FSB FINANCIAL STABILITY BOARD

Governance arrangements for the unique product identifier (UPI)

Second consultation document

26 April 2018

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1 Overview

The FSB seeks public comment by Monday 28 May 2018 on certain governance considerations for the Unique Product Identifier (UPI), a key data element for reporting over-the-counter (OTC) derivative transactions.[1] This is further to the Initial Consultation the FSB published on 3 October 2017 on key criteria and governance functions for the UPI System.[2]

The primary purpose of a UPI is to identify the product that is the subject of a particular OTC derivatives transaction. A UPI would be assigned to each product, and regulators would be able to aggregate OTC derivatives transactions by product (using the UPI Code as defined) or by individual Reference Data Elements that comprise the product (such as the underlier). The report of an OTC derivative transaction that would be submitted to a Trade Repository (TR) would include the UPI of the product transacted; therefore, the UPI must meet the needs of the Authorities that use the data held in the TRs. In particular, a UPI should help facilitate aggregation of OTC derivatives transactions, helping Authorities to assess systemic risk and perform other market oversight functions.

In September 2014, the FSB asked the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) to develop global guidance on harmonisation of data elements that are reported to TRs and are important to aggregation by authorities.[3]

Pursuant to that request, on 28 September 2017, the CPMI and IOSCO issued the UPI Technical Guidance, setting out the requirements for a UPI code and related reference data.[4]

The FSB's Working Group on UTI and UPI Governance (GUUG) prepared the Initial Consultation.[5] The GUUG's objectives include recommending the designation by the FSB of one or more UPI Service Providers, with associated recommendations regarding implementation and governance structures (i.e., the establishment of UPI Governance Arrangements).

The GUUG acts in coordination with the CPMI and IOSCO working group for the harmonisation of key OTC derivatives data elements (Harmonisation Group or HG) to ensure that its work will ensure consistency with the UPI Technical Guidance authored by the HG.

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[1] See Annex 1 (consultation questions). *See* also Annex 2 (terminology) for acronyms and defined terms, which are capitalised in this document.

[2] See FSB (2017), *Governance arrangements for the unique product identifier (UPI): key criteria and functions: Consultation document*, at http://www.fsb.org/wp-content/uploads/P031017.pdf.

[3] See FSB (2014), "FSB publishes Feasibility Study on Aggregation of OTC Derivatives Trade Repository Data" (Press Release), 19 September 2014; available at www.fsb.org/2014/09/pr_140919/.

[4] See CPMI and IOSCO (2017), *Technical Guidance: Harmonisation of the Unique Product Identifier*, available at http://www.bis.org/cpmi/publ/d169.htm and https://www.iosco.org/news/pdf/IOSCONEWS474.pdf.

[5] See Annex 3 for a list of the members of the GUUG.

After receipt and analysis of helpful responses[6] to the Initial Consultation, the FSB wishes to undertake an additional public consultation on selected governance issues pertaining to the UPI System.

This second public consultation does not seek comment on particular candidates for UPI Service Provider(s), but instead asks additional, targeted questions to assist the FSB in reaching its conclusions on aspects of the appropriate Governance Arrangements for the UPI System. The consultation answers will also guide the FSB in preparing documentation for entities that wish to become UPI Service Providers.

2 Background

2.1 FSB OTC derivatives data aggregation feasibility study

In September 2014 the FSB published the final report of the aggregation feasibility study, which recommended a number of key preparatory steps that should be undertaken to enable effective global aggregation of OTC derivatives data held in TRs.[7] In particular, the aggregation feasibility study noted that, irrespective of decisions on global aggregation, it is important that the work on standardisation and harmonisation of important data elements be completed, including through the global introduction of the legal entity identifier (LEI) and the creation of a UPI and a unique transaction identifier (UTI).[8] The aggregation feasibility study noted that these steps would also provide broader benefits for the reporting and usability of TR data, beyond the benefits of permitting regulators to aggregate data globally.[9]

In relation to the UTI and UPI, the FSB at that time:

- asked the CPMI and IOSCO to develop technical guidance on harmonisation of data elements that are reported to TRs and are important to aggregation by authorities; and
- undertook to work with the CPMI and IOSCO to provide official sector impetus and coordination for the further development and implementation of uniform global UTIs and UPIs.

The CPMI and IOSCO established the Harmonisation Group in November 2014 to prepare technical guidance on relevant data elements, including the UTI and UPI, and published such guidance for the UTI in February 2017 and for the UPI in September 2017.[10]

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[6] Available at http://www.fsb.org/2017/11/public-responses-to-consultation-on-proposed-governance-arrangements-for-the-unique-product-identifier-upi/.

[7] For more detail, see FSB (2014), *Feasibility study on approaches to aggregate OTC derivatives data*, 19 September; available at: www.fsb.org/wp-content/uploads/r_140919.pdf.

[8] See n.3, supra.

[9] *Id*. at p.38 (standardisation of the transaction identifier assists in avoiding double-counting, linking transactions when a life cycle event occurs, and linking associated trades).

