

## **BVI's response to the CPMI/IOSCO Consultative Report on Harmonisation of the Unique Transaction Identifier**

BVI<sup>1</sup> appreciate the opportunity to present its views on the consultation for a harmonisation of the Unique Transaction Identifier (UTI).

### **• General Comments**

We welcome the work started by CPMI/IOSCO to develop and establish a global UTI concept with the participation of the financial industry. BVI supports the global harmonization and aggregation of data elements in the derivative market thereby promoting and improving data quality and the efficiency of reporting enabling global systemic risk management. As a long standing supporter of data standardization and automation in the financial (fund) industry, we strongly support the usage of open and globally accepted ISO standards. As a starting point the UTI component data standardization should be based on ISO standards. ISO has a strong methodology and model for defining and structuring financial data, and an open governance process that ensures a level playing field for all standard setters and users. It also offers experts international scrutiny of submitted content. ISO standards are now being implemented in a growing number of markets, which results in increasing opportunities for automation and interoperability.

The creation of a global UTI solution could be based on the governance structure concept of the LEI initiated as a public-private partnership under the auspice of the FSB. The system could be provided by a global central unit, e.g. a FSB/IOSCO employed entity such as the Global LEI foundation. The ISDA best practice for the UTI generation may be used as a starting point of discussion for the development of a global UTI concept.

It is of utmost importance that a global UTI is developed as a public good with no intellectual property rights attached to a specific party or Association. The reporting financial counterparties should be able to obtain and to use the UTI license free and free of charge throughout the value chain. Furthermore, a UTI solution should be developed on the basis of a predetermined algorithm for all reporting counterparties to a specific contract in order to avoid the generation of UTIs by the reporting entities applying different concepts/methodologies

As a prerequisite for a global UTI concept, it is of utmost importance that the regulatory reporting regimes across different jurisdictions (e.g. USA, Canada, Europe and Asia) are harmonized and simplified through a single-sided reporting approach. The reporting entities (e.g. German UCITS/AIF management companies acting on behalf of regulated investment funds (UCITS/AIFs)) generally experience problems to match trade details (especially the UTI) with their counterparties. Currently, the reporting entities send their reports to the trade repositories. It is not clear, whether the reports of one reporting entity are matched with the reports of the other counterparty.

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<sup>1</sup> BVI represents the interests of the German investment fund and asset management industry. Its 90 members manage assets of approximately of EUR 2.6 trillion in UCITS, AIFs and assets outside investment funds. As such, BVI is committed to promoting a level playing field for all investors. BVI members manage, directly or indirectly, the assets of 50 million private clients over 21 million households. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit [www.bvi.de/en](http://www.bvi.de/en).



We strongly encourage the regulators globally to introduce a single-sided derivative reporting similar to the US reporting obligations. A single-sided reporting, preferably by the sell-side, will abolish the challenge of agreeing which party generates the UTI and the obligation for a timely exchange of the UTI value. Furthermore, a single-sided regime will ease the reporting obligation both for all market participants and for the regulators when analyzing the data.

Furthermore, German investment fund management companies experience that the sell-side is often failing to provide the UTI in time with respect to the reporting obligation on T+1. The management companies principally use interim UTIs in order to be able to adhere to the reporting obligation on T+1. As soon as the management companies obtain the final UTI by the Sell-Side, they will report the final UTI to the trade repository (TR). However, the transmission of an interim UTI increases the reporting volume for the TRs, thereby deteriorating the matching rates of the paired trades and the aggregation of the data for systemic purpose.

In this context, we would like to point out that – as interim solutions - the reporting entities (e.g. UCITS/AIF management companies) should be able to continue to use an interim UTI for a reporting of the OTC derivative contract to a TR. At the end of October 2015, TRs will only allow the reporting of a final UTI. UCITS/AIF management companies experience that the sell-side is not able to provide the UTI for a trade in time with respect to the reporting obligation on T+1. Therefore, the investment management companies should have the possibility to use an interim UTI in order to be able to adhere to the reporting obligation on T+1 until the Sell-Side provides timely UTIs.

We strongly agree with the proposal that a global UTI concept should only be considered for future OTC derivative transactions. A global UTI concept should not require implementation for historical trades. Such back warded implementation is neither feasible for market participants (e.g. German management companies) or TRs.

The implementation of a global UTI concept should be coordinated across all relevant jurisdictions and be transposed simultaneously in order to avoid any operational inefficiencies made in the IT systems by German management companies, TRs, confirmation platforms, affirmation platforms, middleware provider and execution venues in respect to generation, acceptations and communication of the UTI value.

