Frankfurt am Main,
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BVI`s response to the FSB consultation document on the proposed governance arrangements for the Unique Transaction Identifier (UTI)

BVI[1] gladly takes the opportunity to present its views on the FSB consultation document to the proposed governance arrangements for the Unique Transaction Identifier (UTI).

- **General Comments**

We strongly agree with the work started by the FSB to develop governance arrangements for the UTI 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 UTI 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 UTI 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.

We strongly welcome the FSB recommendation that ISO is the best candidate to oversee and maintain the UTI data standard. We strongly support the view of the regulators to use in the regulatory reporting like EMIR, SFTR, MiFID II/MiFIR identifiers which are based on ISO standards. 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 with some nudging by the regulators across the globe is able to create a successful story for the UTI in the same way as ISO was able to create a global solution for entity identification with the LEI.

We believe that the public policy priority must be on pushing the only universally accepted and government supported industry standard setting system, the ISO system which is part of the UN framework. The ISO standard governance offers a readily available global solution with standards (which may need to be amended) and an infrastructure in place which is acceptable to both the regulators and industry. As the UTI`s composition includes the LEI, the maintenance of its structure and format is already under the ISO umbrella (ISO 17442). We strongly share the FSB assessment that many of the general intellectual property or governance concerns about the LEI component of the UTI data standard are already being handled by the existing governance system of the LEI.

- **Specific Comments**

Q1. Do you consider any further criteria should be included in the above list?

No, we consider the list of criteria's as sufficient with the exception of 4.6 (open access) and 4.7 (intellectual property) which fall short of expectation as they do not protect the counterparties and the service provider (such as paying agents, collateral manager) from undue license and fee requests, from

[1] BVI represents the interests of the German investment fund and asset management industry. Its 97 members manage assets of EUR 2.8 trillion in UCITS, AIFs and discretionary mandates. As such, BVI is committed to promoting a level playing field for all investors. BVI members manage, directly or indirectly, the investments for 50 million private clients in 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.

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CCPs and trading venues seeking to expand their data business. For example: Eurex had on 4, May 2017 10.361.161 trades in various derivatives.[2] Assuming a fee of 1 EUR for a single UTI creation charged to the counterparties, this would mean more that 10 Mio EUR additional revenues to the trading venue/CCP on any given trading day. That is not acceptable adding cost to the trading counterparties and their service providers (e.g. paying agents, collateral manager).

We strongly support the idea that the access to the UTI data should be unrestricted, free of charge or not entail undue costs for all regulators and all market participants, especially counterparties and their service providers. Furthermore, we strongly assist the proposal that the UTI data 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 and fees.

We propose the following text to 4.6 (open access) and 4.7 (intellectual property):

- 4.6 (open access)

*Access to and use of the UTI **~~and~~**, the UTI Data Standard **and the trade details associated with the UTI** should be unrestricted and free of charge for (i) Authorities and (ii) TRs acting in their capacity as TRs and **(iii) counterparties (including service providers such as paying agents and collateral manager) to the trade;** and such access and use by other stakeholders should not be unduly restricted or entail undue cost.*

- 4.7 (intellectual property)

*The UTI Data Standard, **the UTI`s generated thereunder and the minimum trade details associated with the UTI** shall not be subject to any intellectual property restriction, and any created intellectual property shall be treated in a manner consistent with open source principles and as a public good. Consistent with this, use of and access to the UTI, **the associated minimum trade details** and UTI Data Standard shall be free of licensing restrictions **and fees.***

*Rationale: In order to help ensure that the UTI Data Standard is effectively a public good, there should not be any **~~unreasonable~~** restrictions on its usage.*

Q2. Are there any criteria in the list that you do not consider relevant to UTI Governance Arrangements?

We consider all criteria in the list as relevant for the UTI governance arrangements.

Q3. Are there ways in which any of the key criteria should be modified?
Q4. Do you have any suggestions on how the criteria should be applied?

We have no comments.

Q5. Can you suggest any refinements or additions to the articulated areas of governance?
Q6. Can you suggest any other functions that should be included in the above list?

[2] http://www.eurexchange.com/exchange-de/marktdaten/statistik/online-marktstatistiken

Q7. Are there functions in the list which are not relevant for the UTI in your view?

We consider all functions within the area (1), (2) and (3) as relevant in order to perform the UTI Governance arrangements.

Q8. Do you agree with this analysis? If not, how would you amend it?

We agree with the analysis. The development and maintenance of the UTI data standards is a pure technical function. An International Standardisation Body, such as ISO, has the capabilities, skills and experiences to oversee and maintain technical specifications as it is the case for the LEI ISO 17442. The work of ISO is recognised and accepted as an international standard with a widespread dissemination within the financial industry.

Furthermore, only the ISO System is globally recognized as a standard setter by public authorities and within the UN framework. Industry standards such as provided by ISDA or Object Management Group (OMG) do not carry official recognition by the public sector. As the G20 is searching for a global regulatory reporting UTI solution, only a globally public recognized standard setter will be acceptable around the globe. For example, also a developed derivative market such as Germany a substantial number of market participants are not using the ISDA or OMG standards. Instead most of our members use standardized Excel spreadsheets ("BVI – Excels"[3]). It would not be acceptable to force our members and the local supervisory authorities to use exclusively a private industry standard set across the ocean.

