



Frankfurt am Main,
17 November 2017

BVI's response to the FSB consultation document on Governance arrangements for the unique product identifier (UPI): key criteria and functions

BVI¹ gladly takes the opportunity to present its views in relation to the consultative report on the governance arrangements for the UPI.

- **General Comments**

We strongly agree with the global regulatory work to develop a clear framework for the governance, definition, format and usage of a UPI that meets the requirements of all market participants and global authorities to perform (global) data aggregation and to monitor exposure to, or positions in various groupings of (OTC) derivative products. We strongly support the idea that the UPI should be developed on the basis of open and globally regulated and accepted technical standards which are jurisdiction agnostic. The UPI concept should enhance the aggregation of data reported across a wide range of jurisdictions. The implementation of a global UPI concept should be carefully calibrated as the establishment of a new product classification/identifier system is complex. Implementation issues, however, can be reduced if tested systems are reused such as the Global LEI System (GLEIS).

We also believe that also in the context of UPI the priority must be on pushing the only universally accepted and government supported industry standard setting system, the ISO system. We are a strong proponent of use of ISO standards (e.g. ISIN, CFI, LEI) along the whole value chain of the financial industry. We believe that the ISO structure/organization at least with some nudging by the regulators across the globe is able to create a successful story for derivative product identification by UPI in the same way as ISO was able to create a global solution for entity identification with the LEI. The ISO standard governance offers a readily available global solution with standards and an infrastructure in place which is acceptable to both the regulators and industry. ISO/TC68/AG2 Standards Advisory Group in its statement to the FSB dd. 15 November 2017 explained well the opportunities in using the ISO standards setting process to leverage the UPI to become a truly global standard for both business and regulators.

We would therefore strongly welcome the FSB recommendation that ISO is the best candidate to oversee and maintain the UPI codes and UPI data standard under the auspices of the Global LEI System (GLEIS) governance structure including a Regulatory Oversight Council, the "GLEIF" as central administration body and interface between public and private sector, as well as one or several UPI Service Providers.

We agree with the work started by the FSB to develop governance arrangements for the UPI assisting both regulators and market stakeholders as an efficient and practical framework to monitor and implement the Technical Guidance. We strongly support the idea that the access to the UPI data should be

¹ BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Fund companies act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's over 100 members manage assets of nearly 3 trillion euros for private investors, insurance companies, pension and retirement schemes, banks, churches and foundations. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.



unrestricted, (key criterion 4.6) free of charge (key criterion 4.7 –currently only for public authorities) or not entail undue costs for all regulators and market participants, in particular counterparties (key criterion 4.7). Furthermore, we strongly assist the proposal that the UPI data should not be subject to any intellectual property restriction and that the use and access of such a data should be free of any licensing restrictions, especially also in the trading, clearing and settlement chain when the data are not published (key criterion 4.8). A control over the UPI data and thereby the underlying markets by the incumbent market participants with the help of proprietary standards is not acceptable going forward if we really want to enable a neutral aggregation of data and thereby support the control of systemic risk at all levels of the market too.

The UPI governance concept should be able to support more business process than regulatory reporting and should be therefore aligned and support existing private solutions. In particular the UPI codes and UPI reference data should be available for free to the ANNA DSB ISIN solution for derivatives. We understand that the ANNA DSB is able to capture the required UPI information for each ISIN with minor additional effort. In perspective the ANNA DSB is for us the automated based on ISO standards global reference data source for all derivatives, and not only those OTC derivatives subject to the EU MIFIR trading obligation.

- **Specific Comments**

We would like to make the following comments:

Q3. Should the UPI System operate on a cost recovery model? If not, what is the suggested alternative and how does it fit with other governance criteria?

Q4. How should cost recovery be defined in the context of UPI? How should a UPI Service Provider be permitted to recover its costs? Should start-up, infrastructure, and initial creation of UPI Code costs be treated differently than ongoing maintenance and other continuing costs of operating a UPI Service Provider?

