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Re: Committee on Payments and Market Infrastructure (CPMI) and Board of the International Organisation of Securities Commissions (IOSCO) Consultative Report on the Harmonisation of the Unique Transaction Identifier (UTI)

The Global Foreign Exchange Division (GFXD) of the Global Financial Markets Association (GFMA) welcomes the opportunity to comment on behalf of its members on the Consultative Report on the Harmonisation of the UTI issued by CPMI and IOSCO on 19 August 2015.

The GFXD was formed in co-operation with the Association for Financial Markets in Europe (AFME), the Securities Industry and Financial Markets Association (SIFMA) and the Asia Securities Industry and Financial Markets Association (ASIFMA). Its members comprise 24 global FX market participants,¹ collectively representing more than 90% of the FX inter-dealer market.² Both the GFXD and its members are committed to ensuring a robust, open and fair marketplace and welcome the opportunity for continued dialogue with global regulators.

Introduction

The FX market is the world's largest financial market. Effective and efficient exchange of currencies underpins the world's entire financial system. Many of the current legislative and regulatory reforms have had, and will continue to have, a significant impact upon the operation of the global FX market, and the GFXD wishes to emphasise the desire of our members for globally co-ordinated regulation which we believe will be of benefit to both regulators and market participants alike.

The global FX market presents some unique challenges for trade reporting when compared with other asset classes. FX forms the basis of the global payments system and as such both the number

¹ Bank of America Merrill Lynch, Bank of New York Mellon, Bank of Tokyo Mitsubishi, Barclays Capital, BNP Paribas, Citi, Credit Agricole, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan, Lloyds, Mizuho, Morgan Stanley, Nomura, RBC, RBS, Société Générale, Standard Chartered Bank, State Street, UBS, Wells Fargo and Westpac.

² According to Euromoney league tables

of market participants and the volume of transactions are high. Notional turnover, per the last BIS report, is US\$5.3 trillion/day.³

The high number and diversity within the participants of the global FX market presents many practical challenges in ensuring that those that are required to report actually can do so. As the FX market is global in nature, the reporting of a transaction will often be required to multiple jurisdictions, and any variation in the trade reporting requirements will be required to be adopted by either one, or both, parties to the transaction usually resulting in increased costs and increased operational risks.

The GFXD has consistently promoted and supported efforts to align global trade reporting standards as we believe that consistent trade reporting requirements offer regulators the best opportunity to oversee trading practices and market transparency.

The GFXD welcomes the opportunity to set out its views in response to the Consultative Report.

Question 1: Are there jurisdictional differences about what is a reportable transaction that respondents believe will cause challenges for UTI generation? Please describe the differences and challenges.

Jurisdictional differences in what is a reportable transaction do create challenges for UTI generation.

Currently there are differences in (1) what FX products are reportable, (2) whether a trade ID generated in one jurisdiction can be consumed by a counterparty in another jurisdiction, (3) which entities are permitted to generate UTIs and (4) what exemptions have been granted for reporting.

To illustrate these issues we consider the following examples:

- (1) What products are reportable: A FX forward trade between a large Japanese bank and a small EU corporate. Both jurisdictions have dual-sided reporting, but FX forward trades are only reportable in Europe and not in Japan. Consequently the EU corporate would have to generate a UTI when it might otherwise have relied upon its larger, financial counterparty to do so. This requires additional technological capability on the part of the corporate, as well as a mechanism for recognising in a timely manner when one's counterparty has not generated a UTI.
- (2) Consumption of UTIs: A FX trade between a US swap dealer and an EU corporate. Both counterparties are required to report in their respective jurisdictions. If the EU corporate is content to consume the USI generated by the US swap dealer, no issue arises, since European reporting parties may submit a USI as their UTI. However if the EU corporate wishes to generate the trade ID, the UTI it generates will not be consumable by the US swap dealer, due to a difference in the prescribed US trade ID format and the trade will be reported under two different trade IDs.
- (3) Which entities are permitted to generate UTIs: In the US, CFTC rules require that a USI is formed using a unique alphanumeric code called a 'namespace'. All entities that generate USIs must register with the CFTC to receive a namespace. For platforms, this is in the form of registration as a Swap Execution Facility (SEF) or Designated Contract Market (DCM).

³ <https://www.bis.org/publ/rpfx13fx.pdf>

However, in November 2012, the US Treasury exempted FX swaps and FX forwards from the definition of a 'swap'⁴, and therefore from a number of regulatory requirements. This means that platforms that only offer trading in FX forwards and FX swaps (known as FX ECNs), are not required to register with the CFTC as a SEF or DCM. They are not assigned a 'namespace' and cannot generate USIs. Consequently, counterparties trading on FX ECNs with an obligation to report must generate their own trade ID, when they would otherwise have relied upon the platform to generate the ID for the trade. This could lead to a situation in which each counterparty generates its own trade ID (for example, one generates a UTI and the other a USI, as in point (2) above).

- (4) Reporting exemptions: An EU client wishing to purchase a South African security. The settlement cycle for securities in South Africa is T+7 calendar days (5 business days), so to facilitate the client's purchase the bank custodian or broker-dealer would enter into a FX transaction (FX Security Conversion) settling on a T+7 basis. Transactions such as this, which are incidental to and for the sole purpose of effecting a foreign securities transaction, are considered a spot transaction in the US⁵ and Canada⁶, even though they are greater than the usual T+2 day settlement. However in Europe, such a determination has not yet been granted, so the FX transaction would be considered a FX forward. This would subject the trade to derivatives legislation, such as the reporting obligation, exposing the counterparties to needless operational, price, credit and other risks.

