML schema versions adopted by DTCC for ASIC/MAS in order to maximize synergies and efficiencies.

Other comments

35. Currently, Bond Connect FX trades, including FX spot, are reportable to HKMA through HKTR under the existing fields ‘Remarks 1’ and ‘Remarks 2’¹². According to the consultation paper, these ‘Remarks’ fields will no longer exist going forward. We would like to clarify if HKMA would still require Bond Connect FX trades to be reported post implementation of the rewrite rules, and if yes, which fields and allowable values should reporting entities report under.

36. Our members’ preference would be for SFC and HKMA to align the rules across jurisdictions and not have bespoke requirements for Bond Connect related FX transactions. In this relation, we would like SFC and HKMA to consider the below suggestions:

- (i) Align product scope across jurisdictions and classify FX spot as out of scope. If SFC and HKMA were to decide to continue requiring Bond Connect related FX spot transactions to be reported, industry would like SFC and HKMA to consider providing specific guidance for the reporting of FX Spot Contract Type and UPI as this product is out of scope across global jurisdictions.
- (ii) Align data field requirements for OTC derivatives trades across jurisdictions and exclude reporting of Remarks 1 and Remarks 2 data field (CMU sub-account). If CMU sub-account details are still required, industry would appreciate if SFC and HKMA could provide guidance on the CDE field to report CMU sub-account, and how to report CMU sub-account in accordance with ISO20022 XML – there is currently no x-path for Remarks 1 and Remarks 2.

37. Thank you for your consideration of our members’ feedback. Should SFC and HKMA wish to discuss our response, please do not hesitate to contact the undersigned.

Yours sincerely,

Ng Xiangjing
Senior Director, Public Policy, Asia Pacific
ISDA

¹² Below are the Bond Connect specific requirements in addition to OTC derivatives reporting requirements:

- Foreign Exchange Spot transactions are reportable.
- Intra entity transactions are reportable with CMU sub account number as counterparty 2 id and ‘Remarks1’ field with text ‘BONDCONNECT1’.
- Bond connect transactions are indicated in ‘Remarks 1’ field with text “BONDCONNECT”.
- CMU sub account number is reported in ‘Remarks 2’ field.

Annex A

Unique Trade Identifier (UTI): Summary of Proposal for determining generating party

Introduction:

The discussions and outcomes from the ISDA working group calls focused on the determination of the Unique Transaction Identifier ('UTI') generating counterparty – taking place on November 2, 8, and 30 – were held jointly between the ISDA Data and Reporting EMEA Working Group and the ISDA Data and Reporting U.S. Compliance Working Group are summarised below. A separate call was also held with the **ISDA AeJ Data and Reporting Compliance Working Group, the ISDA Japan Data and Reporting Compliance WG, and the ISDA Japan Data and Reporting Implementation WG on 21 November which informed some of the final proposals outlined.** These ISDA working groups are referred to as “Working Groups” or “WG”.

These working group discussions include input from both buy-side and sell side-firms, across the U.S., EMEA and APAC regions to promote a globally consistent approach towards UTI generation. This does not constitute legal, regulatory, accounting, tax or financial advice, and each market participant should satisfy itself that following or not following the UTI generating party determination logic set out herein is appropriate to their specific circumstances.

Background:

CPMI-IOSCO published Technical Guidance on Harmonisation of the Unique Transaction Identifier¹³ (the “Guidance”) which includes waterfall logic for determining the UTI generating counterparty (see Table 1). Global regulators are each adopting a version of this waterfall logic as part of their regulatory reporting re-writes. The cross-jurisdictional step (step 4 of Table 1 in the Guidance) requires a check as to whether one jurisdiction has a sooner reporting deadline and this has been identified as challenging to implement due to:

- (i) a counterparty to the trade needs to successfully identify the jurisdictional scope of the other party it is facing,
- (ii) if the two counterparties report to different jurisdictions, where both have the same reporting deadline (e.g. are both T+1 reporting regimes), the counterparties then need to compare and determine which is the ‘sooner’ T+1 regime, and
- (iii) the counterparty identified as having the sooner reporting deadline may have a preference for (and have agreed to) the other counterparty being the UTI generator.

Therefore, the Working Groups sought to identify a better means of determining the UTI generating counterparty that can be implemented more consistently across jurisdictions.

Limitations and challenges with the ‘Sooner deadline’ determination logic:

¹³ <https://www.bis.org/cpmi/publ/d158.pdf>

- An entity may not always know all the jurisdictions a transaction is in scope for. For example, if a transaction is entered into between two non-US persons but executed in the US by one entity, the transaction is in scope for North America reporting (which would have the sooner deadline) but there is no obvious manner for the other counterparty to determine this.
- In sell-side v buy-side transactions, the preference tends to be for the sell-side entity to be the UTI generator, (although there are buy-side entities that opt to be the UTI generator). The ‘sooner deadline’ step in the waterfall logic does not take into consideration whether the parties to a trade are buy-side or sell-side, meaning less sophisticated market participants may end up be the UTI generating party.
- APAC jurisdictions have a T+2 reporting deadline and therefore when APAC firms face counterparties in the US, Europe or UK (all with a T or T+1 reporting deadline), they would not be the ‘sooner deadline’ jurisdiction and so market participants in those regions are unlikely to be the UTI generating entity, regardless of the size or sophistication of their client.
- Bilateral agreements can be put in place to specify which counterparty will be the UTI generator for all transactions, but there are impracticalities surrounding the process of negotiating and implementing bilateral agreements for every counterparty relationship.