We support the idea that a UPI system should operate on a cost recovery basis, if public funding is not available. The GLEIS already works successful – as evidenced by cost are coming down - on a cost recovery model agreed between the global regulators and the financial industry. The UPI should use as starting point the cost recovery principles used for the LEI, and by the ANNA-DSB when it comes to cost recovery for real time data needs. However, the redistribution of the UPI data should be free for use for all.

One aspect of lowering cost for UPI is that the ANNA/DSB already generates the OTC ISIN and is therefore able also to create and distribute UPIs without too much additional cost and effort. Most of the UPI data is already part of the OTC ISIN within the ANNA/DSB.

Q5. How should costs be allocated amongst stakeholders?

The cost allocation between the stakeholders should be based on the principle that those who want to access a market, i.e. the derivatives market, need to pay the access cost as is the case for companies wishing to be traded on exchanges and which therefore need to pay the admission to listing fees. Therefore the originator counterparty of a derivative should pay the full UPI generation and distribution costs. The user of the data should be able to use at least end of day UPI data for free in order to enhance the aggregation of data reported across a wide range of jurisdictions also for private business risk management. The principles of cost recovery could be based on the industry agreed cost model of the ANNA/DSB utility to the extent that they take into considerations that so called “power users” (e.g.



trading venues, CCPs, Sell-Side) of UPI's trigger a bigger proportion of the costs than most buy-side counterparties which only rarely originate derivatives.

Q6. How should a UPI Service Provider provide its rationale for calculating cost recovery? What level of transparency and frequency of disclosure of cost by a UPI Service Provider is required to demonstrate that the UPI System is being administered on a cost-recovery basis? For example, should a UPI Service Provider be required to undertake an audit or other type of review of its costs? To whom should transparency be provided (e.g. to Authorities and/or the public) and under what circumstances?

Please see our answer to Q3, 4 above. The UPI Service Provider transparency requirements should be established in the same as it is laid down for the LEI. Such transparency requirements should be set by the public sector. The UPI Service Providers should publish on at least an annual basis the UPI production and dissemination costs and make them available to the public in an easy and user friendly way.

Q7. Should there be different categories of users to describe entities that interact with the UPI Service Provider(s), utilise the UPI System, or access the UPI Reference Data Library in different ways, such as creation of a UPI Code versus leveraging an existing UPI Code, and at different frequencies? How should those categories be defined and should there be different associated costs based on the type and frequency of use of UPI Codes? How would different cost considerations apply to different aspects of the UPI System?

Please see our answer to Q5. We strongly recommend introducing different categories of users interacting with the UPI Service Provider(s). As a starting point of discussion, the ANNA/DSB concept could be used charging more to so called "power users" than to market participants which only request UPIs on an infrequent basis. The user of the data should be able to use at least end of day UPI data for free, and always free of IP licenses. If e.g access to and use of UPI end of day data, including databasing, is restricted and the use of UPI data reported across a wide range of jurisdictions for private business risk management is punished, and risk in markets will not be reduced.

Q8. Should access to, and use of, the UPI Reference Data Library (which includes the Data Elements therein) be unrestricted? If not, what types of usage restrictions would be appropriate and to whom should they apply? What would be the consequences, including for harmonisation, of having usage restrictions on the UPI Reference Data Library?

As mentioned, we strongly support the idea that the access to the UPI Reference Data Library should be unrestricted, free of charge and not entail costs for regulators and market participants, similar to LEI. Only cost charges on specific technical requirements requested by certain users such as real-time feeds should be allowed. However, if e.g access to and use of UPI end of day data, including databasing, is payable the use of UPI data reported across a wide range of jurisdictions for private business risk management is punished, and risk in markets will not be reduced.

Q9. Should the UPI Reference Data Library be subject to any intellectual property restrictions? If so, what types of restrictions would be appropriate? What would be the consequences of having any intellectual property restrictions on the use of, or access to, the UPI Reference Data Library?



