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30 August 2017

Re: Implementation of an APAC Unique Transaction Identifier (UTI)

Dear Sirs, Mesdames

The International Swaps and Derivatives Association (ISDA) and the Global Foreign Exchange Division (GFXD) of the Global Financial Markets Association (GFMA) (“**the Associations**”) welcome the opportunity to provide feedback to the Australian Securities and Investments Commission (ASIC), the Hong Kong Monetary Authority (HKMA), the Monetary Authority of Singapore (MAS) and the Securities and Futures Commission (SFC), collectively (“**the Agencies**”) on the adoption of the Committee on Payments and Market Infrastructures (CPMI) and International Organisation of Securities Commission (IOSCO) Technical Guidance on Harmonisation of the Unique Transaction Identifier (“**the Guidance**”).

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 875 member institutions from 68 countries. These members comprise of 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 ISDA web site: www.isda.org.

The GFXD was formed in co-operation with the Association for Financial Markets in Europe (AFME), the Securities Industry and Financial Markets Association (SIFMA) and the Asia Securities Industry and Financial Markets Association (ASIFMA). Its members comprise 25 global foreign exchange (FX) market participants¹, collectively representing over 80% of the FX inter-dealer market². Both the GFXD and its members are committed to ensuring a robust, open and fair marketplace and welcome the opportunity for continued dialogue with global regulators.

Introduction

The Associations strongly support global data harmonisation, individually and collectively working in tandem with their members and other buy- and sell-side market participants and market infrastructure providers to promote the importance of global standards to improve data quality and increase the efficiency and value of reporting and other global regulatory requirements. We continue to be supportive of the work undertaken by CPMI-IOSCO to harmonise individual data elements, beginning with the UTI. Moving towards a global standard for this integral data element will allow trade reporting data to be more easily aggregated and analysed, whilst also streamlining requirements for participants in a cross-border market.

Therefore, while we support the decision by the Agencies to implement their respective UTI ‘share and pair’ requirements in accordance with the Guidance, we are concerned that any unilateral action taken by the Agencies to implement in advance of a global-roll out will have significant disruptive impact on data quality and reporting by market participants.

This letter highlights industry concerns and is structured as follows:

- Section A: Pre-implementation Agency deliverables;

¹ Bank of America Merrill Lynch, Bank of New York Mellon, Bank of Tokyo Mitsubishi, Barclays, BNP Paribas, Citi, Credit Agricole, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan, Lloyds, Mizuho, Morgan Stanley, Nomura, RBC, RBS, Scotiabank, Société Générale, Standard Chartered Bank, State Street, UBS, Wells Fargo and Westpac.

² According to Euromoney league tables.

- Section B: Internal changes for market participants; and
- Section C Alternative proposed timeframe for implementation.

We believe it is of vital importance to take into account the size and global nature of the derivatives markets in making this change. According to the Bank for International Settlements (BIS) Semi-annual OTC Derivatives Statistics³, the combined foreign exchange, interest rate and equity derivative markets had \$483 trillion notional outstanding in the second half of 2016. The foreign exchange market alone has a notional turnover of \$5.1 trillion per day, of which 65% takes place cross-border⁴. The participants in these markets are extremely diverse in terms of location, size and sophistication and will all be affected by a move towards a standardised system of trade identification.

Therefore, it is of great importance that these reforms are considered in their global context. The Associations encourage the Agencies to work with the Financial Stability Board (FSB), CPMI, IOSCO and other jurisdictional authorities to devise a globally coordinated roadmap for the implementation of a harmonised UTI and address the technical challenges set out below. Noting that we do not recommend a partial, regional roll-out (transitional in relation to the final, global adoption), if the Agencies are minded to proceed, significant care must be taken to ensure that this does not result in regulatory conflict and/or additional implementation costs.

SECTION A: PRE-IMPLEMENTATION AGENCY DELIVERABLES

Governance Arrangements

At the end of April 2017, the FSB held a roundtable on governance arrangements for the UTI, following the CPMI-IOSCO consultation period, at which GFXD was present. The Associations then responded jointly to the FSB's consultation paper⁵ which has previously been shared with the Agencies and an extract from which is included as an appendix. In our response, we agreed with the FSB proposal that the data standard for UTI should be overseen by an international body, such as the International Organisation for Standardisation (ISO). We also proposed that there should be a centralised governing body of representatives from the FSB, CPMI, IOSCO, industry, trade associations and regulatory authorities to oversee operational and implementation issues and that the FSB representative on this body should also be responsible for coordination between authorities and ensuring consistent application of the Guidance.

