



Private Wealth
Management
Association

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26 June 2019

Financial Stability Surveillance Division
Hong Kong Monetary Authority
55th Floor, Two International Finance Centre
8 Finance Street, Central
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To whom it may concern,

Consultation on Further Enhancements to the OTC Derivatives Regime

We refer to your Division's email dated 30 April 2019 with the captioned subject.

Please find enclosed the comments and suggestions of our members in relation to the consultation for your consideration.

Yours faithfully,

For and on behalf of
Private Wealth Management Association



Managing Director
Encl.

Private Wealth Management Association Members' Responses to HKMA-SFC joint consultation paper on enhancements to the OTC derivatives regulatory 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 (the “Consultation Paper”)

[•] June 2019

No.	Questions	Paragraph references	Comments/ Concerns/ Clarification sought
Mandating the use of Unique Transaction Identifiers for the reporting obligation			
1	<p>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.</p>	N/A	<p>Overall comments:</p> <ul style="list-style-type: none"> (i) Overall, members are supportive of Regulators' proposals to mandate the use of UTIs in OTC derivatives trade reporting as this is in line with global standards. (ii) In particular, members support the proposal to allow continued usage of USIs and TIDs with the eventual goal of having a single unique identifier. (iii) Members also support the HKMA's intention to adopt the CPMI-IOSCO Technical Guidance. As the industry has generally adopted the ISDA Best Practice for UTI generation, in the interests of consistency, we note that regulators are making attempts to align the implementation timing in Hong Kong with that of other jurisdictions. This ensures that firms do not need to develop a Hong Kong-specific UTI generation process. It further mitigates the risk of market fragmentation and bifurcation regarding UTI generation process as other jurisdictions each commence their implementation processes. (iv) It is noted that certain infrastructure providers (e.g. confirmation platforms, clearing houses) also provide UTIs. As banks use these providers extensively and have built their systems to consume UTIs from them, these providers will also likely need significant system changes to adopt the Technical Guidance structure and format. It would be operationally complicated and costly for firms to generate their own UTIs (to replace non-compliant infrastructure UTIs) and we would like to request that the HKMA consider the timelines that such providers will require to generate a UTI. It is noted that there may be several less sophisticated counterparties where the confirmation

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			<p>process (including agreeing to a UTI) will go beyond a T+2 timeline. We would like to request that the HKMA provide flexibility with regard to such counterparties.</p>
		<p>Paragraph 5: We propose to adopt the characteristics of and approaches to UTIs and in particular the structure and format of UTIs, as set out in the Technical Guidance, except for the assignment of responsibility for generating UTIs. We propose that counterparties bilaterally agree on who would generate UTIs for their transactions. In cases where a bilateral agreement cannot be reached or has not been reached, counterparties should adopt the list of factors, where applicable, recommended in the Technical Guidance for allocating responsibility for UTI generation as set out in Annex 1.</p>	<p>While members are grateful the more flexible approach adopted by Regulators in permitting members to bilaterally agree on who would generate UTIs for their transactions, members wish to emphasise the benefits of market harmonisation. Members note that the current proposal places bilateral agreement at the top of UTI Generating party waterfall, which is not in line with some of the on-going discussions with other regulators. Without a uniform adoption of UTI generating party waterfall across jurisdictions, further fragmentation between reporting regimes will occur. Members would like to request the HKMA to consider adopting the final CPMI-IOSCO generation logic to avoid further fragmentation across reporting regimes.</p>
		<p>Paragraph 8: the use of UTIs is to “enable better matching and avoid</p>	<p>By way of background, some members have noted that private banking customers enter OTC derivative transactions with the private banking division of the bank. While the private banking department reports the OTC derivative transactions between the bank and individual clients,</p>

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		<p>double counting of transactions in the HKTR”.</p>	<p>hedging transactions between the bank and hedging counterparties may be reported by another department, for example, the global markets department. Both the bank and the hedging party are reporting entities. Members would like to seek clarification as to whether the use of UTIs applies to OTC derivative transactions between the reporting entity and individual clients. Since there is no concept of matching in the reporting made by the private banking division, individual clients will not make the corresponding reports to the HKTR and hence the use of UTIs for these transactions will not enable better matching.</p>
		<p>Paragraph 26: Referring to the “Proposed approaches to UTIs” mentioned in the Consultation Paper, it is proposed by HKMA and SFC that a transaction should keep the same UTI throughout its lifetime, unless certain specific situation occurs (including situation where a previously reported transaction (i) is replaced by another transaction, (ii) is split into different transactions; or (iii) involves a change in either one of the counterparties other than error correction).</p>	<p>Under the existing reporting arrangement, experience from some members is that they initially report its trade with counterparties on a T+1 basis using a self-defined UTI. After the firm receives the UTI generated by their counterparty (which they will usually receive only on T+2), they will replace the old self-defined UTI with this new UTI generated by their counterparty for matching purposes.</p> <p>Members would like to clarify whether this practice is acceptable under the new proposed approaches to UTIs.</p>