[10] For the UPI, see document cited at footnote 4. For the UTI, see CPMI and IOSCO (2017), *Harmonisation of the Unique Transaction Identifier: Technical Guidance*, available at http://www.bis.org/cpmi/publ/d158.htm and https://www.iosco.org/library/pubdocs/pdf/IOSCOPD557.pdf.

2.2 Mandate of the FSB GUUG

In March 2016, the FSB established the GUUG with the primary objective of recommending to the FSB's decision-making body, the FSB Plenary, Governance Arrangements for each of the UTI and UPI that fulfil identified functional needs and meet relevant criteria.

In order to fulfil this objective, according to its mandate, the GUUG should inter alia: (i) identify the necessary functions of Governance Arrangements for the UTI and UPI; (ii) define key criteria for potential Governance Arrangements for each identifier; and (iii) propose Governance Arrangements for the UTI and the UPI.

In doing so, the GUUG is to consult with the Harmonisation Group, relevant authorities, industry, and other stakeholders, and may utilise requests for comments, issuance of consultative documents, or other consultative processes as decided by the GUUG.

The GUUG's work is intended to support the FSB's broader objective of providing official sector impetus and coordination for the further development and implementation of uniform global UTIs and UPIs.

2.3 UPI Service Provider(s) designation process

As well as reach conclusions on the UPI Governance Arrangements, the FSB intends to designate one or more UPI Service Providers. The FSB will during 2018 invite entities that believe they are or may become qualified to be a UPI Service Provider to submit self-assessment documentation to the GUUG.

The GUUG, assisted by technical representatives from the CPMI and IOSCO, will review self-assessments received and formulate a recommendation as to which entity or entities should be designated by the FSB as UPI Service Providers. The FSB in turn will formally designate one or more UPI Service Providers. It is expected that this process will be completed in 2019.

2.4 Initial consultation on UPI Governance Arrangements: key criteria and functions

The Initial Consultation focused on key criteria that would guide the FSB in determining the UPI Governance Arrangements, as well as governance functions that would need to be allocated between one or more bodies.

This second consultation document takes the discussion further, addressing (where appropriate) certain issues raised by comments on the Initial Consultation, and developing the proposed Governance Arrangements in more detail, identifying further details where stakeholder views are sought.

2.5 Purpose and structure of this consultation document

The FSB is issuing this request for public comment on selected issues relating to the UPI Governance Arrangements.

Specifically, the purpose of this consultation document is to seek the views of any interested persons on the specific issues identified by the FSB relating to the future UPI Governance Arrangements:

- Section 3 discusses and responds to feedback received on governance functions, and sets out proposed general approaches to governance. An Annex sets out for comment a preliminary proposed allocation of functions;
- Section 4 discusses comments and presents further detail for feedback on fee models and cost recovery;
- Section 5 discusses intellectual property, standardisation, and other benefits of the UPI System and presents further issues for consultation;
- Section 6 compares models of one versus competitive UPI Service Provider(s), raises issues around the UPI Reference Data Library, and seeks stakeholder reaction; and
- Section 7 discusses next steps.

To help respondents structure their feedback, questions are set out in sections 3 to 6 are repeated in Annex 1. We welcome responses to these specific questions, as well as any other comments respondents wish to provide on the matters discussed herein.

After this consultation, and taking into account contributions received in response to both this consultation and the Initial Consultation, the FSB expects to reach further conclusions on the UPI Governance Arrangements, working in close coordination with CPMI and IOSCO on technical UPI matters, in anticipation of the self-assessment process for UPI Service Provider(s).

3 Key criteria, governance functions, and areas of governance

In response to the Initial Consultation on key governance criteria, governance functions, and general approaches to governance, the FSB received many helpful comments in written responses and at a GUUG public roundtable. Commenters broadly supported these key criteria and the FSB is not proposing revisions to them at this time.[11]

Commenters broadly agreed with the functions as proposed. The FSB is republishing the UPI governance functions with minor adjustments based on its further review in light of stakeholder comments and own consideration. See Annex 4 (possible allocation of governance functions between the UPI Service Provider(s), the RDL operator, IRG, the UIROC, and the ISB).

The FSB wishes to consult on the possibility of allocating UPI governance functions to one or more entities or Authorities as described below:

[11] Respondents to the Initial Consultation suggested some new criteria or edits to the existing key criteria. The FSB has considered these useful proposals and decided not to accept these proposed modifications for the following reasons. One respondent suggested a criterion on the need for a UPI Service Provider to ensure sufficient scalability. This requirement is already covered to some extent by the fitness for purpose criterion and will also be addressed in the technical requirements for UPI Service Provider selection. Another respondent highlighted speed to market as a critical factor in selecting the UPI Service Provider, basing this criterion on the industry need to deliver the UPI to market as soon as possible. Again, the FSB will inquire on speed to market in its self-assessment process for selecting UPI Service Provider(s). Finally, a respondent suggested a new criterion on data integrity. The FSB believes that data integrity and quality are important objectives, rather than criteria to guide work toward objectives. It views the governance function of review and assessment as addressing the important objective of data integrity.