While the data standard itself should be relatively simple to oversee, requiring few updates over the coming years, the rationale for this model was that there needs to be careful consideration, at a global level, as to how and when to implement the Guidance. Clear timelines will be needed by both regulators and market participants to allow them to set aside financial and technical resources against the backdrop of an ongoing G20 regulatory programme, including specific regulatory deadlines in individual jurisdictions, as discussed further below.

³ <http://www.bis.org/statistics/derstats.htm>

⁴ <http://www.bis.org/publ/rpx16.htm?m=6%7C35>

⁵ <http://www.gfma.org/correspondence/item.aspx?id=907>

There are also very detailed questions outstanding around how the Guidance should be implemented, which were outlined in more detail in the consultation response (see appendix). It is crucial these decisions are taken at a global rather than a regional level, to mitigate the very real risk of fragmenting what is intended to be a single and harmonised standard. The components for which the Guidance states that further work is required have not been included in the scoping of the effort for the industry to implement a UTI. Therefore, any material changes or additions to the finalized content of the Guidance have not been considered in this letter.

The global governing body should also take into account, and seek to mitigate, current inconsistencies in the global reporting landscape such as differences in reportable transactions and reporting timeframes, which could have an impact on the success of a global UTI, for example trade reporting is required within 30 minutes under CFTC rules⁶ but on a T+2 basis in Singapore⁷. We set out our recommendations around the timeframe for population of UTIs to transactions in further detail later in this submission.

All of these issues mean that implementation of the Guidance requires centralised global coordination or project management. It is crucial, especially given the cross-border nature of the derivative markets, that suitable global governance arrangements as described above are put into place before any jurisdiction(s) begins to consider implementation.

Final Rules

Once the governance arrangements have been agreed and put in place, each implementing jurisdiction will need to issue final rules regarding the use of the UTI. For some jurisdictions, this may involve a consultation period with the industry in accordance with their regulatory framework. Consequently, mapping individual jurisdictional processes to a centralised implementation timeframe will be a key challenge for the global governing body.

Additionally, it is imperative that individual jurisdictions do not deviate from the Guidance or the decisions of the governing body. As noted above, permitting jurisdictions to make specific interpretations in individual rules would be contrary to the idea of a single global standard. To prevent this from happening would require coordination by the global governing body.

Market Education and Preparation

Both regulators and market participants will need a period of time to ensure that the whole market understands and is preparing for the new requirements. In addition to the internal processes set out in Section B, there will need to be outreach to smaller counterparties who may not have encountered such requirements before, as well as to the broad range of market infrastructure providers. The former will include many counterparties who may not be using automated means to trade and are not used to the process of generating, communicating and consuming transaction identifiers. The latter encompasses trading venues, clearing houses, middleware and many other vendors who may or may not be currently providing UTI services to market participants. This is discussed further below.

⁶ 17 CFR Part 45.3

⁷ Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013, Third Schedule

The implementation timeframe, which is expanded on below, should include a suitable period for all segments of the market to update their technical specifications and test the new functionality with market participants. This will prevent market disruption around the final implementation date by allowing the identification and resolution of problems in a test environment.

Legal Entity Identifier (LEI) Registration

The Guidance states that a UTI should be generated using the generating party's LEI as the 'mint' or 'prefix', however it must be noted that in the absence of a regulatory obligation, many counterparties may not be incentivised to obtain an LEI. This clearly has implications for whether or how a valid UTI can be generated successfully for all counterparty trading relationships.

To date, only a handful of jurisdictions globally have moved from recommending use of the LEI, to requiring it. In Europe, there is a requirement under MiFIR⁸ which comes into force in January 2018 that all in-scope counterparties have a LEI. Similarly, on 1 June 2017, the Reserve Bank of India issued directions⁹ which introduce the LEI in phases for participants in the OTC derivative markets for Rupee interest rate derivatives, foreign currency derivatives and credit derivatives in India. In Singapore, Part I of the First Schedule of the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013¹⁰ also requires transaction reports to identify specified persons (as defined in the Securities and Futures Act) with a LEI, or a pre-LEI if a LEI is not available. However, we understand that the remaining jurisdictions in the Asia-Pacific region continue to recommend use of the LEI in reporting, without requiring it.