- **Special Comments**

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| <b>Question 16: Are there additional issues that should be taken into account in considering the responsibility for generating UTIs?</b> |
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We strongly agree with the CPMI/IOSCO assessment that different reporting frameworks (single-sided or double-sided) will have an impact which reporting entity should be responsible for generating the UTI.

However, as a prerequisite for a global UTI concept, it is of utmost importance that the regulatory reporting regimes across different jurisdictions (e.g. USA, Canada, Europe and Asia) are harmonized to a single-sided reporting approach. The reporting entities (e.g. German UCITS/AIF management companies acting on behalf of regulated investment funds (UCITS/AIFs)) generally have problems to match trade details (especially the UTI) with the counterparties. Currently, the reporting entities send their reports to the trade repositories. It is quite unclear, whether the reports of one reporting entity are matched with the reports of the other counterparty.



We strongly encourage the regulators globally to introduce a single-sided derivative reporting similar to the US reporting obligations. A single-sided reporting, preferably by the sell-side, will abolish the challenge of agreeing which party generates the UTI and the obligation for a timely exchange of the UTI value. Furthermore, a single-sided regime will ease the reporting obligation both for all market participants and for the regulators when analyzing the data.

Investment fund management companies generate only UTIs in cases where the Sell-Side does not provide a UTI to the investment fund management companies. In this context, German investment fund management companies experience that the sell-side is often failing to provide the UTI in time with respect to the reporting obligation on T+1. The management companies principally use interim UTIs in order to be able to adhere to the reporting obligation on T+1. As soon as the management companies obtain the final UTI by the sell-side, they will report the final UTI to the trade repository. However, the transmission of an interim UTI increases the reporting volume for the TRs, thereby deteriorating the matching rates of the paired trades and the aggregation of the data for systemic purpose.

Management companies obtain UTIs from other market participants which are used to report the derivative transactions to the TRs. The following participants provide UTIs to the management companies:

- Market infrastructure providers (e.g. CCP, confirmation platforms, affirmation platforms, middleware provider and execution venues)
- Banks
- Broker/Dealers
- Investment Managers

The UTIs are used by the management companies in the (trade) confirmation process in order to generate the relevant messages to be sent in time to the TRs.

IOSCO should take into consideration a guideline clarifying that the reporting entity responsible for the transmission of the UTI should communicate the number to the other counterparty (e.g. management company) as soon as it is technically possible but at least within the trade confirmation process. The UTI should be transmitted to the other counterparty on a standardized and automated basis enabling the counterparty to report the required UTI data field to the TR in time with no manual intervention.

Currently, there are no clear rules/governance structures in place related to the generation of UTIs under the EMIR regime. This may lead to differences in the process of UTI generation. Currently, many counterparties follow the ISDA UTI best practice approach whereas only a very small number of counterparties follow the concept proposed by ESMA in the EMIR Q&A. Moreover, some counterparties produce their own UTI based on an internal structure.

As mentioned above, investment fund management companies generate only UTIs in cases where the Sell-Side does not provide a UTI to the investment fund management companies. The creation of the UTI by the management companies can be based on the ISDA taxonomy or on an internal structure.

German management companies have practical problems to report in different jurisdictions derivative transactions to the TR, e.g. EMIR, Dodd-Frank etc. This includes the lack of globally agreed UTIs. For example, ESMA allows a USI only for trades that have to be reported to both CFTC and ESMA.



In order to create a UTI both parties need to know at the point of a trade which UTI construct standards are applicable in the various jurisdictions. This exceeds the legal expertise and technological capabilities of most parties.

The German management companies have to solve quite often disagreements with the Sell-Side over the generation of UTIs, especially to the format and content. In cases where the Sell-Side provides the UTI to the Buy-Side, the following findings have been observed by German management companies:

The UTIs are not provided in a standardised and automated format to the investment fund management companies. Instead, the management companies are requested by their counterparties (e.g. bank, broker/dealers) to obtain the UTI from

- a website
- Excel-Sheets provided outside of existing trade matching/confirmation processes
- Paper-based confirmed derivatives
- or via separate email etc.

This complicates the operational processes by the management companies to incorporate the UTI in their IT systems in order to automatically generate the reporting messages which are required by the TRs. The generation of UTIs for Exchange Traded Derivatives create an additional burden due to higher volumes and partial executions in these products compared to OTC derivative trades. For ETD products the UTI is often communicated by the clearing broker outside of existing trade matching processes, making the allocation of the single UTI to the relevant transactions very cumbersome as there is no common standard identifier.

