May 2, 2017

Secretariat to the Financial Stability Board
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland

Comments on Proposed governance arrangements for the unique transaction identifier (UTI) issued by the Financial Stability Board

Dear Sirs/Madams:

We, the Japanese Bankers Association (JBA), would like to express our gratitude for this opportunity to comment on Proposed governance arrangements for the unique transaction identifier (UTI) issued on March 13, 2017 by the Financial Stability Board (FSB). We respectfully expect that the following comments will contribute to your further discussion.

[General Comments]

We welcome the work on harmonisation undertaken mainly by the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO), amid situations where OTC derivatives trade reporting data are being reported based on different definitions and formats across jurisdictions. We therefore consider that a stable and effective UTI governance framework should be introduced and established with a view to ensuring the globally harmonised UTI. Under such a situation, an option to allow authorities of each jurisdiction to exercise various governance functions within their various existing mandates may result in each authority to take an approach in line with its own regulations. This may hinder the achievement of an objective of global UTI harmonisation. Thus, our view is that international regulatory bodies, including the FSB, should be more deeply involved in governance issues, and then the work such as the governance for the implementation, the setting of a uniform timeline for implementation and monitoring should be carried out.

[Our responses to questions and other comments]

We request the FSB to consider our comments discussed below for Questions 14, 18 and 19 provided in the consultative document and those comments written in “4. Other Comments”.

1. Question 14

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

(Comments)

We think Area 2 (Implementing the UTI Technical Guidance and dealing with operational and implementation issues) should not be conducted by Authorities. Instead, international regulatory bodies such as the FSB should be responsible for such a task while strengthening involvement and monitoring by international organizations.

(Rationale)

If Authorities conduct these governance arrangements, each jurisdiction is highly likely to take an approach in line with its own regulations only. It is therefore difficult to establish a globally consistent UTI system. International regulatory bodies such as the FSB should conduct governance arrangements by taking into account characteristics of cross border transactions.

2. Question 18

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?

(Comments)

The setting of a timeline for implementing a new UTI system should be conducted by an international regulatory body, instead of Authorities (i.e., “Option A”), and a uniform timeline should be introduced.

(Rationale)

We recognise that, for generation of UTIs, factors such as regulatory requirements and business practice that differ across products and jurisdictions complexly interacts. Furthermore, a series of processes to receive a UTI through means such as e-mails and confirmations, import this into a booking system, etc. and reflect the UTI in a transaction report are not automated at counterparties with no responsibility for generating a UTI. Taking into account a reporting deadline, we believe that a technical hurdle to resolve is high and the development of infrastructure requires a considerable time.

Given such a situation, the setting of a timeline for implementing a new UTI system should not be conducted by each jurisdiction. Rather, a uniform timeline for implementation should be set by an international regulatory body to avoid any confusion in the light of the progress of establishing market practice and developing an infrastructure for exchanging UTIs.

If Authorities are mandated to set a timeline, and an implementation timeline differ across jurisdictions, due consideration should be given to align a timeline with a jurisdiction which has set a later timeline. In addition, if the scope of products and other requirements differ across local regulations, the requirements need to be harmonised since confusion may be caused in executing cross-border transactions.

3. Question 19

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

(Comments)

The monitoring of a new UTI system should be performed by an international regulatory body other than Authorities (= "Option A") in collaboration with a global trade repository (GTR).

(Rationale)

If the monitoring is assigned to Authorities, there is a concern that each jurisdiction would conduct the monitoring from perspectives of compliance with its own regulations only, and as a result a standpoint of global harmonisation may not be sufficiently taken into account. Therefore, an option other than Option A, that is, the monitoring of the implementation by an international regulatory body such as the CPMI and IOSCO or technical committee or similar body under the FSB, is more preferable.

In addition, a monitoring body which will be newly appointed should perform the monitoring in close collaboration with the GTR. The GTR that offers transaction report-related services to various jurisdictions and counterparties has a capability to support the cross-market monitoring in a systematic manner. The collaboration with the GTR therefore would enable to deliver accurate data to Authorities more promptly.

4. Other Comments

We would like to add that if an impracticable rules of responsibility for UTI generation is introduced, such a system may give rise to duplicated generation, and as a result, the original objective of implementing a UTI may not be achieved.

We consider that the technical guidance published in February 2017 includes some elements that may cause a concern from an operational feasibility perspective to some extent. In particular, there are a number of concerns associated with the approach to determine which entity has that responsibility for generating a UTI. For example, this approach is dependent on information that may not be available to external third parties (e.g., whether an entity has reporting obligations for multiple jurisdictions and reporting deadline), and may include requirements that are not in line with the current system and infrastructure (e.g., the confirmation platform has a lower order in generating a UTI). However, incorporating more flexibility in the logic for determining the responsibility for generating an UTI, for example setting "the agreement between both counterparties" at the top of the approach for determining the responsibility for UTI generation under the Technical Guidance, may contribute to the realisation of a stable implementation of the UTI system.

With regard to the issue related to the responsibility for UTI generation, cases where it is difficult to share a UTI within a deadline should not be uniformly deemed as non-compliant since the progress of developing infrastructures, an agreement process and operations differs across entities. Instead, we believe that an approach first to encourage market participants to proactively take actions to comply with rules and to allow them to take a certain follow-up action would facilitate harmonisation of UTIs in a more stable manner. Such an approach may include,

for example, a measure to implement an option to identify differences in UTIs through a post-check process such as portfolio reconciliation and differences, if any, will be promptly resolved.

The establishment of a stable and flexible framework would fulfill “Public Interest” that is one of the elements of the key criteria for the UTI Governance Arrangements, and thereby the objective of global harmonisation of UTIs would be met.