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		<p>Paragraph 37: Before the expiry of the interim measure, it will be acceptable for a reporting entity to report the succeeding format of USI or TID after the adoption of the international standard on UTIs in the US or the EU in the designated data field for UTI in the HKTR template as long as it is the only identifier for the transaction and all parties agree to use it consistently for trade reporting in all relevant jurisdictions.</p>	<p>Due to the complexity of multi-jurisdiction trades where each jurisdiction has its own set of eligibility requirements, it is practically impossible to work out both parties' reporting obligation ahead of time. As a result, from an operationalization and implementation perspective, market participants will likely submit all three identifiers where applicable for their own submissions. This will in turn lead to mismatches in the HKTR 2603 discrepancy report.</p> <p>To reduce this increase in mismatches, we would like to request HKMA to allow a bank to match one of the three identifiers, i.e., when one out of three identifiers is linked, both parties will not be required to fix the differences between the other two identifiers. This will greatly assist the industry in reducing its overhead costs and resources required for UTI matching. This will also align the Hong Kong regime with the reporting regimes of Singapore and Australia where both parties are only required to match one identifier but parties are allowed to submit both UTI and/or USI.</p>
2	<p>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.</p>	<p>Paragraph 42: We propose mandating the use of UTIs based on the proposals discussed in paragraphs 26 to 38 above in April 2020. In proposing the implementation timeline, we have taken into account our urgent need for UTIs to enable better matching and avoid double counting of transactions in the HKTR. In</p>	<p>We would like to request that the HKMA delay the proposed implementation timeline for the following reasons:</p> <p>(i) The CPMI-ISOCO UTI proposal is still undergoing ISO WG5 which will codify the UTI standard for global adoption. Early adoption may result in divergence from international standards and an additional operation burden for the Hong Kong market. As the global standards have not yet been finalised, adopting the UTI now will result in additional changes to the Hong Kong reporting requirements when the UTI standard is finalised by CPMI-IOSCO in future. To limit the changes to the Hong Kong reporting regime, we recommend delaying the UTI adoption until it has been finalised by CPMI-IOSCO.</p>

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		<p>view of our proposed interim measure and our approach in accepting trade identifiers generated based on the US and the EU requirements and other identifiers generated overseas which are consistent with the Technical Guidance, we do not believe that our implementation timeline must be aligned with other jurisdictions.</p>	<p>(ii) However, we wish to highlight that certain elements of the current CPMI-IOSCO UTI proposal will be challenging to implement from an operational perspective. For example, if a non-cleared trade is executed bilaterally and not on a trading venue, both parties will need to determine the number of reporting obligations of the counterparty that may be required given the nexus requirement</p> <p>(iii) The majority of the transactions for FX/Rates/Credit market are confirmed on clearing houses/trading venues/electronic platforms. Most of these platforms currently do not offer a CPMI-IOSCO compliant UTI, i.e., having LEI as part of the UTI prefix. As a result, these clearing houses/trading venues/middleware providers will need to make significant changes ahead of the deadline to enable the industry to adopt the new interim UTI proposed by HKMA. In addition, in the scenario where the finalised CPMI-IOSCO UTI proposal is different from the current proposal, the industry would have expended a large amount of resources and costs for limited benefit.</p>
Revising the list of designated jurisdictions for the masking relief of the reporting obligation			
3	<p>Do you have any comments or concerns about the proposed revision to the Designated List for the purposes of the masking relief?</p>	<p>Paragraph 10: 17 jurisdictions are to be removed, leaving only China on the Designated List. Firms have up to 3 months after the jurisdictions are removed from the designated list. HKMA indicated that it intends to publish the revised list no earlier than 1 Oct 2019. If the list is</p>	<p>We support the proposal to remove the 17 jurisdictions from the Designated List, as this is aligned with the FSB report on masking and with other jurisdictions' intention to tighten masking exemptions.</p> <p>We would like to request a longer grace period (6 months) for firms to remediate existing positions.</p>

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		published on 1 Oct 2019, firms will have up to 31 December 2019 to unmask counterparties from the 17 jurisdictions. HKMA has allowed that firms unmask the latest version (rather than all life-cycle versions).	
4	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 other proof.	N/A	N/A
5	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.	N/A	We request a longer grace period (6 months) for firms to remediate existing positions.
6	Do you have any comments or concerns about our proposed snapshot approach to unmasking? If so, please provide the specific details of any	N/A	N/A

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	operational difficulties you anticipate.		
Annual update of the list of Financial Service Providers under the clearing obligation			
7	Do you have any comments or concerns about our proposed updated FSP List? If you do, please provide specific details.	N/A	N/A