- a Unique Identifiers Regulatory Oversight Committee (UIROC) which would represent relevant Authorities from relevant jurisdictions;
- an Industry Representation Group (IRG) which could include representatives of, inter alia, reporting entities, derivatives infrastructure providers, or market data providers. The functions of an IRG could include providing stakeholder input in and review of key operational issues for the UPI System, including cost recovery. The IRG could operate under the oversight of the UIROC and contain appropriate and diverse stakeholder representation and provide, at a minimum, advice and expertise to both the UIROC and the UPI Service Provider(s);
- one or more UPI Service Provider(s) which would provide UPI Services (defined as the generation and issuance of UPI Codes and the reception, retention, storage, and/or transmission of the corresponding Reference Data Elements);;
- an entity operating the single UPI Reference Data Library (RDL Operator), which could be an independent entity, part of the IRG, or part of a UPI Service Provider itself; and
- an International Standardisation Body (ISB) which could develop and approve standards.

The FSB seeks comment on whether a public-private governance structure of this kind could provide balanced input and oversight of the overall governance function from both the public and private sectors. It welcomes further analysis and stakeholder input regarding existing or alternative public-private models.

Q1. Do you agree a public-private partnership model such as the one sketched above should be adopted for the UPI Governance Arrangements?

Q2. Do you believe any governance functions in Annex 4 should be performed by a different body? If so, which ones and why?

Q3. How should any Governance Arrangements for the UPI System be funded?

4 Fee models and cost recovery

4.1 Respondents' views

Respondents to the Initial Consultation generally agreed with the FSB that a UPI Service Provider should operate on a cost-recovery basis and broadly supported that both start-up and operating costs may be recovered.

Respondents also broadly affirmed that cost recovery should be transparent and subject to periodic independent review, although there were some differences in views over how such transparency should be provided and who should review the cost-recovery model.

Respondents accepted the FSB's proposed governance criterion that a UPI Service Provider should recover its costs from its customers fairly. The FSB agrees with a number of respondents that fees can be tiered to reflect the degree of system usage by different types of users. The FSB may request from each applicant who wishes to become a UPI Service Provider information on proposed tiers for fees as part of the self-assessment process.

4.2 Cost-recovery transparency and oversight

The FSB agrees with those respondents who noted the need for transparency and suggested annual independent review of both costs and revenues. Ideally, the cost-recovery regime should include public disclosures of costs and revenues with appropriate independent review.

Although the FSB anticipates that its final conclusions on UPI governance will include guidance on the transparency of a UPI Service Provider's cost-recovery regime, the FSB also anticipates that the UIROC would have to oversee details of how transparency is carried out.

The FSB will request from UPI Service Provider applicants information of how they would achieve transparent cost recovery if they are selected and how their approach is efficient (in light of the "lean" governance criterion).

The FSB considers that, beyond enunciating criteria relating to cost, the Governance Arrangements will need to assess whether these principles are being carried out by the UPI Service Provider(s) and, if not, determine what action would be appropriate to rectify the situation.

Depending on the ultimate design of the UPI System, the costs anticipated by a UPI Service Provider may well be disclosed to and reviewed by one or more levels of the UPI Governance Arrangements.

4.3 UPI Service Provider start-up costs; cross-subsidies; value-added services

There may also be issues regarding how start-up costs should be allocated among stakeholders fairly. A UPI Service Provider could need a significant expansion of its resources shortly after its designation as such, yet it might have only a small subscriber base in its early stages from which to draw fees.

The FSB also anticipates that that it might be difficult for a UPI Service Provider to accurately estimate the likely amount of its costs and revenues, particularly in the earliest years of its operation as a UPI Service Provider.

One way that a UPI Service Provider could, if permitted and with appropriate conditions, defray the costs of providing the UPI Services would be to subsidise the provision of the UPI service with revenues generated by other business lines, thus allowing users to obtain UPI services at no cost or below the level of cost recovery.

Another means by which a UPI Service Provider could obtain revenue would be to provide "value-added" products or services deriving from the UPI data. However, there is a potential concern that, if a UPI Service Provider is permitted to provide value-added products or services beyond what it is expected to provide to satisfy the UPI Technical Guidance, these might be tied to the UPI Codes or Reference Data Elements that the provider is otherwise required to provide on a cost-recovery basis. In other words, users might feel compelled to acquire products or services that they would not otherwise wish to obtain in order to ensure the fullest and quickest access to the UPI data.

Q4. Do you consider the Governance Arrangements described in section 3 above are appropriate and adapted to provide oversight on fees and cost recovery?

Q5. Please provide any specific suggestions to promote adherence to the cost and open access criteria, including suggestions relating to escalation procedures, including complaint handling bodies and processes.