Question 2: Are there further harmonisations (that could potentially be applied) to the rules that define which transactions are reportable that would reduce or eliminate the challenges around generating UTIs? In answering this question, please also describe the challenge(s) and identify the jurisdiction(s).

The GFXD considers that there are a number of further harmonisations that would reduce the challenges, such as those described in our response to Q1, around generating UTIs:

- (1) Global agreement on what FX products are reportable to the trade repository.
- (2) A globally consistent trade ID construct. This would mean that counterparties could always consume each other's UTIs, rather than one jurisdiction taking precedence over another, as is the case with USIs in the US, which can be used as UTIs in Europe, but not vice versa.
- (3) Global agreement that jurisdictional rules should not prevent certain counterparties from generating UTIs. For example, in the US, where the CFTC prevents non-CFTC registered entities from producing one of the components it requires in a USI.
- (4) Global agreement on which transactions merit exemptions from the standard rules. For instance, the GFXD supports a globally harmonised exemption from trade reporting for FX Security Conversions, as outlined in our comment to the European Commission in March 2014⁷.

⁴ <http://www.treasury.gov/press-center/press-releases/Documents/11-16-2012%20FX%20Swaps%20Determination%20pdf.pdf>

⁵ See <http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2012-18003a.pdf> (pages 48256-48258).

⁶ See Canadian Securities Administrators (CSA) CSA Staff Notice 91-302 Updated Model Rules – Derivatives Product Determination and Trade Repositories and Derivatives Data Reporting available at http://www.bsc.bc.ca/uploadedFiles/securitieslaw/policy9/91-302_%5BMultilateral_CSA_Staff_Notice%5D.pdf; and equivalent from the Ontario Securities Commission (OSC) at http://www.osc.gov.on.ca/en/SecuritiesLaw_rule_20130606_91-506_91-507_rfc-derivatives.htm.

⁷ <http://www.gfma.org/correspondence/item.aspx?id=585>

Additionally, there are two further issues we would like to raise:

- The lack of standardisation around the reporting of FX swaps: Currently, there is no global guidance on whether the two legs of an FX swap should be reported separately or in combined form. We note that this has been raised to CPMI and IOSCO and is mentioned in the consultation paper under '7.3 Industry Workshop'. The GFXD would like a global agreement that FX swaps should be reported as two separate transactions, linked by means of a Link ID, since while the transactions are related, they are separately priced, cash managed/funded, legally confirmed and risk managed by the counterparties involved. We also recommend that the two legs should both be reportable, regardless of tenor, i.e. that the near leg of an FX swap is never regarded as a spot trade.
- Industry support for a globally consistent single-sided reporting model: In responding to the recent European Commission Consultation Paper on EMIR, the GFXD supported a cross-industry effort, led by ISDA (International Swaps and Derivatives Association), to advocate for single-sided reporting in Europe. Such a regime already exists, for practical purposes, for transactions that take place in a dual-sided regime, where only one of the counterparties in the transaction has an obligation to report, e.g. a trade between a Central Bank and an EU bank or a transaction in Europe between a US corporate and an EU bank. In both examples, only one report would be submitted to the European trade repository, contrary to the usual dual-sided nature of European reporting. However, the one report submitted would still contain all the required information about the trade, allowing regulators to perform their required oversight.

We believe that single-sided reporting would result in better quality data for regulators (as it would end the current high rate of mismatches resulting in current low level pairing/matching rates) (e.g. caused by field misinterpretation), allowing for better oversight and risk management. Consequently, we believe that single-sided reporting should be adopted globally, increasing the quality of the data available to authorities and reducing the burden on less sophisticated market participants. As part of the single-sided model, we would like global agreement that only one report per trade is required, for either a local or a cross-border trade. This would require equivalence between regulations, and the capability for all authorities to be able to access data from all trade repositories for market analysis.

Question 3: Do respondents agree with the proposed approach to UTI allocation for package transactions? Under what circumstances should the entire package have a single UTI?

The GFXD believes that trades should be reported as they are confirmed by the counterparties, i.e. when the package is confirmed as one transaction, it would be reported as one, and when the package is confirmed as individual consistent elements, it would be reported as such. When reported as individual elements, the reports should be linked using a 'Link ID' field.

The FX industry has already conducted work to make the confirmation process sufficiently sophisticated to allow market participants to confirm packages in the ways described above. It is imperative that regulators work to a similar level of sophistication, allowing them to take advantage of market development in this area, for example in FpML (Financial products Markup Language⁸).

⁸ <http://www2.isda.org/functional-areas/technology-infrastructure/fpml/>

Question 4: Are there other approaches to UTI allocation for package transactions that should be considered? If so, please describe.

No comment.

Question 5: Which, if any, of the options for identifying and linking components of packages do you favour and why? In particular, please consider the extent to which the options achieve traceability?

The GFXD agrees with option (ii), where the UTI components are linked via a specific field. This field would be the 'Link ID' field, as is currently being used by the FX industry, for example, to link the two legs of a FX swap transaction. Currently this Link ID is not reported to regulators by the trade repositories, however if this is to become the globally harmonised standard for linking elements of a package, regulators must be able to consume this new data element.