Proposed UTI generating party waterfall logic:

The WG applied some assumptions when establishing waterfall logic that would more reliably and consistently determine the UTI generating party:

- The proposal put forward is unlikely to cover every scenario, but the intention is to achieve a consistent approach across jurisdictions for the vast majority of transactions. Edge cases not covered by the proposed waterfall logic can be raised to the ROC.
- Where a sell-side entity faces a buy-side entity, the preference is often for the sell-side entity to generate the UTI. However, the WG acknowledged the requirement to factor in the flexibility for buy-side entities to be the generating party.
- The Guidance is to be followed as closely as possible, and only deviated from where considered necessary to improve the reliability and practicality of the logic to determine the UTI generating entity.
- The scope of the Working Group discussions were specifically the determination of which entity generates the UTI. The Working Group did not consider additional UTI related items, for example the communication of UTI between counterparties.
- The Working Group acknowledge the final proposal does not fully align with the UTI waterfall logic presented by CPMI IOSCO or by regulators, but are working on the principle that the intention is the same, i.e. to consistently identify the entity required to generate the UTI, resulting in a single identifier per transaction that can be applied uniformly across jurisdictions. It is the WG’s believe that the below proposal achieves this aim via a more reliable process.

Proposed solution: UTI generating waterfall logic and sell-side letter to clients:

To address some of the challenges identified above and avoid less sophisticated firms being identified as the UTI generating party, a combination of a modified version of the waterfall logic and a letter for sell-side entities to send to clients was proposed.

Waterfall logic

1. For cleared trades, the CCP generates UTI.*
2. For trades executed on a trading venue, the Trading venue generates UTI.*
3. Cross-jurisdictional check:
 - If one of the counterparties to a transaction are (i) classified as a Swap Dealer or Security Based Swap Dealer¹⁴ and (ii) are deemed to be the reporting party (RCP) under North America reporting jurisdictions (CFTC, SEC and Canada), then that counterparty is the UTI generator.
 - For the avoidance of doubt, this determination applies *regardless* of whether the Swap Dealer or Security Based Swap Dealer actually submits a report under the North America regimes and/or takes advantage of the no action relief.
 - No other jurisdictional checks are performed.
4. If the transaction is centrally confirmed on an electronic platform *and* the confirmation platform generates a UTI, the confirmation platform generates the UTI.*
5. If there is a bilateral agreement in place, the entity as identified in the agreement generates the UTI*
6. If the transaction is in scope for the same and single jurisdiction for both counterparties, *and* where the transaction is between a financial and a non-financial counterparty, the financial counterparty would be the UTI generator. (The specific definitions of a financial and non-financial counterparty are to be applied as relevant to the jurisdiction to which the transaction is in scope for).
7. Reverse ASCII sort of LEI's. The firm with the first ID in when the LEI's of the two counterparties are sorted in reverse ASCII sort order will generate the UTI.

* = Step within the CPMI IOSCO technical guidance on UTI.

Note. Although bilateral agreement is captured as step 5, it is assumed any such agreements could / would take precedence over the whole waterfall logic. Similar to the CPMI IOSCO technical guidance, this step has been placed towards the end of the waterfall logic.

Sell-side letter

¹⁴ The CFTC publish a list of registered swap dealers <https://www.cftc.gov/LawRegulation/DoddFrankAct/registerswapdealer.html>
The SEC publish a list of registered Security Based Swap Dealers <https://www.sec.gov/tm/List-of-SBS-Dealers-and-Major-SBS-Participants>

- To assist with a consistent application of the logic for determining the UTI generating entity, the Working Group suggested sell-side firms may opt to send a letter to clients advising that the determination of the UTI generating party would follow steps 1-3 of the waterfall logic proposed above, (i.e. for cleared transaction, trades executed on a trading venue, and where one counterparty is a Swap Dealer or a Security Based Swap Dealer and is deemed the RCP for North America jurisdiction(s)). If none of those conditions are met, the letter would state the sell-side firm will be the UTI generator.
- Steps 4-6 of the above waterfall are fallbacks if the letter is not agreed by the client or is not sent by the sell-side.
- The Working Group identified that this letter is not to be considered equivalent to a bilateral agreement as there is no expectation for the letter to be signed. That is to say, negative affirmation will be assumed. If a client were to disagree with the proposal, the parties have the option to negotiate a bilateral agreement.
- Sell-side firms should use their own judgement on whether to issue such a letter to clients as well as the content of the letter.

This document does not constitute legal, regulatory, accounting, tax or financial advice. It reflects feedback received by ISDA from swap market participants (including both dealer and buy-side firms) who, as members of ISDA, participated in the Working Groups, committees and member forums and it is not meant to be binding in any way. As with all guidance and market information that ISDA disseminates, parties are free to choose alternate means of addressing the specific facts of their situation. ISDA assumes no responsibility for any use of this document and undertakes no duty to update it to reflect future regulatory or market developments. Each market participant should satisfy itself that following or not following the UTI generating party determination logic set out herein is appropriate to their specific circumstances.