The Associations have been proactively trying to increase industry awareness of LEI requirements and encourage entities to obtain a LEI, including through the publication of a joint LEI outreach flyer¹¹ for market participants on 28 June 2017 (with subsequent versions in Japanese, traditional and simplified Chinese and Korean). The flyer notes that global standard-setting initiatives have called for use of the LEI, including CPMI-IOSCO. However, of the approximately 540,000 LEIs issued to date¹², LEIs issued to entities in the Asia-Pacific region constitute less than 4%. While a proportion of entities trading in this region will have their headquarters based elsewhere, it is also equally true that this percentage is so low because many smaller buy-side, corporate, fund and end-user entities in this region have not obtained a LEI. This highlights the extent to which LEIs have not been widely adopted outside jurisdictions where their use is mandated.

In summary, the effect of the Guidance is to inextricably link the LEI to the UTI. A valid UTI will not be able to be generated without a LEI. However, as stated above, a significant proportion of entities in this region have not obtained a LEI to date. Additionally, some of the Associations' respective members have reported difficulties with convincing some clients to obtain a LEI, in the absence of a regulatory obligation. Further, we

⁸ Markets in Financial Instruments Regulation 648/2012 (MiFIR) Article 26 requires parties to report their transactions to their local Competent Authority. Article 26(6) requires reporting parties to identify clients in these reports using LEIs, regardless of where the client is based or regulated. Therefore, reporting parties must ensure that their client has a LEI prior to trading, in order that they can report the trade.

⁹ [RBI/2016-17/314](http://rbi.org.in/external/press/201617/314).

¹⁰ See <http://statutes.agc.gov.sg/aol/search/display/view.w3p?page=0;query=DocId%3A58b0ae28-9f3c-4655-af92-371699fdf7c4%20Depth%3A0%20Status%3Ainforce;rec=0;whole=yes>.

¹¹ See <http://assets.isda.org/media/ca4eac54-23/49f53a82-pdf/>.

¹² See <https://www.gleif.org/en/lei-data/global-lei-index/lei-statistics>.

note that certain smaller counterparties tend to strongly prefer generating UTIs, rather than consuming them, as this is generally a simpler technical build.

Combined, these circumstances represent a significant policy and technical challenge for participants in this region in implementing a UTI in full compliance with the Guidance. Therefore, we recommend that the project plan for global implementation of the Guidance be coordinated with at least an education programme on the importance and usage of LEIs.

Regulatory Impetus for Certain Centralised Market Infrastructures

Another significant technical challenge to successful implementation of the UTI in full compliance with the Guidance relates to centralised market infrastructures. The Associations' members have advised that while in the future the Guidance will require centralised infrastructures (such as trading platforms, central counterparties (CCPs) and confirmation platforms) to generate the UTI where the transaction uses that infrastructure, currently, some infrastructures (such as trading platforms for certain asset classes) do not provide this UTI generation service. This is again due to the fact that there is currently no regulatory obligation for them to do so, and despite the Agencies' intention to introduce a UTI, in the absence of a regulatory change or obligation, this may continue to be the case and would require a revision of the processes, builds, arrangements and timelines discussed in this letter.

This has the effect of undermining the apparent intention of the Guidance to place the UTI generation responsibility on a centralised market infrastructure wherever possible, and may create significant technical and operational challenges for stakeholders in this region. Participants executing through these platforms would need to have at least two sets of separate arrangements, depending on whether the particular market infrastructure provides the UTI or not. Bearing in mind that an alpha, pre-clearing transaction on a trading platform is separately reportable to the beta and gamma cleared transactions (where the counterparties do not instead face each other but rather the CCP), this would lead to complicated technical builds and processes to ensure that a UTI is generated for the alpha trade by one of the counterparties (including consistent determination of which counterparty would have this responsibility), if the trading platform chooses not to provide it.

We would encourage the Agencies to give further thought to how these difficulties might be alleviated. In particular, while the Guidance (when implemented) will require market infrastructures to generate the UTI where those infrastructures are used, at this point there is no such obligation for them to do so.