Q6. ***If you believe that start-up costs should be fully recovered by a UPI Service Provider, how should they be allocated between earlier- and later-arriving subscribers? For example, over approximately how many years should the start-up costs be amortised?***

Q7. ***If revenues for a year have exceeded or fallen short of anticipated costs for that year, should the UPI Service Provider have a mechanism for rebating or recovering the excess, either during that year or at a later time?***

Q8. ***Do you believe that a UPI Service Provider should be allowed to cross-subsidise the provision of UPI Services with revenues from other business lines, either with regard to start-up costs or on an ongoing basis? Why or why not?***

Q9. ***Should a UPI Service Provider be permitted to provide value-added products and services (*i.e.*, products and services that incorporate UPI data but are not required by the UPI Technical Guidance)?***

Q10. ***What is your evaluation of the risks of restrictive practices limiting open access, e.g. through the bundling of UPI Services with value-added services? How and by whom could such practices be prevented or restricted?***

Q11. ***Should a UPI Service Provider that engages in other business activity be required to "ring fence" its UPI functions? If so, what sort of corporate, legal, and/or accounting mechanisms would be necessary to effect such an arrangement?***

5 Intellectual property, standardisation, and other benefits of the UPI

5.1 Open source and open access

The responses to the Initial Consultation on the open access and intellectual property (IP) criteria were consistent that the UPI system should operate on open source principles, *i.e.*, that any IP rights in the UPI data should not prevent users from utilising the data in any way they choose. The FSB accepts that the open source principle should be an important aspect of these governance criteria. However, implementing this principle raises some questions.

There arises the question of what mechanism should be used to carry out the open source principle.

- The Global Legal Entity Identifier Foundation (GLEIF) has resolved this question for the LEI by requiring each LOU to sign an agreement with the GLEIF assigning all relevant intellectual property to the GLEIF.
- A few commenters suggested specific open source models (e.g., one advocated for an "MIT-style" open source license; another noted that it has endorsed the International Open Data Charter).[12]

[12] See GLEIF (2016), "Global Legal Entity Identifier Foundation Endorses the New International Open Data Charter" (29 January), https://www.gleif.org/en/newsroom/blog/global-legal-entity-identifier-foundation-endorses-the-new-international-open-data-charter. See also the International Open Data Charter at http://opendatacharter.net/wp-content/uploads/2015/10/opendatacharter-charter_F.pdf.

In response to the Initial Consultation, respondents supported extending open access to all Data Elements of the UPI System. Three respondents qualified that such unrestricted access should take place only within the context of regulatory reporting for OTC derivatives and not for broader uses of UPI.

A few respondents noted that the UPI Reference Data Library may contain IP, which raises questions about how the open access criterion could be fulfilled. For this reason, the FSB expects to ask for detailed information from potential UPI Service Providers on how they would ensure that access to and use of the Reference Data Library are unrestricted as set forth in the criterion for open access.

In addition, there is the question of ensuring that any IP created by a UPI Service Provider is not used in such a way as to inhibit open access. One commenter suggested a licensing agreement requiring that intellectual property associated with data, however that may be defined in various jurisdictions, not be used to interfere with the data's access and use within the UPI System.

Other considerations that would arise if a UPI Service Provider were to become insolvent or subject to external administration or voluntarily withdraw include whether the IP would become part of the insolvent or administered estate; and how the UPI System could convey the IP to a replacement UPI Provider to allow it to continue operating the UPI System.

One solution could be to transfer relevant IP to a third party in an arrangement similar to the one put in place for the Global LEI System (GLEIS).

5.2 Acknowledging existing IP rights

The issue of existing IP rights is more difficult for the UPI than for the LEI because of the existing proprietary standards within OTC derivatives trading, especially with respect to underliers.

Section 5.1 of the CPMI-IOSCO technical guidance on the UPI on considerations relating to identification of underliers explains that, dependent on the rules applicable in a given jurisdiction, certain UPI Reference Data Elements could have values that reference proprietary codelists or names of documentation. An example of this is the "Standard Contract Specification" Reference Data Element for credit products. An index provider generally publishes the standard contract specification containing terms and conditions for contracts having its index as an underlier. While the name of the standard contract specification should be able to be accessible to all market participants, this should not imply that the publisher has surrendered any rights to the actual specification. A user of the data may still need to contact the publisher for the terms of a particular standard contract specification, but not for the ability to access and use (as part of the integral reference data record for a given UPI Code) a particular name specified as the Reference Data Element "Standard Contract Specification".

A number of identifiers for underlying assets and indices are owned by trading venues, market data vendors, or index providers. The combination of such a vendor proprietary code along with the other UPI Reference Data Elements values may violate the intellectual property rights of the vendor. Distribution of such codes to parties that have not entered into licensing agreements with a vendor may require the permission of the respective vendor, either on a per-party basis, or as a general agreement with regulators and UPI Service Providers. Another approach would be to limit access to a vendor-proprietary identifier in the UPI Reference Data

Library to only those market participants who have a corresponding license agreement with the respective vendor. In this approach a UPI Service Provider would take in good faith a notification from a market participant of the existence of a license agreement.

