

BVI's response to the CPMI/IOSCO Second Consultative Report on Harmonisation of the Unique Product Identifier (UPI)

BVI¹ gladly takes the opportunity to present its views in relation to the consultative report on the harmonisation of the UPI.

- **General Comments**

We strongly agree with the work initiated by CPMI/IOSCO to develop a clear framework for the 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 jurisdiction to multiple trade repositories. The implementation of a global UPI concept should be carefully calibrated as the establishment of a new product classification/identifier system is complex.

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 instrument classification by UPI by building as much as possible on the existing instrument classification (CFI) and identification (ISIN) codes in the same way as ISO was able to create a global solution for entity identification with the LEI.

We believe that the priority must be on pushing the only universally accepted and government supported industry standard setting system, the ISO system. The control over the data and thereby the underlying markets which is maintained currently 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.

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. Both the ISIN and the CFI standards cover today all financial instruments i.e. equities, bonds, exchange traded- and OTC-derivatives. Both could be amended especially on the level of the relevant allocation guidelines to accommodate the specific UPI-requirements, most of which will be specific data fields currently not covered by the standard. Furthermore, the new UPI should be able to incorporate in the existing market infrastructure life cycle to be able to support more business process than regulatory reporting and should be therefore aligned/mappable with existing (proprietary) identifiers.

¹ BVI represents the interests of the German investment fund and asset management industry. Its 96 members manage assets of some 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 assets of 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.



- **Specific Comments**

We would like to make the following comments:

Question 1: Do you believe that the data elements within each asset class described above are appropriate? Why or why not? If there are additional subcategories that you believe should be included for one or more asset classes, please describe them and discuss why you believe they should be included.

We consider the data elements as presented in the consultation document as sufficient. An OTC derivative product should be defined as a combination of data elements of the instrument with data elements of the underlier.

Question 2: Do you believe generally that the value “Other” is required in certain data elements? If so, which ones and why?

Yes, we agree that the value “Other” is required in certain data elements. As already presented in our response to the first consultation on harmonization of the UPI in February 2016, a UPI classification system should only apply the value “Others” if newly created (OTC) derivative products are introduced and used until the percentage of this traded/reported product exceeds a pre-defined threshold in comparison to the total amount of the product. As soon as the threshold is exceeded a new OTC product classification bucket should be developed in consultation with the financial community. Most OTC derivative products develop over the time and if traded more frequently, they will show greater level of standardization. A clear and open governance process/structure for the development of the new bucket is required in order to incorporate all relevant stakeholders including the respective working group at ISO for the ISIN/CFI. The regulators have to determine in advance the threshold used by the market participants.

Question 3: For an OTC derivative product based on a custom basket of securities or assets, please provide your view of the optimal means of representing that OTC derivative product. Do you believe that it is practical to include all of the underlying securities or assets and their risk weights in the UPI reference data? If not, how do you believe that the elements of the custom basket and their risk weights should be reported to a TR?

A slim solution with only a list of holdings with identifiers (ISIN) and the weighting of each asset should be sufficient. For detailed analysis more data (prices, reference data) may be necessary. However, it is not the task of the UPI to support all kinds of analysis with its reference data. The primary function of an identifier is to be a turnkey to allow analysis of data on the identified object which may be contained in other databases than the reference data which are associated with the identifier itself.

Question 4: How should underlying assets and reference entities be represented in the UPI data library? Would LEIs be suitable, at least for corporate reference entities? Why or why not? Are there suitable identifiers for indices? If not, is it feasible to use an existing identifier such as an ISIN code for them?

We strongly support the usage of the LEI to identify reference entities. Based on EU regulation all financial market participants, including corporate issuers of bonds and equities, are already or will be soon required to apply for LEIs. Coverage is therefore not an issue. LEI should be used in combination with ISIN for the identification of the underlying reference assets. In this context the financial community



should be encouraged to apply for ISIN codes also on indices which is foreseen in the ISO 6166 standard. Relying only on LEI and ISIN as much as possible will enhance the data standardization in the financial industry. Other identifiers should therefore not be allowed. They may, however, be provided as a service in a mapping table only.

Question 5: Do you envisage any obstacles to including the source of the identifier for the underlier as part of the reference data element for the underlier? Please explain and justify.

If the recognized identifiers are limited to LEI and ISIN the source of the identifier does not need to be indicated as it will be always either the GLEIF and its LOUs in case of LEI or ANNA and its members in case of ISIN. The identification of underlying only with its (US) ISIN identifier without inclusion of other reference data should not create any licensing issues with S&P CSB.

Question 6: Could there be issues related to including proprietary benchmarks and indices in publicly available reference data or publicly disseminated UPIs? Please elaborate on any issues, such as licensing, that may exist.

Yes, the main problem is the licensing and public dissemination of (proprietary) benchmarks and indices. The creation of a new licence market through UPI regulation needs to be avoided. Fund management companies already today pay high and multiple fees to the benchmark providers.

Under German IP law the mentioning of just the name of the benchmark/index by a third party is in principle possible without any license. However, if additional data on the benchmark, e.g. the index composition or sector classification are provided alongside the name the UPI database users are likely obliged to conclude license agreements with the index provider in question in order to be allowed to use such benchmarks/indices in their internal systems. Providers of sector classification are likely to require additional licenses on top of the index licenses. Therefore, CPMI/IOSCO should take into consideration how to frame the UPI data requirements on (proprietary) benchmarks/indices in such a way that the benchmark providers are not presented with a new business case to charge additionally license fees on top of the existing license agreements. Benchmark providers should not be allowed to price an UPI data service separately. The usage of UPI data including a reference to the underlying's (proprietary) benchmarks/indices should be free of charge for the user.