Transitional Period

Our response to the FSB consultation noted that there are multiple existing standards for generating trade identifiers across jurisdictions. Even if a single implementation date for the CPMI-IOSCO standard were to be agreed across all jurisdictions rendering existing standards obsolete on a single day, there will be a significant population of open trades with pre-existing identifiers to consider. Updated reports for these trades triggered by lifecycle events would need to be managed using pre-existing identifiers, despite the adoption of a new standard. Therefore, we reiterate our concerns which need to be taken as an important consideration, and note that this would also need to be reflected in the validation standards set by the trade repositories to prevent unnecessary mismatches.

We highlight the fact that the need for a transitional period in which transaction identifiers created in accordance with existing regional rules, e.g. the Unique Swap Identifier construct in the US, could be used in conjunction with the Guidance, has already been discussed with the Agencies.

SECTION B: INTERNAL CHANGES FOR MARKET PARTICIPANTS

IT/Process Changes

For those firms already subject to UTI requirements in other jurisdictions, the initial overhead of creating transaction identifiers and applying them to reportable transactions in this region may be able to build off existing processes to an extent. However, the breadth of participants in the derivatives market means that the implementation of the Guidance in Australia, Hong Kong and Singapore will present a much more significant technical challenge for many other firms. First, they will need to obtain a LEI, then build the capacity to both consume UTIs provided by their counterparties, and generate and communicate their own. We again note that currently, certain buy-side entities tend to prefer to generate and communicate the UTI rather than to consume it, as ingestion and consumption of a UTI is a more complicated process than generation.

In addition, all firms will need to change their logic in regard to the UTI generation hierarchy. Notably, the Guidance moves the determination of the UTI generating party from a transaction level¹³ to a counterparty level. This is a substantial change to existing market practice, and would require a considerable amount of time to complete the necessary changes to system logic, testing and exception management. The majority of firms have built infrastructure and processes to generate UTIs based on existing best practice promulgated by ISDA.

The move to the new Guidance will be challenging, and will involve rework for jurisdictions which have already gone live with a UTI regime such as the US and Europe. We would also note that the only other reporting regime with a share-and-pair requirement for UTIs currently is Europe, as other reporting regimes in jurisdictions such as the US, Switzerland and Canada are single-sided. We also note the significant challenges experienced with EMIR reporting since its commencement (including with respect to sharing and pairing of UTIs), and that certain proposals under the European Commission's EMIR Amendment Initiative¹⁴ would actually alleviate the burden of sharing and pairing UTIs between counterparties in certain situations.

The recommended generation party logic in the Guidance cannot be implemented easily due to the fact that it assumes that counterparties will know information about each others' trading patterns and obligations which is not publicly available nor easy to determine, among other concerns. This is further complicated by the need for a transitional period, as outlined above, in which a hybrid generating logic may be required to satisfy all parties' obligations. It is difficult for firms to estimate exactly how much time will be required for this change, given the many outstanding technical questions (see Appendix) that will drive the complexity of the build. One would expect that at a minimum, significant client outreach and technological builds will be needed to design

¹³ The industry standard is the ISDA paper 'Unique Trade Identifier (UTI): Generation, Communication and Matching', available at <http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/identifiers/uti-usi/>

¹⁴ COM (2017)208 final – Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories.

solutions to obtain, maintain and update reference data on client obligations. We would also welcome any intention from the Agencies to provide further guidance on the UTI generation party logic and responsibility, with input from the industry.

We note that for many market participants, these changes will have to be made both internally, in external-facing capacities as a user, and potentially as a provider of market infrastructure, e.g. if a firm runs its own proprietary trading platform in addition to trading on third party venues. Each of these processes will have to be separately managed within the firm.

The Associations also take this opportunity to restate the concerns raised in the response to the FSB consultation, including on certain components of the Guidance. In particular, we note previous concerns that “nexus” reporting obligations in this region present a significant added complication by making the task of identifying where a counterparty has reporting obligations extremely difficult, if not impossible. Similarly, clear regulatory guidance does not seem to be available at this point around the treatment of “package” trades – that is, whether they should be broken down and reported in their constituent components, reported at the overall package level, or a combination of approaches should be used. If a package transaction is to be decomposed, it is at least possible - and more likely probable - that the two counterparties will not decompose it in the same way, with one counterparty likely to have extra components to report. UTIs will not be able to be matched for these ‘extra’ components.

