ISDA Safe, Efficient Markets

August 13, 2020

Electronic Mail

To: The Financial Stability Board Working Group on UTI and UPI Governance (**"FSB GUUG"**)

Co-chair	Co-chair
Mr. Francois Laurent	Mr. Dan Bucsa
European Central Bank	U.S. Commodity Futures Trading Commission

Re: Unique Transaction Identifier (UTI) – Global Implementation and Timing

Dear FSB GUUG:

The International Swaps and Derivatives Association, Inc. ("**ISDA**")[1] and its members appreciate the efforts of the Financial Stability Board (**"FSB"**), Committee on Payments and Market Infrastructures (**"CPMI"**), Board of the International Organization of Securities Commissions (**"IOSCO"**), and the Legal Entity Identifier Regulatory Oversight Committee ("**LEI ROC"**) to develop globally harmonized standards and the associated governance structure and body ("**International Governance Body"** or **"IGB"**) for OTC derivatives transaction reporting.

ISDA would, however, like to highlight several important challenges and potential adverse ramifications for industry participants that would likely result from inconsistent adoption of the CPMI-IOSCO Technical Guidance for UTI, UPI and CDE ("CPMI-IOSCO Technical Guidance"). Since jurisdictional reporting rules (including CFTC, EMIR, SEC, and SFTR) are currently being drafted, reviewed, or amended to incorporate the CPMI-IOSCO Technical Guidance, ISDA and its members believe that greater coordination at the global level is necessary, and requests that the interim International Governance Body take action regarding the below:

[1] Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 925 member institutions from 75 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on Twitter, LinkedIn, Facebook and YouTube.

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I. *Global coordination to facilitate consistency in the adoption of CPMI-IOSCO Harmonisation Group recommendations by individual reporting jurisdictions to the fullest extent possible*

Reporting counterparties, trade repositories, market infrastructures, and other parties across jurisdictions would achieve significant efficiencies, and regulatory bodies would be better able to assess cross-border systems risk if each jurisdictional regulator were to consistently adopt the relevant global recommendations resulting from the CPMI-IOSCO Harmonisation Group.

New or revised jurisdictional regulations that differ even slightly from the global recommendations[2] will force institutions to consider and build logic for each jurisdictional variant, which will become extremely challenging, costly, and may even negatively affect the data supplied to regulators. Consistent adoption of the relevant global recommendations will enable market participants to complete their reporting flow builds once and use it to comply with the requirements of multiple jurisdictions.

Moreover, assigning one, consistent transaction identifier which is unique to each transaction is a crucial objective that requires global consideration and coordination. Absent such global coordination, the fragmented approach existing today may not be resolved, undermining the FSB GUUG's and CPMI-IOSCO Harmonisation Group's progress.

Applying a globally consistent flow of the logic to determine who will generate the UTI ("**global UTI waterfall**") is a key factor in achieving one, consistent identifier for each trade. As such, this will provide regulators the ability to analyze market activity more accurately. While industry participants understand that there may be unique circumstances that diverge from the global CPMI-IOSCO UTI waterfall, we nevertheless believe it is vital for each jurisdiction to align to a global UTI waterfall to the maximum extent possible to ensure the efficiency and effectiveness of trade reporting.

Accordingly we urge the interim IGB to intensify monitoring and coordination of jurisdictional alignment to the global CPMI-IOSCO recommendations, especially at this critical time when jurisdictional authorities are actively drafting new rules or amendments to existing rules to incorporate the global UTI, UPI and CDE recommendations.

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[2] For CFTC, 85 Fed. Reg. 21578 (Apr. 17, 2020) (hereinafter Part 45 Proposal) at 21593 "Because the UTI Technical Guidance (TG) was produced with the need to accommodate the different trading patterns and reporting rules in jurisdictions around the world, certain factors…" "included in the UTI TG generation flowchart are not applicable for the CFTC and therefore the Commission is unable to adopt the UTI Technical Guidance without modification."

For EMIR, at this time we believe modification and exceptions are limited to cases where a CPMI-IOSCO Technical Guidance UTI generation waterfall step does not apply to EMIR.

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II. *Global Implementation Timelines*

As described in the first section above, if jurisdictional regulators do not consistently adopt the global recommendations, the industry will be forced to build multiple sets of logic to accommodate any variations in rules. These implementation challenges may be further exacerbated by the lack of consistency in timing.

For example, several reporting jurisdictions have yet to specify timeframes for adoption of the global UTI Technical Guidance, and there is currently no global coordination of implementation timeframes. As a result, timing disparities between jurisdictions could be wide. Reporting parties, market infrastructures, trade repositories, and other impacted parties will have to go back, each time there is a new jurisdictional UTI compliance date, to adjust their reporting infrastructures to layer in any differing generation logic. Variations in global UTI implementation timeframes across jurisdictions would create a substantial implementation burden for market participants around the globe. Consequently, regulatory authorities may not be able to clearly and uniquely identify the same transaction across jurisdictions, therefore falling short of a key goal of the global harmonization efforts - to improve transparency in the derivatives markets.

Accordingly, we urge the interim IGB to monitor compliance dates of reporting jurisdictions, particularly those which have yet to specify UTI compliance timeframes, and work with the relevant individual regulators to harmonize UTI implementation dates across jurisdictions. Harmonizing timelines will ease industry infrastructure, resource, and cost burdens, reduce data fragmentation[3] and enhance the quality of UTI data, thereby improving the ability of regulatory authorities to effectively aggregate trade data and meet the objectives of the G-20[4].

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ISDA appreciates the FSB GUUG's consideration of the above matters, and would welcome a further dialogue on the points raised, or a more detailed discussion about related technical issues. Please contact the undersigned or Eleanor Hsu at ehsu@isda.org if we can provide additional information or for further discussion.

Sincerely,

[signature on file]

Tara Kruse
Global Head, Infrastructure, Data and Non-Cleared Margin
International Swaps and Derivatives Association

[3] The joint ISDA/GFXD response to the *FSB Consultation for the Governance Arrangements for the UTI* similarly conveyed the belief that compliance dates which are harmonized or coordinated across relevant jurisdictions is a critical factor to reducing fragmentation of adoption of the CPMI-IOSCO Harmonisation Group's UTI Technical Guidance, https://www.isda.org/a/qZiDE/fsb-uti-governance-response-5-may-2017-public.pdf.

[4] G20 Leaders Statement: The Pittsburgh Summit (September 24-25, 2009), http://www.g20.utoronto.ca/2009/2009communique0925.html