5.3 Required use of ISO standards and values for specific Reference Data Elements

Several respondents observed that many elements of the UPI Reference Data Library likely already have standards issued by the International Organization for Standardization (ISO). One respondent said that to enable interoperability, where one or more standards exist for a particular data element, there should be a default position toward inclusion of multiple standards.[13]

One respondent said that there needs to be a general objective to formally standardise all UPI Reference Data Elements by an international body, but no requirement to do so. This respondent reasoned that, given the highly specialised and fast-moving nature of these markets, formal standardisation for all data elements may be cumbersome.

Another respondent said that an effort should be made to standardise all UPI Reference Data Elements. This respondent reasoned that without standardisation, there could be "regional UPIs" generated which would hinder Authorities from aggregating data.

With regard to the commodities asset class, one trade repository responded with the suggestion that index names for this asset class could be resolved by requiring that all index providers periodically publish their index names in a standardised format to the entire marketplace, including UPI Service Provider(s).

Several respondents took a pragmatic approach, supporting explicitly defined standards where possible and interoperable standards to accommodate existing market structures. Wherever possible, existing global standards should be leveraged.

The GLEIF said that ISO standards should be used where available, and where there are not ISO standards, the technical format and structure should be specified to ensure data quality.

UPI Reference Data Elements may have corresponding names, descriptions and allowable values in existing ISO standards or the values for a UPI Reference Data Element may be part of a codelist from an existing ISO standard (e.g., codelist for ISO 20022 business elements, codelist for ISO 10962 allowable attribute values). Values may also be part of codelists maintained by trade associations or vendors (e.g., standard contract specification names) or vendor-proprietary identifiers. The FSB is minded to conclude that:

- The ISO name, description and allowable values should be adopted for the corresponding UPI Reference Data Element where an appropriate ISO business data element or codelist exists.
- Where a UPI Reference Data Element value is a member of a codelist that is external to ISO, or is a proprietary identifier, the exact value as it appears in the codelist, or as

[13] See generally responses to Initial Consultation, Question 20.

published by the issuer of the proprietary identifier, should be used and the source of the value should be provided.[14]

- It is incumbent on any governance structure adopted to ensure that names, descriptions and allowable values conform to the appropriate International Data Standard on an ongoing basis.
- Furthermore, given different regulatory requirements and varying industry practice for the messaging syntaxes (e.g. FIX, FpML), a UPI Service Provider should adopt a syntax neutral approach where the ISO business data element or codelist is used for storing values, or presenting values through a web portal. This would not restrict a UPI Service Provider from taking as input, or providing as output, UPI Reference Data Elements values formatted according to an alternate syntax agreed to by market participants or required by regulators.

5.4 Choice of International Standardisation Body

In the FSB's consultation paper on the UTI governance arrangements, it consulted on the questions whether the UTI Code should be adopted as an International Data Standard and also consulted on whether ISO was the best candidate to oversee and maintain the UTI Data Standard, in other words to act as the International Standardisation Body for the UTI.[15]

In its conclusions paper on the UTI Governance Arrangements, having considered the feedback received, the FSB stated that it had selected ISO as the International Standardisation Body responsible for publishing and maintaining the UTI Data Standard as an International Data Standard.[16]

The FSB is minded to conclude that, for the same or similar reasons given in the above papers, the UPI Code and, to the extent practicable, the UPI Reference Data Elements, should be subject to a standardisation process leading to the adoption of the UPI Data Standard as an International Data Standard. For the same or similar reasons, the FSB is similarly minded to conclude that the ISO is the most appropriate body to undertake this function.

5.5 Uses of UPI beyond regulatory reporting

Several commenters advocated developing the UPI for uses beyond just regulatory reporting. If the UPI System is sufficiently useful for internal business purposes, this will increase its adoption and usefulness. The FSB is not in principle opposed to uses of the UPI beyond regulatory reporting. However, the FSB notes that regulatory reporting is the core purpose of the UPI, and the open access principle was developed with that purpose in mind.

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[14] UPI Technical Guidance at Section 5.1 (see note 4).

[15] See FSB (2017), *Proposed governance arrangements for the unique transaction identifier (UTI): Consultation document* (March), at http://www.fsb.org/wp-content/uploads/Proposed-governance-arrangements-for-the-unique-transaction-identifier-UTI.pdf.

[16] See FSB (2017), Governance arrangements for the unique transaction identifier (UTI): Conclusions and implementation plan (December), at http://www.fsb.org/wp-content/uploads/P291217.pdf.

Q12. Should ownership of any intellectual property created by a UPI Service Provider be assigned to a third party in order to maintain and ensure continuation of open access in the event that the provider were to become insolvent or subject to administration or voluntarily withdraw? If so, how should that third party be structured?

Q13. Should access to a vendor-proprietary identifier in the UPI Reference Data Library be limited to only those market participants who have a corresponding license agreement with the respective vendor? If so, how should that underlying asset or index be identified for non-licensees?

Q14. Do you believe that wherever possible, elements within the Reference Data Library should use established International Data Standards?

Q15. Do you agree that, for similar reasons as were given in the UTI Consultation, the ISO is the most appropriate body to undertake the functions of an International Standardisation Body for the UPI?

