Frankfurt am Main,
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BVI's response to the second FSB consultation document on Governance arrangements for the unique product identifier (UPI)

BVI[1] gladly takes the opportunity to present its views on on the second consultation document on Governance arrangements for the Unique Product Identifier (UPI).

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 time tested systems are reused such as the Global LEI System (GLEIS).

The UPI should not be considered as a replacement for the ISIN. The ISIN is an extensive used ISO identifier which can be used beyond regulatory reporting for the identification of securities, ETD`s and OTC derivatives along the value chain of the asset management from trading to settlement and custody. The implementation of the UPI is limited to regulatory reporting use only. However, it could be useful to streamline the efficiency of the OTC ISIN, e.g. through the reduction of the maturity attributes (e.g. FX Swaps).

We also believe that in the context of UPI the priority must be on pushing the only universally accepted and globally by all governments supported industry standard setting system, the ISO system. We are a strong proponent of use of ISO identification and transaction 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 also 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 standards system 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 strongly welcome the FSB recommendation that ISO is to 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. The Global LEI System could act as global reference data provider both for the financial market participants and the regulators.

[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 more than 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.

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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 unrestricted, free of charge or not entail undue costs for all regulators and market participants, in particular counterparties. 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.

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 processes than just 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 OTC derivatives. We understand that the ANNA-DSB is already able today to capture the required UPI information for each ISIN with minor additional efforts. In perspective the ANNA-DSB is the automated based global reference data source for all derivatives going forward, and not only for those OTC derivatives subject to the EU MIFIR trading obligation.

Specific Comments

We would like to make the following comments:

Q1. Do you agree a public-private partnership model such as the one sketched above should be adopted for the UPI Governance Arrangements?

We agree that a public-private partnership model should be considered for the UPI Governance Arrangements. Throughout the UTI & UPI process, the FSB and CPMI-IOSCO working groups have been open about the need for collaboration between public and private sector and this has also been evidenced through public-private workshops and industry consultations. However, it is important to notice that UPI implementation issues can be reduced substantially if time tested arrangements and systems are reused such as the Global LEI System (GLEIS).

In this context we would like to reiterate strongly our position related to the Governance Arrangements 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. Therefore, we welcome strongly the FSB proposal that an International Standardisation Body (ISB) should develop and approve the relevant UPI standards.

As already mentioned in our position to the first consultation on the UPI Governance Arrangements, we believe that only one UPI Service Provider should be selected for generating the UPI taking into consideration that the industry expects a quite low overall number of UPI`s compared to ISINs. 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.

In this context we believe that the nomination and the utility function of a UPI Service Provider cannot be provided by a single Trade Association, Venue or Vendor which follow their own interests and set rules which may only advantage a small fraction of market participants but neglect the features required by the majority of the other market stakeholders (e.g. investment fund management companies). We need an UPI infrastructure which is trusted by both the regulators and **all** market participants. The buy side and millions of retail and institutional investors have lost billions of dollars in 2008 largely because of investment banks engaged in ill-fated derivatives (e.g. CDS) and securitizations operations. As a consequence the Pittsburg Summit of 2009 concluded that no transaction shall go unreported in the future. To this end, EMIR, Dodd Frank and other laws were implemented around the globe. UPI/ISIN/CFI (and LEI) became the data foundation of global derivative trade reporting and will continue going forward. Therefore, we cannot see for instance how e.g. banks (or their Trade Associations) that caused the 2008 debacle could be employed as UPI providers to provide true and fair transparency to regulators without a stringent level of controls.

In that respect, only utilities covered by robust, transparent, open and democratic Governance Arrangements with fair representation of all stakeholders should be able to apply for a UPI Service Provider.

We do not believe that the utility function to generate UPIs should be provided by the supervisory authorities. Given that fact that the market place including the buy-side substantially invested in the ANNA-DSB infrastructure this investment should be reused to save time and efforts of building a new infrastructure which on top leads to fragmentation of databases. The ANNA-DSB has demonstrated that the future UPI data base can be easily integrated into the ANNA-DSB offering. Utilisation of a single UPI Service Provider is the most effective model to minimise complexity and cost whilst offering the greatest assurance for quality and data integrity in implementation of the UPI System.