Question 6: Do you see any difficulties in implementing any of the proposed options for identifying and linking components of packages? If so, please describe.

Option (i), to link elements of a package through a component of the UTI structure would complicate the UTI structure. The UTI should be a straight identifier and not contain information that would be simpler to report in a separate field.

Option (ii), to link components of a package through a Link ID field, is GFXD's preferred solution, as described in our response to Q5. This will still require changes to systems, for market participants, market infrastructure and regulators, although the field is already being used by some participants to link, for example, the two legs of an FX swap.

Option (iii), to rely on the UPI, is currently an unworkable solution. The UPI is yet to be defined by regulators, although the FX industry is already using a standard taxonomy⁹, which has been designed by the industry to accurately reflect what is being traded and the terminology used by global market participants. Additionally, due to varying levels of technical sophistication, not all market participants are able to identify products to the same level of granularity. For example, when new product templates are created in FpML some participants are not able to immediately implement the required changes. They may continue to use an older FpML version, where various similar products are captured in a single template, when other participants, using an updated version, consider these products as distinct. The vast number of participants in the FX market makes variable sophistication a significant challenge. To rely on the UPI to carry additional transaction details when it is currently at such a low level of sophistication and harmonisation would be unworkable.

Question 7: Please identify and describe any alternative approaches for identifying and linking components of packages that should be considered, focusing in particular on any impact they would have on UTI generation.

⁹ 'OTC Derivatives Product Taxonomy', available at <http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/identifiers/upi-and-taxonomies/>

The GFXD considers that option (ii), to link components with a Link ID is the best solution. To create new approaches risks compromising the ability of the market to evolve in the reporting of complex structures.

Question 8: Is the proposed division between events that should and should not require a new UTI complete and correct (please refer to the proposal described in this section and the table in Section 8)? If not, please provide other cases and explain why they should or should not lead to a new UTI being required.

The GFXD would like to raise some concerns with the proposed event division:

- (i)(c) mentions amortising swaps. Amortisation is a change which occurs within a contractual event, and as such is not reportable. GFXD requests that clarification is made to the effect that only changes outside a contractual event are reportable, for FX and other asset classes.
- (i)(e) footnote 16: when a UTI is found to be incorrect, it is market practice to cancel and rebook the trade. There is no need to include a 'prior UTP' in this rebooking as the previous report was erroneous and not helpful when considering trade lifecycles.
- Section 8 page 34 allocation: the GFXD notes that this is not strictly a lifecycle event. However, it is similar in that one or more new UTIs are required following allocation.
- Section 8 page 35 prime brokerage:
 - The table suggests there may be an original transaction between the client and executing dealer/broker (ED/EB) that is terminated when the prime broker (PB) interposes itself between the two parties.
 - Prime brokerage exists for 2 reasons. Firstly, as credit intermediation for those who do not have direct trading relationships with other dealers. The service grants PB clients access to market liquidity, without having a direct credit relationship with the ED, by trading on the PB's credit lines. The second is for clients who have multiple direct relationships and who wish to collate all deals with a PB to benefit from netting under ISDA and CSA provisions.
 - Therefore, to say that the client and ED enter into a direct transaction is incorrect. As noted in the ISDA 2015 white paper on Swap Transaction Reporting Party Requirements under Dodd Frank, "For the avoidance of doubt, there is no separate transaction between the EB and client to report"¹⁰.
 - Additionally, we note that the scenario described, involving one ED, one client and one PB is only representative of the most basic of prime brokerage transactions. There are a variety of possible scenarios, many of which are much more complex and result in more than two UTIs.

Question 9: Different jurisdictions may have different rules (including case law) defining which events would require a new UTI to be created. Are respondents aware of any such differences? What difficulties do these differences create in the creation of UTIs? If jurisdictions' approaches to when a new UTI is required cannot be harmonised, are there other steps that could be taken to avoid double-counting of transactions reported to different TRs?

¹⁰ Available at <http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/>

Yes, there are jurisdictional differences in events requiring the creation of a UTI. For example, in the US, when a trade is executed on a SEF, the parties are required to use the USI generated by the platform¹¹. Similar obligations do not currently exist outside the US.

Question 10: Do respondents agree with the analysis of linking related transactions through lifecycle events?

The GFXD disagrees with the phrase “where a transaction gives rise to another transaction”. Market practice dictates that the new transaction is a contract in its own right.

Additionally, allocation, which is not strictly a lifecycle event, may involve the creation of trades to different counterparties from the original transaction.

Question 11: Are there other cases to be considered in the analysis of linking related transactions through lifecycle events?

The GFXD would like to consider those cases involving complex/bespoke products, whose nature, by definition, could include many different types of instruments which may have significantly different properties, ultimately resulting in the creation of numerous transactions.

We do not believe that it would be appropriate to try and link related transactions in this context due to the proprietary nature in how these types of transactions are reflected in individual risk-management systems and therefore the varied nature of representation post any life-cycle event.

Question 12: Are there practical difficulties that would arise from putting a successor UTI on a transaction that had been terminated? Such difficulties could arise in the reporting, the processing by the TR or the analysis by the authorities.

The GFXD considers that it is not necessary or practicable to put a successor UTI on a terminated transaction. For example, the successor UTI may not yet be known at the point of termination. Furthermore, for control and risk management purposes, we are aware that market participants cannot edit reports of transactions that have already been terminated.