Q16. Do you think it desirable that all Data Elements in the UPI Reference Data Library be subject to ISO standards?

Q17. Do you agree with the FSB's preliminary conclusions about codelists and related topics in section 5.3 above?

Q18. If you believe that the UPI can and should be used for purposes other than solely regulatory reporting, describe in detail and provide specific examples of any such additional purposes.

6 One versus many UPI Service Providers

6.1 Introduction

This section presents the FSB's considerations on the benefits and challenges associated with the different models regarding the number of and interaction between UPI Service Providers to administer the UPI System. These considerations are based on the requirements articulated in the UPI Technical Guidance (specifically uniqueness, consistency and ease of assignment/retrieval/query), the FSB's key criteria for UPI Governance Arrangements (specifically public interest, lean, open access, and cost recovery), and the responses received from commenters in the FSB's Initial Consultation on Governance Arrangements for the UPI.

If more than one UPI Service Provider exists within or across asset classes, it raises questions about how these principles and criteria would be met. For example, the existence of multiple UPI Service Providers suggests Governance Arrangements that would be more complex than if there were a single UPI Service Provider for all asset classes.

In their responses to the FSB's consultation on UPI Governance Arrangements, many respondents highlighted the trade-off between the simplicity and implied efficiency of having a single UPI Service Provider (which would, for example, eliminate the challenges in satisfying the uniqueness, consistency, and ease of access principles noted above) and the benefits of competition that the co-existence of multiple UPI Service Providers could bring. However, several respondents pointed out that having more than one UPI Service Provider without a

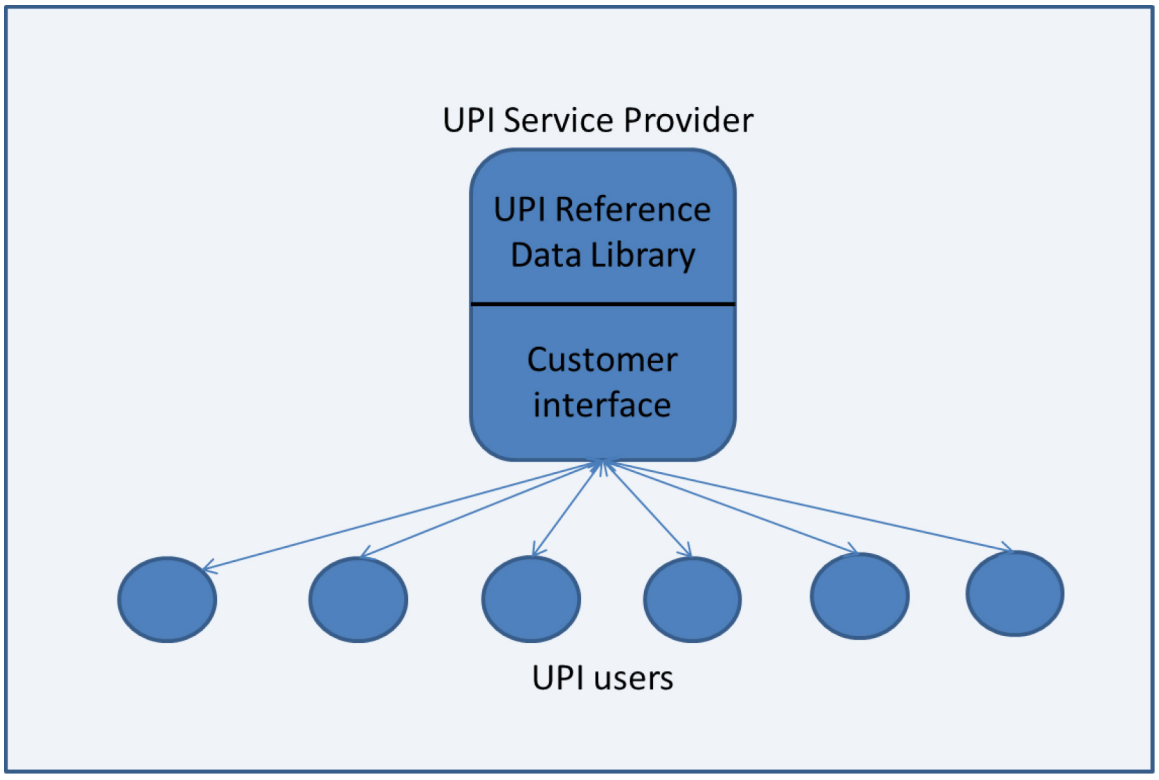
coordinating mechanism between them would have implications and add complexity that could also affect the users of the UPI.

6.2 Single UPI Service Provider model

Some respondents argued that the easiest and most efficient means of operating the UPI System would be to have only a single UPI Service Provider at the global level for all asset classes. This model would eliminate the need for coordination among UPI Service Providers and would ensure a single and consistent UPI Reference Data Library and single point of access for UPI users. Such a model would be expected to be lean and cost efficient relative to other models as it would avoid duplication in the setting up of the infrastructure to generate UPIs and avoid forcing stakeholders to establish connections, pay fees, and allocate staff/resources to multiple UPI Service Providers.