No. We strongly believe that the UPI Reference Data Library should not be subject to any intellectual property restriction and that the use and access of such a data should be free of any licensing restrictions, especially also in the trading, clearing and settlement chain when the data are not published. The Global LEI System (GLEIS) governance principles should work as possible UPI standards.

Q10. Are there any types of ownership or membership structures of a UPI Service Provider that could create conflicts of interest? If so, please describe.

BVI suggests the public-private partnership model of the GLEIS is the model for a UPI system that meets both regulator and private industry needs. This would include a (LEI and UPI Identifier) Regulatory Oversight Council, and the "GLEIF" as central administration body and interface between public and private sector, as well as one or several private or public UPI Service providers. The GLEIS model already today addresses today all regulatory and private business transparency issues and would ensure that conflicts of interest are avoided.

Q11. What kinds of business continuity arrangements would it be reasonable to expect from a UPI Service Provider?

BVI believes that the same BCA arrangements as expected for regulated financial services institutions are respected by a UPI Service Provider, such as business continuity/disaster recovery plan, at minimum two datacenter locations, redundant hardware systems, robust software systems, 24/7/365 systems and service monitoring that allows it to provide a service availability of close to 100%.

Q12. What Governance Frameworks for other universal identifiers should or should not be considered in designing the UPI Governance Arrangements and why?

Q13. Which elements of such frameworks would be useful or not useful for the UPI Governance Arrangements and why?

BVI believes the Governance Framework of the Global LEI System is a useful role model for the UPI Governance Arrangements. The GLEIS was established by the FSB with the goals of improving transparency in the capital markets, mitigating systemic risk, and protecting against market abuse.

Q14. Do you agree with the two articulated areas of governance identified above?

We understand that the two areas of governance articulated in the consultation paper are Functions relating to the ongoing generation of UPIs and Functions associated with the oversight of the UPI system. BVI believes that the layered public-private structure of the Global LEI system addresses the requirements for both the governance and the operation of a global system of identifiers. The LEI ROC provides the oversight of the GLEIF. The GLEIF in turn ensures the operational integrity of the Global LEI system. Finally, the LEI issuers conduct the registration operations of the Global LEI System as organizations authorized to issue LEIs to legal entities. However, the UPI data could be assigned also by only one UPI Service Provider, i.e. the ANNA-DSB as this institution already generates the (OTC) ISIN and is therefore able also to create UPIs without too much additional cost and effort. Most of the UPI data is already part of the OTC ISIN within the ANNA/DSB.



Q17. Could a UPI Service Provider also be expected to develop human readable aliases for UPI Codes to satisfy the needs of particular jurisdictions or other stakeholders? Why or why not?

Yes, we believe that a UPI Service Provider could develop a human readable aliases for UPI Codes as is the case with the ISO standard based Financial Instrument Short Name (FISN) which is assigned alongside the (OTC) ISIN. However, such a human readable aliases should be based on an ISO standard too.

Q18. Are there functions in the list which are not relevant for the UPI in your view and if so which ones and why?

The functions listed in the document are sufficient and could be aligned with the standards laid down for the GLEIS.

Q19. Which entity or entities (or type of entity) would be best placed to perform each of the above governance functions?

The Global LEI system addresses the requirements for both the governance and the operation of a global system of identifiers. The LEI ROC provides the oversight of the GLEIF. The GLEIF in turn ensures the operational integrity of the Global LEI system. Finally, the LEI issuers conduct the registration operations of the Global LEI System as organizations authorized to issue LEIs to legal entities. We support in full the analysis made by the GLEIF on the FSB proposed UPI governance functions as mapped to the entities and roles within the Global LEI system with each entity (entities), as well as some entities such as ISO. However, we do not see the need for more than one UPI Service Provider as the ANNA/DSB is well placed to be the best candidate to perform UPI Service Provider functions. We understand that the ANNA DSB is able to capture the required UPI information for each ISIN with minor additional effort. In perspective the ANNA DSB is for us the automated based on ISO standards global reference data source for all derivatives, and not only those OTC derivatives subject to the EU MIFIR trading obligation. If ANNA-DSB could be integrated into the GLEIS governance structure all current shortcomings of ISO/ ANNA governance are addressed. At least the UPI codes and UPI reference data should be available for free to the ANNA DSB ISIN solution for derivatives.