In most cases, the use of a prior UTI on the new transaction is sufficient to link the transactions. Where it may not be feasible, for example in compression events, for which there may be a large number of prior UTIs, transactions can be linked using an event ID.

Question 13: Can respondents suggest other ways of achieving links between reports subject to lifecycle events that meet the characteristic to provide an audit trail?

The GFXD considers that the use of prior UTIs on transactions should be sufficient to provide an audit trail.

¹¹ CFTC Regulation 17 CFR 45.5 (a)

Question 14: Which of the proposed solutions to linking reports subject to lifecycle events do you favour? Do you see any difficulties in implementing any of the proposed solutions, and if so, what are they?

The GFXD believes that proposal (iii) is the optimal solution: to use prior UTIs to link transactions. Prior UTIs are already used by market participants for this purpose (as detailed in the example workflows in ISDA's document 'Unique Trade Identifier: Generation, Communication and Matching'¹²), so minimal system change would be required.

Proposal (i) is not a feasible solution, since embedding previous UTIs in a successor UTI could create unmanageably long UTIs, particularly where the lifecycle event takes a large number of trades to create one new trade e.g. compression. UTIs of considerable length would require greater technological capacity on the part of all market participants, and would be more challenging to communicate and reconcile, both for smaller, less sophisticated participants and also for larger counterparties who may have significant numbers of trades to process through the day.

Proposal (ii) is not suitable as it is not necessary or practicable to put a successor UTI on a terminated transaction. For example, the successor UTI may not yet be known at the point of termination. Furthermore, for control and risk management purposes, we are aware that market participants cannot edit reports of transactions that have already been terminated. In most cases, the use of a prior UTI on the new transaction is sufficient to link the transactions. Where it may not be feasible, for example in compression events, for which there may be a large number of prior UTIs, transactions can be linked using an event ID.

Proposal (iv) to create a separate table showing linked transactions creates an unnecessary reporting complication. It is noted in the report that no jurisdiction uses this method currently.

Question 15: Can respondents suggest UTI constructs that would achieve embedding the link information about lifecycle events into the UTI while still compliant with the authorities' desired characteristics for the UTI?

The GFXD does not believe that it is a feasible solution to embed link information in the UTI.

Question 16: Are there additional issues that should be taken into account in considering the responsibility for generating UTIs?

One issue that arises in the market today, which this consultation would address with a single, globally harmonised model, concerns differences in UTI construct between jurisdictions. For example, consider a trade between a US swap dealer and an EU corporate. In this example, both counterparties are required to report in their respective jurisdictions. If the EU corporate is content to consume the USI generated by the US swap dealer, no issue arises, since European reporting parties may submit a USI as their UTI. However if the EU corporate wishes to generate the trade ID, the UTI it generates will not be consumable by the US swap dealer under US law¹³, due to a

¹² Available at <http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/identifiers/uti-usi/>

¹³ CFTC Regulation 17 CFR Part 45.5

difference in the prescribed US trade ID format and the trade will be reported under two different trade IDs. A single, globally harmonised and jurisdiction-neutral model would prevent such conflicts and allow for greater regulatory oversight and data consolidation.

Question 17: Would it be beneficial if the guidance did not provide for the harmonisation of rules for the responsibility for UTI generation with respect to trades that are not cross-border? Would there be disadvantages to this approach? Does the analysis of this idea depend on which option is used for cross-border trades?

The GFXD represent the inter-dealers in the FX industry, which is a by nature global market, with 58% of trades occurring between counterparties across cross-borders¹⁴. Market participants execute trades both intra- and inter-jurisdictions, meaning that they are already subject to conflicting regulatory regimes on a frequent basis. We are therefore supportive of a single, global solution for the generation of UTIs, regardless of whether trades are executed cross-border or within one jurisdiction, to result in harmonious regulatory oversight, complete clarity for all market participants and ease of implementation. The GFXD is supportive of Option 1 in this paper for assigning responsibility for UTI generation, which is a single, global approach.

Question 18: Do respondents agree with the high-level assessment of the Option 1 proposal for the responsibility for generating UTIs? Please explain why or why not.

The GFXD agrees with the assessment.

Question 19: Are there additional considerations relevant to the Option 1 proposal for the responsibility for generating UTIs? If so, please describe.

No comment.

Question 20: Is a problem of enforceability created if the UTI was generated by an entity outside the jurisdiction of one of the counterparties?

Without global regulatory consistency, enforceability could be an issue. The GFXD notes that this consultative report merely aims to create ‘guidance’; and not regulatory principles.

We would also like to raise the issue of not all counterparties having LEIs. While it is a requirement for anyone registering with a trade repository to obtain a LEI, many smaller counterparties have not yet done so. This could create an issue if a counterparty without a LEI wished to generate a UTI.

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?

¹⁴ According to the Bank for International Settlements(BIS) Triennial FX Survey in April 2013, available at <http://www.bis.org/publ/rpfx13fx.pdf>

The GFXD considers that Option 1 is the most preferable, however we note that such an approach already exists in the form of a hierarchy, as determined by the buy- and sell- side and collectively published by via ISDA in the paper ‘Unique Trade Identifier (UTI): Generation, Communication and Matching’¹⁵. Given its wide, global cross-asset adoption since trade reporting has commenced in a number of jurisdictions, the GFXD suggests that the market-participant derived hierarchy should be adopted by CPMI and IOSCO in their feedback to this consultation.