Q9. Do you see any other disadvantages to seeking UTI's adoption as an International Data Standard?

We do not see any disadvantage to adopt the UTI technical guidance as an ISO standard. As mentioned above, the UTI`s composition contains already ISO data elements (LEI ISO 17442).

Q10. Do you agree with this analysis? Or if not, how would you amend it or what alternatives would you suggest?

The G20 should work with ISO to make sure that the access of all industry, regulators and market participants interested in the UTI to the ISO standard setting process is facilitated as much as possible. While ISDA is an ISO liaison, and BVI is represented on the German ISO member DIN, and both may therefore easily participate in an ISO UTI effort, this may not be true for all other interested parties. ISO should be flexible in a similar fashion as it was the case with the OTC-ISIN set up through a dedicated working group involving both ISO members as well as other industry and regulator participants.

Q11. If a decision were taken to adopt the UTI Data Standard as an International Data Standard, should the FSB seek to impose any conditions or limitations on ISO concerning the maintenance of the UTI Data Standard? If so, which?

As the ISO UTI standard would essentially only provide for the rules how to calculate a single UTI identifier, no special maintenance requirements seem necessary. The G20 regulators, however, need

[3] https://www.bvi.de/en/regulation/sector-standards/

to satisfy themselves, that ISO is able to react on a timely basis to regulatory needs to change the standard outside normal ISO standard maintenance cycles of 5 years.

Q12. Can you identify any relevant lessons from the LEI governance or other standards in use in the financial community? Are there any lessons learned with respect to referral of a data standard to ISO for adoption?

The G20 members need to mandate the use of the globally agreed standards on a more political level. The LEI Regulatory Oversight Committee is as the name says not well equipped to push and lobby for LEI implementation at the local level. Similarly, the Global LEI Foundation has no mandate to lobby for implementation of the standard within the various G20 jurisdictions. The FSB probably would need to monitor the (non) implementation of the (LEI) ISO standards for the G20 on a regular basis, and the LEI ROC could be given the express task and jurisdiction to follow up with individual jurisdictions on cases of perceived non-implementation of globally agreed identifiers, namely ISIN, LEI, UTI and UPI.

Q13. (i) Do you see any other advantages and disadvantages of seeking ISO's assistance in this governance function? (ii) Should the assistance of ISO be sought from the outset or rather in a subsequent step, following implementation of the UTI?

ISO is best at setting the technical standard and updating it on a regular basis. ISO is not well equipped to deal with usage issues, e.g. license or fee issues

Q14. Do you agree with these analyses supporting the proposed allocation of functions to Authorities, A.2.1 through A.2.5 above?

Please see our answer to question Q12. Especially to point A.2.4 we believe that the FSB probably would need to monitor the (non) implementation of the UTI/ ISO standards for the G20 on a regular basis, and could be given the express task and jurisdiction to follow up with individual jurisdictions on cases of perceived non-implementation of the UTI identifier.

Q15. Are there any functions on this list that you think would be better allocated to a different governance option? If so, which functions and why?

Please see our answer to Q12. The G20 should mandate the ROC to monitor the UTI/UPI data standard.

Q16. Do you perceive ways in which any of the proposed allocation of governance functions might vary from key criteria? If so, how and why?

We have no comments.

Q17. Regarding A.2.5, should the need arise, do you think that instead of the CPMI and IOSCO or the FSB, another international entity should ensure that the key criteria for governance remain fulfilled from the outset of UTI implementation? Should the FSB alternatively recommend that Authorities oversee implementation and await indications of a need for international compliance oversight before allocating this coordination function to an international body?

Please see our answer to Q12. The LEI ROC should be mandated by the G20 to cover all identifiers/ data standards.

Q18. Do you have a view on whether UTI implementation, including the setting of a timeline for implementation, should be conducted by Authorities alone or assisted by an international regulatory body?

The implementation of the UTI data should be based on a globally coordinated approach. All market participants should be given sufficient time to implement the new requirements. The ROC should be mandated by the G20 to set the timeline implementation.

Q19. In your view, should the monitoring of implementation of the UTI be performed by Authorities or by another body?

Both national supervisory bodies and ROC should monitor the implementation for the system as a whole.

Q20. If you feel that Authorities should not be responsible for implementation of the UTI, should an existing body be given this responsibility or should a new body be created for this purpose? If the latter, what kind of body?

Please see our answers to Q12 and Q19.

Q21. What is your view as to the most appropriate arrangement for the maintenance (updating) of the guidance? Should an existing body be given this responsibility or should a new body be created for this purpose?

The LEI ROC experience indicates that regulatory/supervisory bodies should work on general policy and best practices guidance, leaving pure technical changes to ISO. ISO should come up with suggestions how to fulfill regulatory stated needs, and not the regulatory communities needing to define in advance all technical detail.

Q22. In your view is there an immediate need for an international coordinating body? Please share your views on this point.

As an example the LEI shows there is a need for a body which can monitor implementation and is empowered to inform and lobby the different jurisdictions to speed up implementation.