Finally, if the UTI is implemented in individual jurisdictions prior to the finalisation of the global governance arrangements, market participants and regulators may find themselves building trade reporting systems to requirements that are subsequently changed as part of a global roll-out. This would be counterproductive and costly for all involved.

The Importance of Leveraging Existing Processes

The Associations are appreciative of the assumptions able to be relied on in implementing an APAC UTI, which were previously provided by the Agencies. We consider these assumptions particularly important against the need to avoid unnecessary, complicated and ultimately potentially unusable builds for transactions which may not be able to leverage existing requirements and/or processes to generate a UTI. In this context, we note that for transactions which are executed through trading platforms, cleared through CCPs and/or confirmed through confirmation platforms (which provide UTI generation services), it is more likely that existing processes can be adapted to ensure that the UTI is reported under the APAC regimes. Similarly, transactions involving at least one counterparty already subject to a UTI requirement (to generate a USI under CFTC requirements or a UTI-TID under EMIR requirements) will likely benefit from adaptations of existing processes to include these identifiers as normal market practice for reporting under the APAC regimes.

In contrast, transactions which are not able to utilise a centralised market infrastructure and do not involve a counterparty already subject to a USI or UTI-TID requirement will not be able to leverage any existing processes or arrangements. In practice, these transactions are likely to be more bespoke, confirmed non-electronically by paper long form and more difficult to confirm within reporting deadlines (such as T+2). They may not only involve entities with an Asia-Pacific presence only, but could equally involve counterparties from jurisdictions such as Switzerland who are not subject to EMIR nor CFTC reporting obligations. Such entities are unlikely to have built systems or processes to generate or consume UTIs, and therefore application of a

UTI requirement to this particular fact pattern of trading would essentially require a suite of new systems, builds, processes, agreements and resources, potentially at a significant cost.

The Associations would submit that this is not aligned with the Agencies' intention for the industry to leverage existing processes to implement the APAC UTI, and therefore we would request that the Agencies consider exempting these types of transactions from the APAC UTI requirement. We believe this particular fact pattern of trading would only constitute a small proportion of overall trading in this region, and therefore the Agencies would still receive a shared and paired UTI for the vast majority of reportable transactions. If the Agencies are still minded to require UTI sharing, pairing and matching for these transactions, we would request that this be implemented in a later phase, with transactions which are able to leverage existing processes commencing first.

We would also note in respect of the above transactions that, due to their bespoke nature, they may not be easily confirmed within overall transaction reporting deadlines currently stipulated by the Agencies. This may be exacerbated where an entity is the UTI consumer, as its counterparty may take longer to draft the long form confirmation (with the UTI included), have it reviewed and approved and then send it to the entity. Members have also advised that functionality to unlock a UTI field in a reported transaction and update it within certain trade repositories can take time.

More generally, we would suggest that the rationale for requiring a shared and paired UTI to be reported by the overall transaction reporting deadline would not be clear, given the UTI itself does not relate to any of the primary economics or substantive terms of the transaction. For this reason, we would request that the Agencies consider relaxing the deadline for the reporting of the UTI, and continue to allow internal identifiers to be populated first, pending receipt of the UTI from the counterparty. We would consider that a UTI reporting deadline of T+5 would strike an appropriate balance between the realities of this particular circumstance of trading and the needs of the Agencies to have a UTI shared, paired and reported in a timely manner. We also suggest that consideration be given to whether trade repositories should provide a report to allow firms to identify transactions where the UTI is not matched.

We would also ask the Agencies to reconsider the application of the UTI share and pair requirement to transactions where one side is not reportable under any regime and the other side is only reportable under an APAC regime. We would submit that minimal benefit would be reaped if the requirements are applied to these transactions, and that an exemption in these circumstances would significantly reduce the compliance cost relating to repapering the agreement governing which entity should generate the UTI and the technology build to implement the requirements. Rather, the reporting entity would always generate the UTI and report its side of the transaction. More generally, we would look forward to the opportunity to further discuss the potential for a 'de-minimis' approach to be applied in these minor situations.

SECTION C: ALTERNATIVE PROPOSED TIMEFRAME FOR IMPLEMENTATION

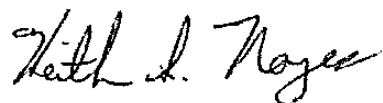
In view of the above considerations, we recommend that the global implementation of the UTI Technical Guidance is coordinated at a global level and suitably timed to allow both the industry and the Agencies to devote sufficient attention and resources to the project. As previously outlined, these changes may be a much more significant challenge for smaller counterparties.