In light of this, the GFXD would like to raise three issues with the Option 1 hierarchy as described in the paper:

- Step 2: As noted in our response to Q1, in the US, CFTC rules require that a USI is formed using a unique alphanumeric code assigned to the USI’s creator by the CFTC, called a ‘namespace’. When a trade takes place on a platform that is not required to register with the CFTC, that platform will not have a namespace, the counterparties to the trade are required to generate their own USI. Situations such as this mean that market participants must be aware of whether the platform they are trading on is able to generate a trade ID and have the appropriate processes in place to generate their own if this is not the case. This is an unnecessary complication to the hierarchy of UTI generation and the GFXD therefore encourages CPMI-IOSCO to include in their guidance that generation of UTIs should not be dependent on jurisdictional registration requirements.
- Step 4: we consider that the approach described in Step 4 is more akin to a central matching or affirmation platform, which currently does not exist for FX.
- Step 6: the GFXD believes that the hierarchy needed for Step 6 must be sufficiently clear so as to avoid disagreement or conflicts of interpretation.
- Step 6: we would like to raise issue with the determination of ‘the seller’ in some FX products. FX swaps, forwards and NDFs are an exchange of two currencies, and therefore each party to the trade is both buying and selling in the same trade; there is not a buyer/seller of a FX swap/forward/NDF. To accommodate this inaccuracy, the GFXD created the ‘FX Cash Rule’, as outlined in a GFXD paper on the subject¹⁶ but we would like to make it clear that it is not representative of the fundamentals of these products.

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?

The GFXD is in favour of a prescribed approach which does not allow for flexibility of interpretation.

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?

¹⁵ Available at <http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/identifiers/uti-usi/>

¹⁶ Available at [http://www.gfma.org/uploadedFiles/Initiatives/Foreign_Exchange_\(FX\)/FX%20Trade%20Side%20201209%20v0%201.pdf](http://www.gfma.org/uploadedFiles/Initiatives/Foreign_Exchange_(FX)/FX%20Trade%20Side%20201209%20v0%201.pdf)

The GFXD supports the market-participant derived hierarchy ¹⁷ for UTI generation, which is already widely used across the FX industry.

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?

As outlined in our response to Q2 of this paper, the GFXD believes that a globally consistent hierarchy for UTI generation would work across jurisdictions, as outlined in the existing market-participant derived hierarchy¹⁸. In conjunction with this view, the GFXD is also supportive of a globally consistent single-sided reporting regime. In the current regulatory landscape, there are both single- and dual-sided reporting regimes in force. Despite this, the majority of the FX market uses the aforementioned market-participant derived hierarchy, and we therefore note that Option 1 would present fewer problems, were it to be drafted to a similar standard.

Question 25: Do respondents agree with the high-level assessment of the Option 2 proposal for the responsibility for generating UTIs? Please explain why or why not.

The GFXD largely agrees with the assessment, noting that both the consistency and the neutrality are wholly dependent on jurisdictional rules.

Question 26: What are respondents' views on the feasibility of the Option 2 proposal to the responsibility for generating UTIs? Are there particular issues for respondents that operate in more than one jurisdiction? How serious is the possible ambiguity in Option 2 and are there efficient and suitable workarounds?

The GFXD considers that Option 2 as proposed is no different from the existing regulatory situation in the global financial market today. Given the problems that exist as a result of the status quo as we have outlined in our answers to previous questions, we do not consider this option to be a feasible solution. For example, even if the rules are required to be broadly compatible, there could arise a situation under Option 2, in a cross-border trade, where the regulators of both counterparties required their party to generate the UTI.

The GFXD supports the market-participant derived hierarchy as outlined in our response to Q21.

Question 27: Are there additional considerations relevant to the Option 2 proposal for the responsibility for generating UTIs? If so, please describe.

The GFXD supports the market-participant derived hierarchy as outlined in our response to Q21.

¹⁷ Available at <http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/identifiers/uti-usi/>

¹⁸ 'Unique Trade Identifier (UTI): Generation, Communication and Matching', available at <http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/identifiers/uti-usi/>

Question 28: Is a problem of enforceability created if the UTI was generated by an entity outside the jurisdiction of one of the counterparties?

Without global regulatory consistency, enforceability could be an issue. The GFXD notes that this consultative report merely aims to create ‘guidance’, and not regulatory principles.

A key challenge is ensuring that both parties have a LEI. Because the FX market acts as the global payment system, the users of the FX market are vast in number, wide in their geographical location and transact across jurisdictional borders. Outside of the G20, market participants may not feel the need to apply for a LEI (or feel the need to permission a 3rd party to apply for a LEI on their behalf), especially if their local regulator does not require a LEI. In G20 jurisdictions this is a less acute problem, as all market participants with a reporting obligation must have a LEI in order to register with a trade repository.

The GFXD suggests that any processes implemented to help market participants obtain a LEI are performed at the global regulatory level, not just the G20 level. All markets, including ‘emerging markets’ should be considered in this process as we believe the requirement to obtain a LEI should be implemented equally across all jurisdictions. Such an approach would mitigate the scenario where one party to a trade is not regulatory obliged to obtain a LEI, which could cause an issue if that party wished to generate the UTI for the trade.

If no LEI is available, then a hierarchy of other available identifiers should be created, for example, the BIC code. However, this should be a last resort, as the GFXD believes that all market participants should be required to obtain a LEI.