Q20. Do you see a need for the UPI Reference Data Elements to be standardised by an International Standardisation Body and if so why? Are there aspects in which this would be impracticable? If so, please describe those aspects.

ISO should be the best candidate to standardise the UPI Reference Data Elements.

BVI proposes that, in addition to the standard structure for the UPI code, the UPI Reference Data Elements also should be standardized by ISO/TC 68 as an International Standards Body. The identifier codes should be accompanied by reference data records composed of the necessary elements needed uniquely identify the subject being identified. This will make the codes persistent as updates to the metadata of the codes will be made as information about real work objects change. This would support the UPI Technical Principles of Consistency, Persistence, Adaptability, Comprehensiveness and Extensibility.



Further, each element in the reference data records should be defined formally. Reference data standards should use consistent notations and representations of the same concepts across the catalogue of reference data standards. This would support the UPI Technical Principles of Clarity and Precision.

Reference data standards should use other ISO standards, where available, to represent elements within reference data records as structured data. For reference data record elements that are not represented by other structured ISO standards, the technical structure/format of these elements should be specified in the reference data standard. Using structured data elements will insure data quality. Both these points support UPI Technical Principle of Precision.

Q21. What benefits of implementation of the UPI, if any, do you see beyond OTC derivatives reporting? Please justify your answer.

From a buy-side point of view the pre-trade availability of a globally agreed standardized set of reference data attached to an ISIN combined with a UPI which in turn enables (in a first phase) automation of regulatory reporting as well as (in a second phase) trading, clearing, settlement and collateral management would be a huge step forward for the (OTC) derivative markets.

It is most important for our members move to automation based on standardization to have a widely accepted international identifier and associated reference data without any usage restrictions because of intellectual property rights.

As buy-side we see ourselves in general generating UPIs and ISINs only in rare cases. Most of times we expect this is done via the various trading venues, other facilities or sell side counterparties. However members will in any case consume the ANNA/DSB data and map the UPI, ISIN, CFI and FISN in time to internal data.

Q22. What would be the respective costs and benefits of the different potential models to administer the UPI System specified above?

Please contact GLEIF and ANNA-DSB for detailed cost information.

Q23. What would be the impact on market participants and other key stakeholders of having multiple UPI Service Providers (whether across asset classes or serving the same asset class) in terms of:

(a) cost;

(b) ease of use of the UPI System;

(c) their ability to conform to the UPI Technical Guidance; and

(d) their ability to associate UPIs with products in a timely manner at least to facilitate the discharge of reporting obligations for OTC derivative transactions?

In perspective ANNA DSB is for us the automated based on ISO standards global reference data source for all derivatives, and not only those OTC derivatives subject to the EU MIFIR trading obligation. We do not see the need for more than one UPI Service Provider as the ANNA/DSB is well placed to be the best candidate to perform UPI Service Provider functions. We understand that the ANNA DSB is able to capture the required UPI information for each ISIN with minor additional effort. In perspective the ANNA DSB is for us the automated based on ISO standards global reference data source for all derivatives, and not only those OTC derivatives subject to the EU MIFIR trading obligation. If ANNA-



DSB could be integrated into the GLEIS governance structure all current shortcomings of ISO/ ANNA governance are addressed.

At least the UPI codes and UPI reference data should be available for free to the ANNA DSB ISIN solution for derivatives.

Q24. Should one or a limited number of UPI Service Providers be selected at the outset? Should the UPI Governance Arrangements allow for additional UPI Service Provider(s) to be incorporated over time?

We believe that only one UPI Service Provider should be selected for generating the UPI. This could reduce the operating burden to connect to several UPI Service Providers. However, as a fallback solution, the UPI Governance Arrangements should allow for additional UPI Service Provider(s) to be incorporated over time.