In addition, we ask the Agencies to consider the ongoing G20 regulatory programme including the specific regulatory deadlines that exist in individual jurisdictions. The more immediate deadlines include MiFID II/MiFIR¹⁵ in Europe, and future deliverables include the expanded trade reporting in Singapore¹⁶ as well as additional reporting requirements under MAS Notices 610 and 1003 and removal of the DBU-ACU divide¹⁷, the review of the EMIR regulation in Europe¹⁸ and potential changes resulting from the CFTC's swap data review in the US¹⁹. We recommend that the exact phases and dates of the UTI implementation timeline should be set out in advance to give all market participants maximum visibility and opportunity to plan ahead.

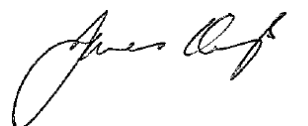
As such, members of the Associations have advised that the earliest that they would be able to implement an interim APAC UTI would be 12 to 15 months from the conclusion of discussions with the Agencies and their members. This timeframe should include distinct phases for internal build processes, including changes to technical specifications by market infrastructure providers and end-to-end User Acceptance Testing (UAT) before the final go-live date. There should also be a suitable period after go-live for regulators and market participants to identify and address any ongoing exceptions and/or challenges without fear of sanctions for breaching the requirements. We would suggest that a suitable period would be 6 months, commencing at the date of go-live. This should be alongside the development by the industry of a fully governed and agreed exception management and handling process to avoid disputes.

We appreciate the opportunity to share our views on this subject and look forward to further discussions in due course. Please do not hesitate to contact Rishi Kapoor on +852 2200 5907, email rkapoor@isda.org, or John Ball on +852 2531 6512, email jball@gfma.org, should you wish to discuss any of the above.

Yours faithfully



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James Kemp
Managing Director
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¹⁵ Markets in Financial Instruments Directive 2014/65 and Markets in Financial Instruments Regulation 648/2012

¹⁶

<http://www.mas.gov.sg/~media/MAS/News%20and%20Publications/Consultation%20Papers/Consultation%20Paper%20on%20Proposed%20Amendments%20to%20the%20SFReporting%20of%20Derivatives%20ContractsRegulations.pdf>

¹⁷ <http://www.mas.gov.sg/News-and-Publications/Consultation-Paper/2017/MAS610-CP-and-Response-Feb-2017.aspx>

¹⁸ The European Commission's Review of the European Market Infrastructure Regulation (EMIR) - Regulation (EU) 648/2012. Information available at https://ec.europa.eu/info/law/derivatives-emir-regulation-eu-no-648-2012/upcoming_en

¹⁹ Commodity Futures Trading Commission (CFTC) Review of Parts 39, 43 and 45 of the Dodd Frank Act. Information available at <http://www.cftc.gov/PressRoom/PressReleases/pr7585-17>

Appendix – Outstanding Technical Questions on CPMI-IOSCO Technical Guidance

Per UTI Technical Guidance			Requests
Step	Factor to consider	Responsibility for UTI Generation	For clarification and resolution from industry stakeholders
1	Is a CCP a counterparty to this transaction?	If so, the CCP. Otherwise, see step 2.	<p>We generally support alignment of CCP's obligation to report and responsibility to act as UPI GP13 for trades covered by Step 1.</p> <p>(1) Step 1 involves a centralized counterparty clearing house (CCP). The industry understands Step 1 to therefore apply only to the "Beta" and "Gamma" trades and not to "Alpha" trades.</p> <p>Clarification requested: Is this understanding accurate?</p> <p>(2) The industry requests that CCPs that have reporting obligations in a jurisdiction through exemptive order or no-action relief should also be obligated to generate a UTI under Step 1.</p> <p>(3) For either the Agency or Principal Clearing Model²⁰, we support CCPs as UTI GP for the Beta and Gamma trades, since CCPs generally also have the reporting obligation for the Beta and Gamma.</p> <p>Clarification requested: The industry seeks the below clarifications for Step 1:</p> <p>(i) For Beta and Gamma trades cleared under the "Agency" Clearing model, the CCP would issue UTIs. A single UTI would be issued for the trade involving a CM acting as Agent in a customer cleared trade (i.e. Client/CCP leg).</p> <p>For Beta and Gamma trades cleared under the "Principal" Clearing model, the CCP would generate a UTI for the trade between the CCP and CM. However, the CM would be UTI generator for the trade between the CM and Client. We request that this clarification be added to Step 1.</p> <p>Additionally, Step 1 applies to house cleared trades (CM/CCP i.e. a CM clearing a trade for itself) under the Principal Clearing Model).</p>
2	Is a counterparty to this transaction a clearing member of a CCP, and if so is that clearing member	If so, the clearing member. Otherwise, see step 3.	The industry understands Step 2 to apply only to customer cleared trades under the Principal Clearing Model. For the CM/Client leg, the CM will be UTI GP.