Slicing UPI Service Providers by asset class is problematic as any firm which has cross asset needs would be forced to connect to multiple service providers to have full coverage, while increasing both cost and complexity at the same time. Leveraging an existing industry solution, such as the ANNA-DSB, would ease adoption given the global connectivity already in place whilst stakeholders would also benefit from investments already made, reducing adoption/implementation costs. The introduction of the concept of a single UPI Reference Data Library indicates the potential model of a central utility where multiple UPI Service Providers connect to ensure synchronization to facilitate an efficient model for multiple UPI Service Providers. Where multiple UPI Service Providers connect to a central utility, the fundamental principles regarding data quality, uniqueness and consistency can be maintained however, costs will be increased.

Q2. Do you believe any governance functions in Annex 4 should be performed by a different body? If so, which ones and why?

Yes, the governance function envisaged in Annex 4 could be performed by different bodies. In general, we believe that all the technical functions could be provided by the UPI Service Providers (e.g. production and routine maintenance) whereas oversight and strategic functions should be delivered by the ISB in cooperation with the UIROC and IRG. However, as a starting point of discussion, the LEI Governance Arrangements could be used as a model how to allocate the different governance functions to the different involved UPI bodies.

As a starting point of discussion, 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 efforts. 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 is integrated into the GLEIS governance structure the public oversight of ISO/ANNA governance is addressed. At least the UPI codes and UPI reference data should be available for free to the ANNA-DSB ISIN solution for derivatives.

Q3. How should any Governance Arrangements for the UPI System be funded?

We support the idea that a UPI system including also the Governance Arrangements 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 system in the absence of public funding could be based on the cost recovery principle as used by the GLEIS, and e.g. by the ANNA-DSB when it comes to cost recovery for real time data needs. However, the use and redistribution of UPI data should be free for all. The cost of UPI could be substantially reduced if ANNA-DSB creates and distributes UPIs, especially as most of the UPI data is already part of the OTC ISIN within the ANNA-DSB.

Q4. Do you consider the Governance Arrangements described in section 3 above are appropriate and adapted to provide oversight on fees and cost recovery?

We have no comment.

Q5. Please provide any specific suggestions to promote adherence to the cost and open access criteria, including suggestions relating to escalation procedures, including complaint handling bodies and processes.

Please see our answer to question 1.

Q6. If you believe that start-up costs should be fully recovered by a UPI Service Provider, how should they be allocated between earlier- and later-arriving subscribers? For example, over approximately how many years should the start-up costs be amortised?

The introduction of the start-up costs experienced by ANNA-DSB could be used as a starting point of discussion with the relevant market stakeholders and the regulators.

Q7. If revenues for a year have exceeded or fallen short of anticipated costs for that year, should the UPI Service Provider have a mechanism for rebating or recovering the excess, either during that year or at a later time?

Please see our answer to question 6. The ANNA-DSB fee model could be used as a starting point of discussion with the relevant market stakeholders and the regulators.

Q8. Do you believe that a UPI Service Provider should be allowed to cross-subsidise the provision of UPI Services with revenues from other business lines, either with regard to start-up costs or on an ongoing basis? Why or why not?

No. Only other publicly mandated services like LEI or ISIN allocation and distribution should be allowed. We share the concerns envisaged by the FSB that some UPI users (e.g. investment fund management companies) might feel compelled to aquire products or services that they would not otherwise wish to obtain in order to ensure the fullest and quickest access to the UPI data.

Furthermore, we fear that a UPI Service Provider allowed to cross-subsidize the provision of a UPI Service with the revenues from other business lines could be encouraged to license the core UPI function (e.g. generation of the UPI) which all reporting entities have to pay. A license obligation for the reporting entities could hinder the usage, further automatization and technological developments of the UPI along the whole value chain in the global derivative markets as market participants could be discouraged to pay additional fees for an identifier. Generating of OTC-ISIN is not a case of cross-subsidization as UPI and ISIN serve roughly the same purposes.

Q9. Should a UPI Service Provider be permitted to provide value-added products and services (i.e., products and services that incorporate UPI data but are not required by the UPI Technical Guidance)?

As already stated in our position to the first consultation, the UPI concept should be able to support other business process than regulatory reporting and should be therefore aligned with and support existing private solutions, e.g. in the area of identifiers mapping and data interfaces. In particular the UPI codes and UPI reference data should be available for free to the ANNA-DSB ISIN solution for derivatives. In perspective the ANNA- DSB is for us the automated based on ISO standards global reference data source for all derivatives.