Question 29: What are respondents’ views on the possible rules for the generation of UTIs that meet the compatibility approach of Option 2? Are there any additional rules that should be considered to meet the compatibility approach?

No comment.

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

The GFXD agrees with the assessment. However, as we note in our response to Q33, Option 3 is not a suitable solution.

Question 31: Are there particular challenges for authorities in monitoring compliance with any of the options for the responsibility for generating UTIs?

The GFXD is not clear on what this question seeks to address. There is no need to monitor whether UTIs are generated, as trade repositories reject reports which do not include a UTI. However it would be extremely hard for authorities to monitor whether reports submitted to repositories without UTIs are due to confusion or disagreement over who is responsible for generation. Authorities are entirely dependent on what oversight the trade repositories are able to provide.

The FX market has been sized at \$5.3 trillion per day, with 58% of transactions occurring on a cross-border basis¹⁹. The size of the market means that there are a vast number of market participants across the world, with varying levels of sophistication, all potentially able to generate UTIs. When the considerations are extended cross-asset there will need to be careful consideration of the authorities' ability to monitor compliance with regulations.

Question 32: Considering all three options presented for the responsibility for generating UTIs, do respondents see other suitable solutions meeting the characteristics set out in Section 2?

No, the GFXD does not see any other suitable solutions that meet the characteristics set out in section 2.

Question 33: Which option for the responsibility for generating UTIs do you regard as preferable? Why is this? What would be the disadvantages to you if your non-preferred option was chosen?

The GFXD believes that Option 1 is the most preferable, with the considerations we outlined in our response to Q21, however we note that such an approach already exists in the form of the market-participant derived hierarchy for UTI generation. Given its wide cross-asset adoption, the GFXD suggests that the market-participant derived hierarchy should be adopted by CPMI and IOSCO in their feedback to this consultation. Crucially, the market-participant derived hierarchy (as in Option 1 Step 1) allows for counterparties to agree bilaterally who will generate a UTI before any hierarchy is followed. Use of the market-participant derived hierarchy is of course entirely voluntary, and the GFXD would be supportive of a more enforced approach.

The GFXD regards Option 2 as no different from the existing regulatory situation in the market today. This would therefore not solve any of the problems outlined in our answers to previous questions, which this consultation was intended to address.

The GFXD considers that Option 3 would be unfeasible, given the huge number of market participants in the FX market and their varying levels of sophistication. The construct or algorithm would need to be complex enough to guarantee generation of a unique UTI, but simple enough that small, unsophisticated market participants in any jurisdiction would be able to generate and communicate it if they had a reporting obligation. In a situation where both counterparties were required to report, there would need to be a mechanism to check that the UTIs generated independently were identical, as in existing dual-sided reporting systems. It would also require great reliance on ones counterparty to provide data for correct generation of the UTI and the creation of a central utility or governing body to administer access to the algorithm. Consequently, this option would take many years to implement globally.

¹⁹ According to the Bank for International Settlements(BIS) Triennial FX Survey in April 2013, available at <http://www.bis.org/publ/rpfx13fx.pdf>

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.

The GFXD believes that the current lack of regulatory harmonisation does present challenges:

- For example, under EMIR in Europe, reporting is required by a deadline of T+1. However when trading with another jurisdiction where reporting has later deadline, e.g. Singapore (T+2), if the non-EU counterparty wished to generate the UTI, it might not do so until after the EU deadline. The EU counterparty would therefore have to generate its own UTI, and the trade might be reported twice with different UTIs.
- This may also occur in situations where the counterparties to a trade are in different time zones, and the trading desk of one counterparty closes before an order it has placed is filled. For example, if a counterparty in Singapore puts in an order to an EU counterparty that is not filled until the Singapore market has closed, the EU party may have to generate the UTI even if the Singapore counterparty usually generates the UTI. This goes against the principle of 'first touch', where it is best practice for the UTI to be generated and exchanged at the first available opportunity.

Question 35: Do respondents agree with the proposed overall approach to UTI structure and format? If not, please suggest alternatives that meet the characteristics?

The GFXD would like to suggest two additional characteristics for the overall approach to the UTI:

- (1) The UTI format should be practicable. For example, as outlined in our response to Q47, it should be sufficiently long so as to establish uniqueness, however not so long that it is difficult to communicate or consume.
- (2) The UTI should be able to be communicated via all means, i.e. electronically and in paper form, in order to cater to the different levels of sophistication of market participants.

Question 36: Which of these possible UTI components, if any, are important and why? Is it necessary for the UTI to have any of these components?

The GFXD believes that the UTI structure should be as simple as possible and not contain extraneous information.

We recommend that the UTI should be constructed from the following two components:

- Mint: this will help to ensure uniqueness, as each generating entity can ensure that the UTIs it generates using its unique Mint field are not duplicative. We support the position taken by ISDA in its response to this consultation that the Mint should be a 10 character algorithmic prefix of the LEI, or failing that, the 20 character LEI itself.
- ID Value: we have interpreted this to be equivalent to the unique transaction ID that industry participants are already using to create a UTI.

