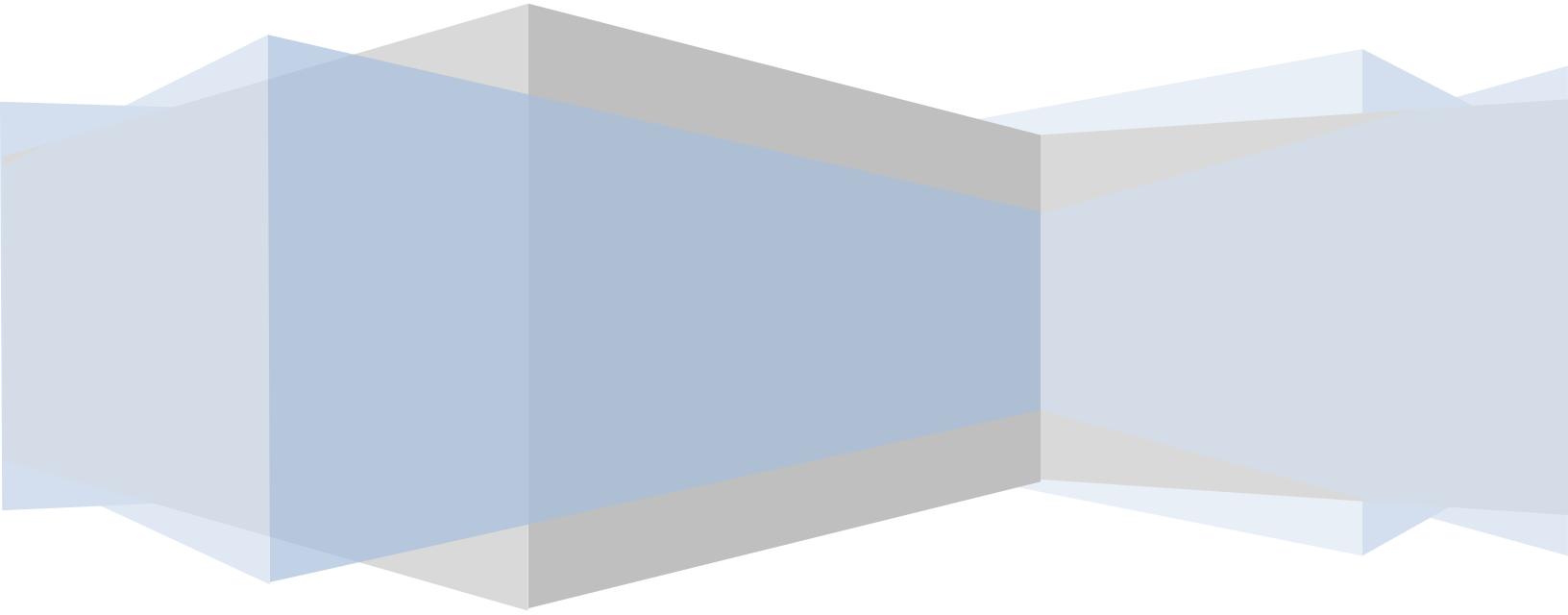
NFA Response to FSB Consultation Document

Proposed governance arrangements for the unique transaction identifier (UTI)



Introduction

This document captures the National Futures Association's response to the Consultative Document published by Financial Stability Board – GUUG on *Proposed governance arrangements for the unique transaction identifier (UTI)*.

National Futures Association ("NFA") is a self-regulatory organization ("SRO") for the US derivatives markets. In its capacity as an SRO, NFA provides regulatory oversight of a variety of OTC derivatives market participants (i.e. swap dealers, swap introducing brokers, pooled investment vehicles and investment managers using swaps). NFA does not operate any markets and is not a trade association. The development of a harmonized standard for OTC derivatives data will greatly contribute to the effectiveness and efficiency of its regulatory programs.

In addition to its responsibilities as an SRO, NFA provides a variety of regulatory services and programs to electronic trading platforms such as swap executions facilities ("SEF") and designated contract markets ("DCM") to ensure the fair treatment of customers and maintain orderly markets. In this capacity, NFA provides frontline trade practice and market surveillance to a number of SEFs and DCMs designated as such by the US CFTC. These markets contract with NFA to perform regulator services pursuant to a regulatory services agreement ("RSA"). On a daily basis, these SEFs and DCMs send all pre-trade, trade, product, and market participant information. This data is sent in a proprietary data format defined and maintained by NFA. In developing and maintaining this data format, NFA leveraged existing and emerging industry standards.