However, these respondents cautioned that, if only one UPI Service Provider were designated, it should be accompanied by very strong oversight arrangements designed to minimise the general risks of monopoly behaviour (rent seeking, lack of service improvements and innovation, lack of proper business continuity arrangements, *etc*.) from materialising. In addition, because OTC derivative products have historically been created by a range of market participants for a variety of different uses, a single UPI Service Provider might not possess expertise across all OTC derivatives asset classes. It could be a challenge for that single UPI Service Provider to obtain the necessary expertise to adequately service all asset classes, which might delay implementation of the system.

The model of a single monopolistic provider is displayed in the below diagram.

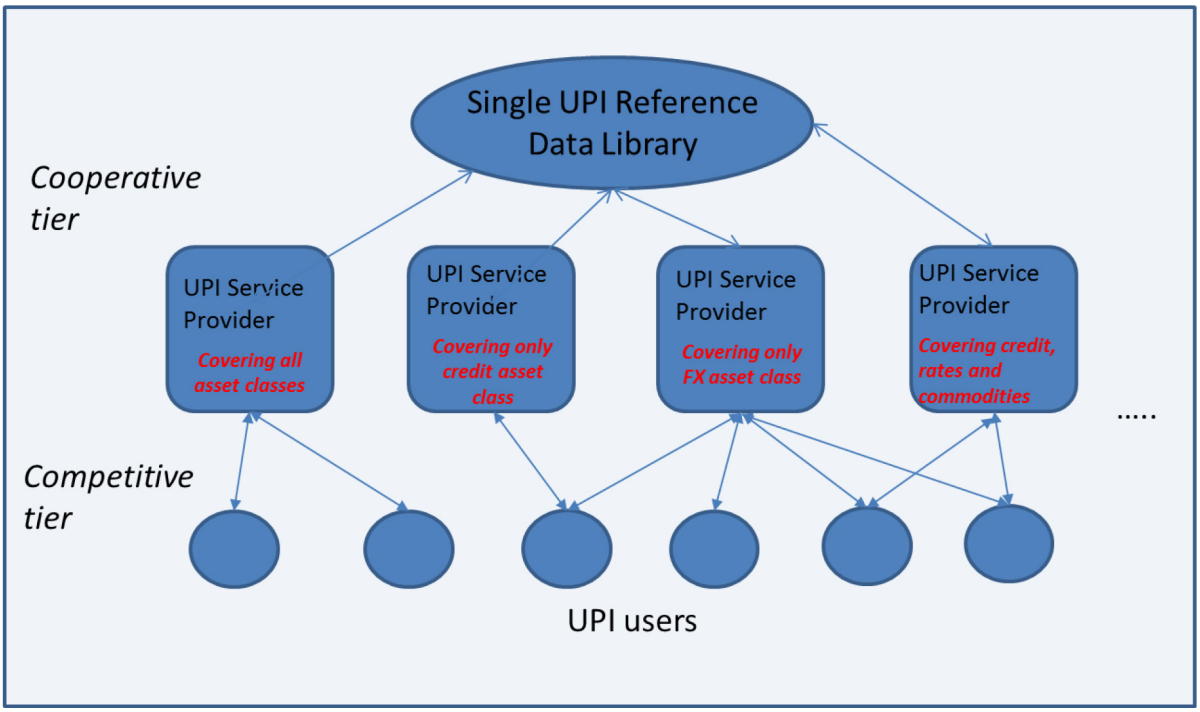


6.3 Competitive model

Some respondents favoured a model in which UPI Service Providers compete with each other in providing UPI-related services related to products in the same OTC derivatives asset class as well as across asset classes. This model offers a clear advantage over the single UPI Service Provider model in terms of system continuity: if there are multiple UPI Service Providers servicing each asset class, the UPI system could (at least in theory) continue to operate despite the incapacity of one provider, because users could shift their usage to the remaining provider(s). The competitive model also suggests that individual providers would have incentives to improve services and minimise costs and fees, so as to avoid business from migrating to a competing provider.

The competitive model presents certain potential drawbacks, however. For example, some mechanism would be needed to promote the uniqueness principle. It is possible that two users could present data elements for the same OTC derivatives product to different UPI Service Providers at approximately the same time. The FSB is concerned that, without a coordinating mechanism between UPI Service Providers who are servicing the same asset class, a situation could arise where the same product is given different UPI Codes by different providers. Furthermore, Authorities and other users could find it cumbersome to assemble a complete list of extant UPI Codes and their corresponding Reference Data Elements from multiple UPI Service Providers. The FSB preliminarily believes that a central Reference Data Library would be instrumental in resolving that issue (see Section 6.5).

One possible configuration of the competitive model is illustrated in the below diagram.



6.4 Preliminary considerations on the competitive model

The FSB recognises the trade-off between the potential efficiency of having a single UPI Service Provider and the potential robustness and added expertise of having several competing UPI Service Providers.