²⁰ UTI GP: UTI Generating Party

Alpha: the trade executed between two market participants and which is submitted to a CCP for clearing.

Beta and Gamma: the two trades resulting from clearing and to which the CCP is a party facing one market participant (from the Alpha) on one trade (Beta) and facing the other market participant (from the Alpha) on the other trade (Gamma).

Agency Clearing Model: Clearing model where the Clearing Member acts as agent on behalf of client (Client faces the CCP) .

Principal Clearing Model: Client faces the Clearing Member ("CM"), and the CM faces the CCP.

	acting in its clearing member capacity for this transaction?		<p>Step 2 does not apply to the CCP/CM leg of the Principal model, as this is addressed in Step 1.</p> <p>Step 2 does not apply to trades cleared via the Agency model.</p> <p>In the case where there are 2 CMs as counterparties to the trade, acting in their own capacity, a tie-breaker logic shall apply.</p> <p>Clarification requested: Is this understanding accurate?</p>
3	Was the transaction executed on a trading platform?	If so, the trading platform. Otherwise, see step 4.	<p>We generally support UTI generation by trading platforms, however the industry requests the clarifications below: Clarification requested:</p> <ol style="list-style-type: none"> (1) Since the definition of “platform/trading platform” varies, proposed UTI IMB to provide a definition of what constitutes a platform, including whether it includes SEFs, MTFs. (2) If a platform (as defined for previous point) is regulated or recognized only in a particular jurisdiction, proposed UTI IMB to provide guidance that the platform generates a UTI to be used for reporting in all jurisdictions where a transaction needs to be reported. (3) Add language that platforms should be required to generate and communicate the UTI immediately upon execution, in case a party to the trade requires it for reporting. If not, this could create issues for a party that has an obligation to report platform-executed trades upon execution, or within a relatively short timeframe.
4	Is the transaction cross-jurisdictional (i.e. are the counterparties to the transaction subject to more than one jurisdiction's reporting rules)?	If so, see step 10. Otherwise, see step 5.	<p>Issues: A party will not be aware of which jurisdiction's reporting rules apply to their counterparty in the transaction. The complexity of various jurisdictional reporting requirements, including those where the use of a trader and/or salesperson makes a trade reportable in that jurisdiction (“nexus reporting”), mean that on a trade-by-trade basis it is almost impossible to reliably answer this question with “yes” or “no”.</p>
5	Do both counterparties have reporting obligations?	If so, see step 6. Otherwise, see step 7.	<p>Clarification requested: We understand this to mean “Do both counterparties have reporting obligations in a jurisdiction that requires a UTI?” Is this understanding correct?</p> <p>Issues: A party to the trade is not able to fully and accurately know its counterparty's reporting obligations. This would be complex to build and impractical to keep updated accurately, because they can change from trade to trade (due to nexus reporting and/or ANE14 obligations, from product to product (due to lack of consistency in reporting of products across jurisdictions), regulations can change, and new jurisdictions and rules can come into</p>