The GFXD does not believe that the following components should be included:

- Transaction date: there is no need to include this, as it is submitted elsewhere in the trade report.
- Jurisdiction: this would add complexity to UTI generation for cross-border trades, and is in any case unnecessary in a globally harmonised regime. Additionally we note that European countries do not have standard two-character country codes for this purpose.
- Encoding scheme: this is over-engineered for the purposes of a UTI and would require additional characters. Timing issues may also arise, such as those outlined in our response to Q34.
- CP1&2: there is no need to include this, as it is submitted elsewhere in the trade report.
- Package component suffix: the GFXD is supportive of using link IDs to identify package components.

Question 37: Would it be useful or necessary to include check digit(s) in the UTI? Why?

The GFXD does not believe that check digits are necessary in a UTI. They add little value and require additional characters, going against the GFXD's recommendation that the UTI should be kept as simple as possible.

Question 38: Which components, if any, should be included in the UTI? Which components, if any, should be used in UTI construction but not appear in the UTI? In answering this question, consider both the components listed in the table above or suggest other components as necessary. Please explain how the particular components contribute towards meeting the characteristics set out in Section 2.

As outlined in our response to Q36, we believe that the UTI should be composed of only two components:

- Mint: this should be the LEI, or some algorithmic version of the LEI. This will help to ensure uniqueness, as each generating entity can ensure that the UTIs it generates using its unique Mint field are not duplicative. We support the position taken by ISDA in its response to this consultation that the Mint should be a 10 character algorithmic prefix of the LEI, or failing that, the 20 character LEI itself.
- ID Value: this should be the value that the generating party adds to its Mint component to ensure uniqueness

The GFXD believes that the construction should be limited to the above two components, as it was never a policy objective to create an intelligent UTI, which would in any case be duplicative, since the trade report contains all other required information.

Question 39: Should the UTI be solely a dummy code, i.e. 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 GFXD believes that UTI should not be solely a dummy code. In our response to Q36 and Q38 we recommend that the UTI should contain a Mint component associated with the generating party.

However, it was never a policy objective to create an intelligent UTI, and doing so would duplicate the information contained within the other fields of that trade report.

Question 40: Should the details of how to construct the ID Value be defined and, if so, what approach (e.g. UUID) should be used?

The GFXD believes that the UTI should be composed of only two elements, Mint and ID Value, as outlined in our response to Q36 and Q38. There is no need to define how the ID Value should be constructed it should merely be the responsibility of the generating party to ensure that the ID Value is unique. When combined with the Mint component, this will ensure universal unique UTI generation.

Question 41: How important will it be to be able to distinguish “new” UTIs from “legacy” UTIs? Assuming that the trade report includes the date and time of execution, would it be necessary to embed the indication in the UTI itself or should the indication be explicit in a separate field?

The GFXD does not consider that this is important, given that each UTI is unique in any case.

Question 42: Is it necessary or practical for the UTI to include a Mint field? If so, is the use of the LEI appropriate for the Mint field in the UTI? Are there other values that could be considered for this? What issues would arise in this case? How should cases where the Mint entity doesn’t have a LEI be handled?

As outlined in our response to Q36 and Q38, the GFXD believes that a Mint component is necessary and contributes to the uniqueness of the UTI. We support the position taken by ISDA in its response to this consultation that the Mint should be a 10 character algorithmic prefix of the LEI, or failing that, the 20 character LEI itself.

As we note in our response to Q28, the key challenge is ensuring that both parties have a LEI. Because the FX market acts as the global payment system, the users of the FX market are vast in number, wide in their geographical location and transact across jurisdictional borders. Some of these jurisdictions are not subject to G20 law and many of the participants of these jurisdictions do not feel the need to apply for a LEI (or feel the need to permission a 3rd party to apply for a LEI on their behalf), especially if their local regulator does not require a LEI. In G20 jurisdictions this is a less acute problem, as all market participants with a reporting obligation must have a LEI in order to register with a trade repository.

The GFXD suggests that any processes implemented to help market participants obtain a LEI are performed at the global regulatory level, not just the G20 level. All markets, including ‘emerging markets’ should be considered in this process as we believe the requirement to obtain a LEI should be implemented equally across all jurisdictions. Such an approach would mitigate the scenario where one party to a trade is not regulatory obliged to obtain a LEI.

If no LEI is available, then a hierarchy of other available identifiers should be created, for example, the BIC code. However, this should be a last resort, as the GFXD believes that all market participants should be required to obtain a LEI.

Question 43: What issues would arise from using the suffix UTI component to link the reports of components of a package?

The GFXD does not believe that the suffix UTI component is a suitable solution for linking package transactions. The UTI should be a straight identifier and not contain information that would be simpler to report in a separate field. Packages should be linked using a separate Link ID field.

Question 44: Will the inclusion or not of certain components set out above in the UTI require changes to respondents' systems or other systems on which you are dependent? How much change?

Yes, any changes to the UTI construct will require changes the systems of market participants, market infrastructure (such as venues, clearing houses and trade repositories), and regulators. Depending on the changes made, other systems such as communications systems may also be affected. For FX, this is compounded by the vast number and wide geographical spread of market participants.

It is impossible to assess the timings or cost of these changes until the recommendations have been announced in detail and in each jurisdiction has applied its own legislative process to create final rules. Market participants are currently already engaged in large-scale system design, implementation and modification to account for the huge number of regulatory changes in progress, across both jurisdictions and assets. It is therefore crucial that the phasing in of any changes takes all these factors into account and allows an appropriately long lead-in time for analysis, embedding and testing.

