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Re: Joint Consultation Paper on enhancements to the OTC derivatives regime for Hong Kong to - (1) mandate the use of Unique Transaction Identifiers for the reporting obligation, (2) revise the list of designated jurisdictions for the masking relief of the reporting obligation and (3) update the list of Financial Services Providers under the clearing obligation

Dear Sirs, Mesdames

The Global Foreign Exchange Division ('GFXD') of the Global Financial Markets Association ('GFMA') welcomes the opportunity to provide comments to the HKMA and SFC ('the Agencies') on their joint consultation paper on enhancements to the OTC derivatives regime, ('the Consultation Paper'), published on 26 April 2019.

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 FX market participants,¹ collectively representing around 80% of the FX inter-dealer market.²

The FX market is the world's largest financial market. Effective and efficient exchange of currencies underpins the world's entire financial system. Many of the current legislative and regulatory reforms have had, and will continue to have, a significant impact upon the operation of the global FX market, and the GFXD wishes to emphasise the desire of our members for globally co-ordinated regulation which we believe will be of benefit to both regulators and market participants alike.

The global FX market presents some unique challenges for trade reporting when compared with other asset classes. FX forms the basis of the global payments system and as such both the number of market participants and the volume of transactions are high. Notional turnover, per the last BIS report, is US\$5.1 trillion/day.³

The high number and diversity within the participants of the global FX market presents many practical challenges in ensuring that those that are required to report can do so. As the FX market is global in nature, the reporting of a transaction will often be required to multiple jurisdictions, and any variation in the trade reporting requirements will be required to be adopted by either one, or both, parties to the transaction usually resulting in increased costs and increased operational risks.

The GFXD has consistently promoted and supported efforts to align global trade reporting standards as we believe that consistent trade reporting requirements offer regulators the best opportunity to oversee trading practices and market transparency.

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

² According to Euromoney league tables.

³ <http://www.bis.org/publ/rpfx16.htm>

Executive Summary

The GFXD supports the efforts of the CPMI-IOSCO to improve data quality by harmonising key data elements and identifiers. We have been engaged throughout this project, providing input to CPMI-IOSCO to ensure the final data attributes can accurately reflect FX trades. Therefore, with respect to this proposal, the GFXD recommends that:

1. the HKMA and SFC allow for global governance arrangements to be put in place for the CPMI-IOSCO data harmonisation work (on the Unique Transaction Identifier, Unique Product Identifier and Common Data Elements) before considering implementation within Hong Kong;
2. the HKMA and SFC coordinate with other jurisdictions on a global roadmap for UTI adoption to ensure a smooth transition and minimise operational complexity for cross-border firms; and
3. the CPMI-IOSCO UTI Generation Hierarchy is adopted in full, to ensure global consistency and reduce complexity for counterparties with multiple reporting obligations, as is often the case in a highly cross-border market such as FX.

Q1: Do you have any comments or concerns about our proposals to mandate the use of UTIs in OTC derivatives trade reporting, in particular, the interim measure and to allow counterparties to bilaterally agree on the responsibility to generate a UTI prior to adopting the list of factors recommended in the Technical Guidance? If you foresee any operational difficulties in implementing the proposals please provide specific details.

The GFXD and its members are strongly supportive of the work that is being undertaken by CPMI-IOSCO to align globally key trade reporting data elements, including the Unique Transaction Identifier (UTI). We believe that global adoption of the Technical Guidance on the Harmonisation of the UTI (the “Guidance”) issued by CPMI-IOSCO will increase data quality, assist with cross-border data aggregation, and also reduce the technical burden on market participants. We have been fully supportive of the CPMI-IOSCO’s work through the process, providing technical input on its application to the FX market.

While we support the HKMA-SFC in seeking to adopt the CPMI-IOSCO UTI standard, we would like to raise the following concerns, namely that the proposal is for the UTI to be implemented:

- ahead of the implementation of global governance arrangements for the UTI;
- before the agreement of a global roadmap towards adoption of the CPMI-IOSCO standards; and
- with a Hong-Kong specific UTI generation hierarchy that does not fully match the globally agreed CPMI-IOSCO standard.