Furthermore, IOSCO should take into consideration a further provision clarifying that the reporting entity responsible for the transmission of the UTI should communicate the identifier to the other counterparty (e.g. management company) as soon as technically possible but at least within the trade confirmation process. The UTI should be transmitted to the other counterparty on a standardized and automated basis enabling the counterparty to report the required UTI data field to the TR in time with no manual intervention.

The transmission of the UTIs in a timely manner could be difficult in cases where third party portfolio managers receive the UTI by the Sell-Side before the identifier is transmitted to the management company responsible to report the derivative trade to the TR. Furthermore, a timing issue exists for paper-confirmed complex OTC derivative transactions for which the legally binding paper confirmation may not be always available on T+1 for the reporting to a TR.

A preferable solution for the generation and the communication of the UTI to the reporting parties could be the UTI assignment by market infrastructure providers (e.g. confirmation platforms, CCPs, executions venues).

If a UTI cannot be centrally generated by a market infrastructure provider and both parties need a bilateral agreement, then a UTI solution could be developed on the basis of a predetermined automatic construct/algorithm for the reporting counterparties to a contract in order to avoid the generation of UTIs by the reporting entities with different concepts/methodologies. The algosystem could be provided by a global central unit, e.g. a FSB/IOSCO employed entity such as the Global LEI foundation. Therefore, we strongly support option 3 for a UTI construct/algorithm which can be used independently for the generation of the UTI by the reporting parties for the same transaction without the obligation to wait until the Sell-Side counterparty has delivered the final UTI to the Buy-Side.



**Question 21: What are respondents' views on the proposed Option 1 hierarchy for the responsibility for generating UTIs? Are the steps necessary and sufficient? Are they defined well-enough? Are there alternative ways of achieving Step 6?**

**Question 22: Is it desirable to include the sort of flexibility represented by Steps 1–5? If so, where in the hierarchy should the flexibility be provided?**

**Question 23: Can respondents provide an alternative set of UTI generation steps for the proposed option 1 hierarchy for the responsibility for generating UTIs that meet all of the characteristics set out in Section 2?**

**Question 24: Does the proposed Option 1 hierarchy for the responsibility for generating UTIs work across different reporting jurisdictions, particularly considering differences such as single-sided and double-sided reporting?**

Please see our answer to question 16. Market infrastructure providers should be able to develop and communicate the centrally generated UTI to the reporting entities (e.g. investment fund management companies) in time. Related to step 5, it is of utmost importance, that the Sell-Side provides the UTI in time to the Buy-Side enabling them to comply in time with the EMIR reporting obligations on T+1.

**Question 30: Do respondents agree with the assessment of the Option 3 approach for the responsibility for generating UTIs?**

Yes, we strongly agree with the proposal. As explained in detail in our answer to question 16, a UTI construct/algorithm should be considered if a UTI cannot be centrally generated and the reporting entities need a bilateral agreement related to the generation and communication of the UTI.

**Question 34: Is the assessment about timing for UTI generation correct? Are there examples of timing requirements from authorities that are incompatible with other elements of the proposed UTI generation approach? If so, please describe them.**

We agree with the proposal that the UTI should be generated in time in order to report the trade to a TR. The UTI should be provided as soon as technically possible. However, in cases where both counterparties need a bilateral agreement for the generation of the UTI, the reporting entity responsible for the transmission of the UTI should communicate the number to the other counterparty (e.g. management company) as soon as it is technically possible but at least within the trade confirmation process. The UTI should be transmitted to the other counterparty on a standardized and automated basis enabling the counterparty to report the required UTI data field to the TR in time with no manual intervention.

**Question 39: Should the UTI be solely a dummy code, ie a value that contains no embedded intelligence? Why or why not? Assuming that other data elements regarding a transaction (e.g. the identification of the counterparties, the date and time of execution etc) will be captured by the report to the TR, is it necessary to reflect such elements in the UTI?**

The primary role of a UTI is the unique identification of the transaction. A UTI should not contain any data components/elements which are also separately reportable data elements to the TRs. The proposed component of a transaction date, including the ISO 8601 timestamp, is very a technical and complicated task to implement as the trading and reportable entities (e.g. German management companies) will also face significant difficulties to agree on the exact timestamp, especially with counterparties in different time zones/jurisdictions.



Furthermore, an intelligent UTI should not be considered as a prerequisite for the development of components for a UTI construct/algorithm. An intelligent UTI also increases the possibilities of errors in the UTI generation and enhances the potential for cancellations and re-reporting of the transaction. Additional checks and validation rules are not helpful in the generation of a UTI and the timely transmission to the counterparty.