Question 45: Are there any issues in having an “intelligent” UTI? What are respondents' views on the potential solutions to these issues? Are there alternative ways of dealing with this?

It was never a policy objective to create an intelligent UTI, and doing so would duplicate the information contained within the other fields of that trade report.

Question 46: Can respondents suggest algorithms that would achieve the Option 3 approach to generating the UTI?

As outlined in our response to Q33, the GFXD does not believe that Option 3 is a suitable approach.

Question 47: What are respondents' views on the lengths of the various potential components of the UTI (assuming that they are included directly in the UTI) and hence the length of the overall UTI?

The GFXD suggests that only two components be used to create a UTI: a Mint component and an ID Value. As outlined in our response to Q36 and Q38, we support ISDA's suggestion that the Mint field be formed of a fixed value of 10 or 20 characters of the LEI. It is not necessary to fix the length of the ID Value component, provided that it does not exceed the maximum length stated for the UTI as a whole. We note that many market participants do not currently use all the characters available to them in the UTI construct. This means that allowing varying lengths up to a maximum will provide enough flexibility for the creation of UTIs for many years.

For the UTI as a whole, it should be sufficiently long so as to establish uniqueness, however not so long that it is difficult to communicate or consume. For instance, we note that under EMIR, a limit of 52 characters is imposed, and under Dodd Frank a limit of 42 characters.

Question 48: Should the UTI be case-sensitive (allowing for upper- and lower-case characters to be regarded as distinct)? Should the UTI avoid using certain alphanumeric characters that resemble others? For example, do you think it advisable for the UTI system to avoid using the digits "0" and "1" so as to avoid confusion with the letters "O" and "I" (or vice versa)?

The GFXD recommends that the format of a UTI be kept as simple as possible, to make allowances for varying levels of sophistication among market participants. Therefore we support an alphanumeric approach, with no distinction for upper and lower case, and provisions made to ensure that possible confusions are avoided, e.g. between '0' and 'O'.

Question 49: Should other characters be allowed in the UTI beyond those proposed? If so, which ones and why do you recommend them? Could all jurisdictions and languages readily accommodate these characters?

The GFXD suggests that no other characters be allowed in the UTI. The UTI should conform to standard message criteria for, for example, Swift, as this is how it will be communicated by market participants.

Question 50: Should separators between different component parts of the UTI be used? Why or why not? If so, which separators and why do you recommend them?

The GFXD suggests that no separators be used. If the structure of the UTI is limited to a fixed Mint field and a variable ID Value field, separators would not be necessary.

Question 51: Should the length of UTI be of fixed or should only the maximum length be indicated?

The GFXD suggests that a maximum length should be sufficient if the construct is otherwise globally harmonised, using the two components we identify in our response to Q36, Q38 and Q47.

Question 52: Do respondents agree with the proposed implementation approach? Is there a risk that a newly generated UTI would have the same value as an existing UTI as a result of these proposals? Is it possible to estimate the size of this risk? What problems do respondents see regarding “legacy” UTIs under this approach?

The GFXD acknowledges that there is minimal risk that a newly generated UTI could be the same as an existing UTI. However, if the components of a UTI were limited to the Mint field and ID Values, the generating party would be responsible for ensuring that no two ID Values were the same. Using the 10 character algorithmic prefix (or failing that the full LEI) to create the Mint field, as outlined in ISDA’s response, would therefore ensure complete uniqueness.

In considering the implementation approach, the GFXD would also like to raise the importance of allowing sufficient time for the harmonisation of the UTI to be implemented. It will require rule changes in multiple jurisdictions that will each involve their own consultative processes and appropriate lead-in time for the application final rules.

Question 53: Are the descriptions of lifecycle events complete and sufficiently defined? In particular, are there differences between novations and assignments that are not captured in the table and which are significant for UTI generation? Are the conclusions as to when a new UTI is required correct?

As outlined in our response to Q8, the GFXD would like to raise two issues with the lifecycle events as described in the table in section 8:

- Section 8 page 34 allocation: the GFXD notes that this is not strictly a lifecycle event. However, it is similar in that one or more new UTIs are required following allocation.
- Section 8 page 35 prime brokerage: the table suggests there may be an original transaction between the client and executing dealer (ED) that is terminated when the prime broker (PB) interposes itself between the two parties. This is not correct, in that the client and ED never enter into a direct transaction. There is therefore no UTI generated as no reportable trade has occurred. Prime brokerage exists to allow clients to access pricing across multiple dealers without having to enter into a relationship with them, with the documentation that this would entail. If the client were able to enter into a trade with the ED, having all the relevant relationship agreements and documentation, there would be no need for a PB in the trade. Additionally, we note that the scenario described, involving one ED, one client and one PB is only representative of the most basic of prime brokerage transactions. There are a variety of possible scenarios, many of which are much more complex and result in more than two UTIs.

We appreciate the opportunity to share our views on this Consultative Report issued by the CPMI and IOSCO. Please do not hesitate to contact Andrew Harvey on +44 (0) 207 743 9312, email aharvey@gfma.org, or Fiona Willis on +44 (0) 207 743 9317, email fwillis@gfma.org, should you wish to discuss any of the above.

Yours faithfully,

A handwritten signature in black ink, appearing to read "James Kemp". The signature is fluid and cursive, with a large initial "J" and a stylized "K".

James Kemp
Managing Director
Global Foreign Exchange Division, GFMA