We outline each of these concerns below:

Governance Arrangements

The 2018 FSB Governance Arrangements for the UTI⁴ noted that *“Respondents all expressed their desire for the UTI Governance framework to be established and in place at the outset of UTI implementation... The FSB agrees with the foregoing view expressed by respondents”*.

The data standard itself should be relatively simple to oversee, requiring few (if any) updates over the coming years. However, there needs to be careful consideration, at a global level, as to how and when to implement the Guidance across major jurisdictions. Clear timelines will be needed by both regulators and market participants to allow them to plan and set aside financial and technical resources for implementation and migration from existing standards.

It may also be the case that technical clarifications and transitional provisions are needed to move smoothly from the existing requirements to the new single standard. All of these require central, global coordination. It is therefore crucial, especially given the cross-border nature of FX, that suitable global governance arrangements as outlined in the FSB’s paper above are put into place before any jurisdiction(s) begin implementation.

Global Roadmap for Adoption

⁴<https://www.fsb.org/2018/01/fsb-publishes-governance-arrangements-and-implementation-plan-for-the-unique-transaction-identifier-uti/>

While the governance arrangements are being established, the industry is keen to engage in discussions regarding implementation of the Guidance. There are several considerations to take into account:

- Transition from existing standards: While we recognise that the HKMA and SFC have allowed for the continued use of existing standards until such time as other major jurisdictions also adopt the UTI, we suggest that commencing implementation after global agreement on adoption timelines has been reached would be more appropriate. As long as multiple standards (US Unique Swap Identifier, EU Trade ID and CPMI-IOSCO UTI) may be submitted by counterparties, it may be more difficult to put strict data validation rules in place, and there is also a greater likelihood of confusion of which identifier to use.
- Publication of final rules: Once all of the required regional regulators have made such a commitment to implement the Guidance, we suggest that each regulator proposes changes to their regulatory reporting rules to implement the Guidance. In order to avoid unnecessary conflicts, and ensure consistent application of the Guidance, it is important that this process is given a suitable timeframe and is coordinated by the global governance body.
- Technical changes required: Once jurisdictions begin to amend their rules, both regulators and market participants will need a period of time to implement the changes from a technical perspective before go-live. Given the type and number of market participants that trade FX, there is a very wide spectrum of market participants to consider, for example trading venues, clearing houses, middleware, etc. Technical changes will have to be tested both internally and between entities, prior to go live.
- Scope of affected reporting counterparties: The introduction of UTI requirements should also be considered in light of the effect on local and less sophisticated counterparties. Although such counterparties will need to make technical changes to accommodate the CPMI-IOSCO UTI standard, market participants who are currently subject to reporting obligations in other jurisdictions will be more familiar with the process of generating, communicating and consuming transaction identifiers.

However, both regulators and experienced reporting parties will need to ensure that those who are now going to be brought in scope of the UTI requirement are equipped to do so. This is particularly important given that many smaller counterparties prefer

where possible to generate (rather than consume) transaction identifiers, and may use manual communication methods. It is critical that the quality and timeliness of reporting data is not impacted by these counterparties' readiness for the new regime.

- LEI uptake: The Guidance states that a UTI should be generated using the generating party's Legal Entity Identifier (LEI). The requirement under MiFID in Europe for all in scope counterparties to have a LEI⁵ came into force in January 2018 and has highlighted the extent to which this standard has not been widely adopted outside countries where its use is mandated.

Although LEIs have now also been mandated for reporting parties in Hong Kong⁶, jurisdictions with a LEI mandate for OTC derivatives reporting remain in the minority. As noted above, many smaller counterparties would prefer to generate UTIs but would not be able to do so without a LEI. It may therefore be the case that the project plan for global implementation of the UTI Technical Guidance should be coordinated with education on the importance and usage of LEIs.