			<p>force. Should any of the above factors change in the future, this would require changes to builds related to the UTI GP logic.</p> <p>Current step 5 in the UTI generation logic would cause the need for the industry to build a substantial reference data repository simply to comply with one step of the UTI generation logic. The cost burden to the industry should be a consideration in all aspects of the development and maintenance of UTI Technical Guidance, workflows and implementation.</p>
6	Has the transaction been electronically confirmed or will it be and, if so, is the confirmation platform able, willing and permitted to generate a UTI within the required time frame under the applicable rules?	If so, the confirmation platform. Otherwise, see step 7.	<p>Issues: There is a risk that a UTI issued by a confirmation, affirmation and matching platforms may occur after the deadline for reporting of trade data may have passed. If so, this may not be a viable option.</p> <p>Proposal: We propose this step be moved to an earlier step in the generation logic decision process, specifically to the step directly after “Was the transaction executed on a trading platform?” (i.e. Step 3).</p>
7	Does the jurisdiction employ a counterparty-status-based approach (e.g. rule definition or registration status) for determining which entity should have responsibility for generating the UTI?	If so, see step 8. Otherwise, see step 11.	<p>Proposal: Generally speaking, we propose the party with the reporting obligation should have the UTI issuance obligation.</p> <p>- In single-sided reporting jurisdictions, a registered entity (e.g., dealer) is first in line for a reporting obligation and should, thus, also issue the UTI²¹. - In dual sided reporting jurisdictions, UTI generation should follow a similar hierarchy with registered entities (i.e., dealers) first line to issue UTIs.</p>
8	Do the counterparties have the same regulatory status for UTI generation purposes under the relevant jurisdiction?	If so, see step 11. Otherwise, see step 9.	<p>Proposal: If the entities have the same status, a standard tie-breaker logic could be applied, unless the parties have an agreement governing which entity would be UTI generating party.</p>
9	Do the applicable rules determine which entity should have responsibility for generating the UTI?	If so, the assigned entity. Otherwise, see step 12.	<p>Proposal: We propose the party with the reporting obligation should have the UTI issuance obligation.</p> <p>- In single-sided reporting jurisdictions, a registered entity (e.g., dealer) is first in line for a reporting obligation and should, thus, also issue the UTI. - In dual sided reporting jurisdictions, UTI generation should follow a similar hierarchy with registered entities (i.e., dealers) first in line to issue UTIs.</p>
10	Does one of the jurisdictions have a sooner deadline for reporting than the other(s)?	If so, then the UTI generation rules of the jurisdiction with the sooner	<p>Issues: Reporting counterparties (“RCPs”) are not able to fully and accurately know their counterparties' reporting obligations. This would be complex to build and impractical to keep accurately updated, considering changing rules or new rule sets, nexus obligations and</p>

²¹ ISDA, “Improving Derivatives Transparency: The Merits of an Entity-based Reporting Framework,” [http://www2.isda.org/attachment/ODI5OA==/Entity%20based%20reporting%20FINAL%20\(002\).pdf](http://www2.isda.org/attachment/ODI5OA==/Entity%20based%20reporting%20FINAL%20(002).pdf), (April 2016)

		reporting deadline should be followed. Otherwise, see step 11.	ANE ²² obligations (SEC). Should a reporting deadline change in the future, this would require changes to builds related to UTI GP logic. The cost burden to the industry should be considered. Proposal: Request global requirement that UTI generation and communication, as needed, should occur at the time of execution for electronic trades. If not, issues could be created for a party that has an obligation to report in the soonest timeframe.
11	Do the counterparties have an agreement governing which entity should have responsibility for generating the UTI for this transaction?	If so, the agreed entity. Otherwise, see step 12.	Proposal: Where there is no central generating party, any prior understanding between counterparties of who will be UTI generating party should be respected.
12	Has the transaction been electronically confirmed or will it be and, if so, is the confirmation platform able, willing and permitted to generate a UTI within the required time frame under the applicable rules?	If so, the confirmation platform. Otherwise, see step 13.	Proposal: If Step 6 is moved up to Step 4, this step will be unnecessary.
13	Is there a single TR to which reports relating to the transaction have to be made, and is that TR able, willing and permitted to generate UTIs under the applicable rules?	If so, the TR. Otherwise, one of the counterparties, based on sorting the identifiers of the counterparties with the characters of the identifier reversed and picking the counterparty that comes first in this sort sequence.	Issues: Market participants may have more than 1 TR. Additionally, TRs would not know they have responsibility to generate unless told by RCP, however, this step can act as a fallback for smaller market participants i.e. who do not have UTI generation capability.

²² A transaction in connection with a non U.S. person’s security-based swap dealing activity that is arranged, negotiated, or executed by personnel of such non-U.S. person located in a U.S. branch or office, or by personnel of an agent of such non-U.S. person located in a U.S. branch or office. 81 FR 53582 <https://www.gpo.gov/fdsys/pkg/FR-2016-08-12/pdf/2016-17032.pdf>.