Furthermore, to the extent that benchmarks/indices today are created on a purely private basis based on an agreement between asset manager and its institutional client, the mentioning of the benchmark/index in the UPI database may be considered publication of such index within the meaning of the EU benchmark regulation. The regulation requires that public indices are produced only by regulated benchmark providers. The UPI database should not lead to an indirect prohibition on the production of private indices reflecting the particular investment needs of a single (institutional) investor. Therefore it should be possible to limit the number of users of a UPI database on a need to know basis.

Question 7: What are the arguments for and against the use of a dummy UPI code or an intelligent UPI code, or having both types of code coexisting?

Our members could use both a dumb code as well as an intelligent UPI code as the latter could represent any characteristic common to different products in the same way in each products's UPI code. However, we would favour a dumb code and encourage CPMI/IOSCO not to use the term "dummy" code which is more usually understood to refer to temporary or null entries. There is too much information that would need to be embraced in a reasonable length code. The CFI code is difficult



enough to analyse with only six characters. Furthermore, the license issue can be more easily avoided with a non-intelligent identifier as this kind of identifier is less likely to create an intellectual property issue.

We share the view presented in p. 20 that an intelligent code could be inferred from the different characters that constituted that code. Such intelligent code should have a pre-defined number of characters in order to alleviate the composition of the code. As a starting point of discussion, an intelligent code should be based on the ISO classification of financial instruments (CFI) standard. On the other hand a "dumb" standard is open to financial innovation as it would not require changes to the standard and/or allocation rules in case of new products which do not fit with the defined characters of an intelligent standard. Therefore a dumb code combined with a human readable identification such as the ISO 18774 Financial Instrument Short Name (FISN) may be of more value to the market place. The STP process could work as well with a dumb identifier which could be displayed in a report alongside human readable attributes taken from the accompanying reference data file. Unnecessary complexity in maintaining UPI databases should be avoided by allowing only for one code structure.

In this context, we would like to reiterate our position that it is of utmost importance that a global UPI/ intelligent number is developed as a public good with no intellectual property rights attaching to it. The reporting financial counterparties should be able to obtain the UPI license free and free of charge. In that respect, we strongly encourage CPMI/IOSCO and all regulators worldwide to ensure that all identifier used in regulatory reporting should be available on a license and fee free basis.

Question 8: Do you agree that a well-articulated UPI reference data library could support interoperability between dummy UPI codes and intelligent UPI codes? Why or why not? What steps could be taken with the UPI reference data to facilitate supporting both types of UPI code?

Unnecessary complexity should be avoided by only one code structure.

Question 9: What are the minimum and maximum lengths (in terms of number of characters) that you believe the industry could accommodate for a UPI code system? How does this vary between dummy and intelligent codes? What do you believe is the optimal number of characters, and why?

Please see our answer to question 7. Intelligent codes should be based on the structure of the ISO CFI in order to reuse existing industry practise. We do not have a length recommendation for a dumb identifier to be combined with a human readable identification such as the ISO 18774 Financial Instrument Short Name (FISN) may be of more value to the market place.

Question 10: For intelligent codes, how should the information be encoded? Are there existing models for this? How much adaptation would existing models require in order to meet the needs described in this consultation?

As a starting point of discussion, the ISO CFI code could be used to encode the information.

Question 11: Do you believe that UPI codes should have an inherent means of validation? For example, should UPI codes include a check digit? Why or why not? Does this vary between dummy and intelligent codes and/or depend on the encoding method used in an intelligent code?



There should be the same „check-digit“ like in the ISO ISIN code in order to allow the user to check on the formal validity of the identifier.

Question 12: Another means of having a simple, partial validation for a UPI code would be for all UPI codes to be of uniform length: thus, any code that was not of the required length could be recognised as prima facie invalid. Do you believe that all UPI codes should be of uniform length? Why or why not? Or are optimal UPI codes of one asset class likely to be longer or shorter than optimal UPI codes for other asset classes? If so, do you believe that extra dummy characters should be inserted into the shorter codes to make them of the uniform length? Why or why not?

A UPI code should have a uniform length as most of the ISO identifier codes are based on a uniform length (e.g. LEI and ISIN).

Question 13: For an intelligent UPI code, how should underlying the asset(s) or reference entity (entities) be represented within the UPI code? Would it be preferable for the part of the UPI code that represents the underlying asset(s) or reference entity (entities) to be dummy while the rest of the code is intelligent? Why or why not?

Please see our answer to question 7. An intelligent UPI code could also include for the underlying assets only a basic indicator e.g. "E" for equity, "B" for bonds, etc.

Question 14: Should the UPI code system avoid using Roman letters? Why or why not? Are there particular jurisdictions whose computer systems cannot accommodate Roman letters?

Question 15: Would it be preferable for the UPI code system to use only Roman letters, only Indo-Arabic numerals, or a combination of the two? Why? If Roman letters are included in the UPI code system, should they avoid being case-sensitive? If the UPI code system uses both Roman letters and Indo-Arabic numerals, should the system not disallow particular characters that could be mistaken for each other (the lower-case letter "l" and the number "1", the digit "0" and the upper-case letter "O" etc).

Alphanumeric codes like ISIN and LEI are most acceptable in practice.