Keeping the above considerations in mind, we propose that the global implementation of the CPMI-IOSCO UTI Guidance is suitably timed to allow both the industry and regulators the ability to devote sufficient attention and resources to the project. The implementation timelines should be coordinated at a global level, and allow for amendments to existing reporting regulations, market outreach, technical changes, and transitional provisions.

As we have outlined, for smaller counterparties these changes may be a much more significant challenge. It should also consider the ongoing G20 regulatory programme, including the specific regulatory deadlines that are forthcoming in individual jurisdictions, such as MiFID II. This globally agreed roadmap will need to allow both market participants and authorities to plan implementation and allocate resources to ensure a smooth roll out and maximum regulatory benefit.

UTI Generation Hierarchy

⁵ 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.

⁶ <https://www.hkma.gov.hk/eng/key-information/press-releases/2018/20180627-4.shtml>

The GFXD understands that it is the intention of the HKMA and SFC, in amending the CPMI-IOSCO UTI Generation Hierarchy, to give counterparties the flexibility to decide who wishes to generate the UTI. This is likely to benefit smaller counterparties who wish to generate rather than consume a UTI, and who would otherwise not be permitted to do so under the CPMI-IOSCO standard.

However, amending the global CPMI-IOSCO generation hierarchy in one jurisdiction will cause significant challenges for those involved in cross-border trading. The most recent BIS FX survey showed that 65% of FX trades are cross-border⁷; it is likely that many of these trades will be reportable in multiple jurisdictions. For counterparties under multiple reporting obligations, adhering to differing UTI generation hierarchies in each jurisdiction will potentially leave them unable to fully comply. In addition, this would remove the benefit of implementing a single global UTI generation logic in firms' internal systems.

For these reasons, we encourage the HKMA and SFC to reconsider this proposal and implement the CPMI-IOSCO Technical Guidance in full. Any changes to the Guidance, including the Generation Hierarchy, can then be proposed via the governance body.

Q2: Will you have any difficulties adopting the use of UTIs in OTC derivatives trade reporting in the proposed timelines as stated above? If so, please provide specific details.

As noted in our response to Q1 above, we suggest that implementation timelines should be coordinated at a global level, and allow for amendments to existing reporting regulations, market outreach, technical changes, and transitional provisions.

If the HKMA and SFC proceed with implementation ahead of a globally coordinated roll-out of these provisions, we welcome their decision to continue to allow the use of existing identifiers (US Unique Swap Identifier and EU Trade ID) until such time as these jurisdictions also implement the CPMI-IOSCO standard.

Q3: Do you have any comments or concerns about the proposed revision to the Designated List for the purposes of masking relief?

The GFXD has no comments in response to this question.

⁷ <http://www.bis.org/publ/rpfx16.htm>

Q4: Are you aware of any jurisdiction which should not be removed from the Designated List? If so, please provide specific details of the relevant legal or regulatory requirements with supporting information and proof.

The GFXD has no comments in response to this question.

Q5: Do you have any comments or concerns about our proposed implementation timeline to gazette the revised Designated List no earlier than 1 October 2019? If so, please provide specific details.


The GFXD has no comments in response to this question.

Q6: Do you have any comments or concerns about our proposed snapshot approach to unmaking? If so, please provide the specific details of any operational difficulties you anticipate.

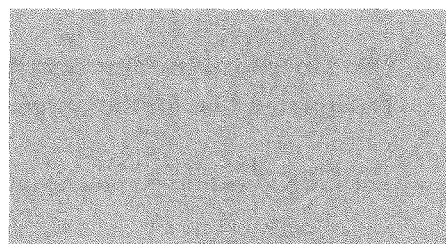
The GFXD has no comments in response to this question.

Q7: Do you have any comments or concerns on our proposed updated FSP list? If you do, please provide specific details.

The GFXD has no comments in response to this question.

We appreciate you giving us the opportunity to share our views. Please do not hesitate to contact  should you wish to discuss the above.

Yours sincerely,



Managing Director
Global Foreign Exchange Division, GFMA