NFA is committed to finding efficient solutions to regulatory challenges. As such, NFA intends to incorporate any globally accepted standard for OTC derivatives data into its systems. The goal is to continually improve the interoperability of its systems and to ensure efficient solutions for industry's regulatory reporting of derivatives transactions. It is with this experience and background that NFA is responding to the Consultative Document.

Annex 1 List of consultation questions

Questions for stakeholders on the criteria

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

An additional element to consider may be the extent to which the governance structure facilitates coordination among authorities and with the industry regarding implementation expectations and timelines. This could be summarized under the heading Facilitates Coordination. The rationale for this lies in the importance of coordination among authorities in implementing the UTI standard, managing guidance on the implementation, as well as alleviating implementation complexity by coordinating on timelines.

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

N/A

Q3. Are there ways in which any of the key criteria should be modified?

N/A

Q4. Do you have any suggestions on how the criteria should be applied?

N/A

Questions for stakeholders on the areas of governance and associated functions

Q5. Can you suggest any refinements or additions to the articulated areas of governance?

N/A

Q6. Can you suggest any other functions that should be included in the above list?

N/A

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

N/A

Questions for stakeholders on maintaining the UTI and keeping it fit for purpose by having the UTI Data Standard adopted as an International Data Standard

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

Yes.

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

No.

Questions for stakeholders on whether, if the UTI Data Standard is to be adopted as an International Data Standard, ISO is a preferred candidate for the maintenance of the UTI Data Standard and whether there are suitable alternatives to ISO.

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

Yes.

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?

An ultimate veto on any material decisions emerging from the ISO group may be appropriate. In the absence of a veto authority, the FSB would have to reserve the right to deem the ISO standard as no longer appropriate for the purpose of UTI.

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?

N/A

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?

The obvious advantage ISO brings is its extensive experience in developing and maintaining technical standards. Governance functions associated with data standards appears to be well within their core competency. It seems prudent to seek their assistance as early in the process as possible.

Questions for stakeholders on proposed Governance Arrangements for Area 2, implementing the UTI Technical Guidance

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

Yes. However, experience has shown NFA that to get results and quality adoption of a regulatory technical standard, it to give the industry an active voice in adoption timelines. Authorities should coordinate on timelines globally, if possible, easing the complexity of change management on the industry side.

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?

If there is an expectation of enforcement of the data standard, then ultimately authorities will have to take the lead on the areas described in Area 2. Authorities will have to evangelize the standard in their jurisdictions, set expectations for compliance (including timelines), and enforce the standard when appropriate. While ISO or another standards body can take the lead in preparing and maintaining technical documentation and communications surrounding the standard, authorities will have to communicate to members of their jurisdiction, expectations surrounding the adoption of this standard for the purposes of regulatory reporting.

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?

Lean - while seemingly necessary, the role of authorities in the Area 2 governance may prove cumbersome. The technical guidance on UTI is relatively straightforward. ISO (or another standards body) work will also likely closely follow the technical guidance and prove relatively straightforward. To promote the notion of leanness, efforts to fold the UTI governance in with other emerging standards like UPI / ODE may be worth considering.

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?

It seems prudent to have the infrastructure ready upfront from the outset of UTI implementation. This infrastructure could help facilitate consistent applications / timelines in various jurisdictions. An incremental approach by this body during the early stages of adoption will be most cost effective.

Questions for stakeholders on governance options for Area 3, coordinating among authorities and updating UTI Technical Guidance as necessary

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?

To ease the complexity of adoption, a high degree of coordination among authorities and industry is recommended. An international regulatory body can help facilitate communication of technical guidance and timelines. To yield the most positive results, authorities and international regulatory bodies should be working closely with the industry. The industry is best suited to provide feedback on whether implementation timelines are realistic.

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

If there is an expectation of enforcement, the monitoring of UTI implementation will likely have to reside with the Authorities. Coordination among authorities on timelines and enforcement expectations will be critical. In establishing these timelines and enforcement expectations,

authorities should work closely with the industry. SDRs could play a role in enforcing the UTI standard as part of their data validation on submission.

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?

N/A.

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?

Maintenance of the standard should largely reside with the international standards body tasked with its technical governance (i.e. ISO). Changes to the standard should be evangelized by both a standards body and authorities. Authorities should reserve the right to determine whether proposed changes considered by the standards body keep the UTI fit for purpose.

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

The role of an international coordinating body should be to ensure regulatory coordination on implementation timeline, enforcement standards, and consistent technical guidance on any fringe cases. This coordinating body also can take a leading role on soliciting industry feedback on all of these points to ensure a smooth adoption. Developing this infrastructure early on will likely help mollify any complexity that could emerge from divergent implementations by authorities.