Q10. What is your evaluation of the risks of restrictive practices limiting open access, e.g. through the bundling of UPI Services with value-added services? How and by whom could such practices be prevented or restricted?
Q11. Should a UPI Service Provider that engages in other business activity be required to "ring fence" its UPI functions? If so, what sort of corporate, legal, and/or accounting mechanisms would be necessary to effect such an arrangement?

As already mentioned in our answer to question 8, some UPI users need only access to the UPI data in order to comply with the relevant reporting obligations. Therefore, regulators should ensure that UPI Service Providers offer only unbundled services to the market participants, thereby allowing UPI users to have only access to the relevant UPI (and ISIN) data feeds without obliged to buy additional data packets which they do not need.

Furthermore, a UPI Service Provider bundling the relevant UPI service with value-added service could license such data packets and sell it to the financial industry without the possibility not to contract such license agreements. The implementation of the MiFID unbundling service is a good example how regulators should interfere in order to avoid the offerings of bundled services offered by the UPI Service Provider.

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 database, 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.

Q12. Should ownership of any intellectual property created by a UPI Service Provider be assigned to a third party in order to maintain and ensure continuation of open access in the event that the provider were to become insolvent or subject to administration or voluntarily withdraw? If so, how should that third party be structured?

Firstly, we strongly believe that the UPI Reference Data Library should not be subject to any intellectual property restrictions 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 for UPI also in the case of the insolvency of a UPI Service Provider. The set-up of the UPI system should insure that IP rights are vested in the regulatory oversight body preventing insolvency.

Q13. Should access to a vendor-proprietary identifier in the UPI Reference Data Library be limited to only those market participants who have a corresponding license agreement with the respective vendor? If so, how should that underlying asset or index be identified for non-licensees?

We strongly believe that the access to a vendor-proprietary identifier in the UPI Reference Data Library should not be limited to only those market participants who have a corresponding license agreement with the respective vendor. 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.

All underlying market data which relates to a derivative product 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. Either vendors agree that their data can be used free of IP rights within the UPI System (e.g. as the case is with the CUSIP identifier in the ANNA DSB) or their use is excluded from the system.

Furthermore, there are some perceived challenges with UPI data due to the existing rights related to proprietary data used to specify/identify the underlier. It is imperative that these rights do not infringe or restrict the ability to create or use the UPI data record for the purposes of meeting trade, transaction, administration and reporting obligations. It is also key to ensure that the IP rights of the UPI record cannot be claimed by any third party. Therefore, it must be clear from the outset how these rights are positioned.

Q14. Do you believe that wherever possible, elements within the Reference Data Library should use established International Data Standards?

Reference data standards should use ISO standards, where available, to represent reference data elements within the UPI records. 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.

Q15. Do you agree that, for similar reasons as were given in the UTI Consultation, the ISO is the most appropriate body to undertake the functions of an International Standardisation Body for the UPI?

As already stated in our position to the first consultation paper, we strongly support the approach that 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.

Q16. Do you think it desirable that all Data Elements in the UPI Reference Data Library be subject to ISO standards?

Please see our answer to question 14. We strongly think it desirable that all Data Elements in the UPI Reference Data Library are subject to ISO standards.

Q17. Do you agree with the FSB's preliminary conclusions about codelists and related topics in section 5.3 above?

Yes we agree.

Q18. If you believe that the UPI can and should be used for purposes other than solely regulatory reporting, describe in detail and provide specific examples of any such additional purposes.

Please see our answer to question 9.

Q19. Considering the pros and cons of each of the above-mentioned models (Single UPI Service Provider model or Competitive model), what would in your view be the most suitable? Please provide detailed reasoning.
Q20. Do you believe that there should be a single UPI Reference Data Library if multiple UPI Service Providers coexist in the UPI System? Why or why not?
Q21. What would be the value added in having competing UPI Service Providers if there was a single entity centrally managing the UPI Reference Data Library?
Q22. How could the applicable technical principles and governance criteria mentioned in section 6.1 be followed if there were multiple UPI Service Providers?

Please consider our answer to question 1.