The clear advantage of the **Single UPI Service Provider model** is that a number of the drawbacks presented above would not exist in that model and the consistency of the UPI Reference Data Library would be ensured. The overall cost of the UPI System could also be lower as there would not be overlapping functions. However, such a model would require very strong oversight, not only to ensure compliance with the key criteria for the UPI Governance Arrangements, but also in order to prevent monopolistic behaviour. A single UPI Service Provider across all asset classes, while having numerous benefits, also would create the unintended consequence of a single point of failure.

The **Competitive model** could potentially alleviate some of the oversight or regulatory drawbacks of the single provider model and allow for better prospects for service innovation, keeping incentives for wide market coverage and for more convenience to be provided to UPI users. Furthermore, the competitive model would help promote the overall continuity of the UPI System, because the loss of a single provider would not risk causing the system to cease functioning. However, the competitive model could entail certain additional costs: for example, some mechanism would be necessary to ensure compliance with the principles of uniqueness and consistency across the multiple UPI Service Providers.

For completeness, the FSB also consulted on another model in the Initial Consultation, whereby each asset class could have at most a single UPI Service Provider, but there could be multiple UPI Service Providers in total (referred to as the **Multiple UPI Service Provider model**).[17] One commenter to the Initial Consultation supported this model. The FSB is minded to conclude that such a model, if mandated, would deliver neither the benefits of the Single UPI Service Provider model nor the Competitive model and therefore should not be progressed further.[18]

6.5 UPI Reference Data Library; single access point

The FSB sees significant merits in a **single UPI Reference Data Library** available to users and the public alike as the authoritative repository for UPI reference data. A single framework to cover multiple product identifiers and usages, which ensures a single point of access to the UPI reference data as well as a common approach to the management of its data quality, seems preferable. Without such a common framework, data quality and regulatory oversight may suffer, and operational complexities may emerge.

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[17] The Multiple UPI Service Provider model is a model where at most one UPI Service Provider could be assigned to each asset class. It is possible that one UPI Service Provider could cover more than one asset classes in this model.

[18] The FSB does however recognise that it is possible that an equilibrium state of the competitive model could resemble such a multiple provider model if competition within asset classes is limited or not present.

A **single access point** could effectuate a more efficient method for the regulatory community to conduct oversight of derivatives markets, avoiding the challenges involved in interacting with a multitude of UPI Service Providers independently. However, the implementation and operation of a single point of access to receive a new UPI and to query the centralised Reference Data Library could be complex and costly under the Competitive model, so the FSB will use this second consultation, and the self-assessment questionnaire for potential UPI Service Providers, to gauge those complexities and cost.

Q19. Considering the pros and cons of each of the above-mentioned models (Single UPI Service Provider model or Competitive model), what would in your view be the most suitable? Please provide detailed reasoning.

Q20. Do you believe that there should be a single UPI Reference Data Library if multiple UPI Service Providers coexist in the UPI System? Why or why not?

Q21. What would be the value added in having competing UPI Service Providers if there was a single entity centrally managing the UPI Reference Data Library?

Q22. How could the applicable technical principles and governance criteria mentioned in section 6.1 be followed if there were multiple UPI Service Providers?

7 Summary and Next steps

We welcome responses or comments on any part of this document, including any response on the questions raised herein. For convenience, these questions are collected in Annex 1 to this consultation document. An optional template for submission of consultation responses has been published alongside this consultation document for the use of commenters, if they so choose.

The FSB expects to reach conclusions on the UPI Governance Arrangements, and to identify one or more UPI Service Provider(s), by mid-2019.

The FSB invites stakeholders to provide their responses by Monday 28 May 2018 by e-mail to fsb@fsb.org with "UPI Governance Arrangements" in the e-mail subject line. The feedback received will be taken into account in the FSB's finalisation of the UPI Governance Arrangements.

Unless non-publication (in part or whole) is specifically requested, all consultation responses will be published on the FSB's website. An automated e-mail confidentiality claim will not suffice for these purposes.

Unless your response is wholly confidential, please provide it in a form that does not include personal identifying information you do not wish to have published, to avoid the need for redaction of such information prior to publication.

Annex 1 List of second consultation questions

Q1. Do you agree a public-private partnership model such as the one sketched above should be adopted for the UPI Governance Arrangements?

Q2. Do you believe any governance functions in Annex 4 should be performed by a different body? If so, which ones and why?

Q3. How should any Governance Arrangements for the UPI System be funded?

Q4. Do you consider the Governance Arrangements described in section 3 above are appropriate and adapted to provide oversight on fees and cost recovery?

Q5. Please provide any specific suggestions to promote adherence to the cost and open access criteria, including suggestions relating to escalation procedures, including complaint handling bodies and processes.

Q6. If you believe that start-up costs should be fully recovered by a UPI Service Provider, how should they be allocated between earlier- and later-arriving subscribers? For example, over how many years should the start-up costs be amortised?

Q7. If revenues for a year have exceeded or fallen short of anticipated costs for that year, should the UPI Service Provider have a mechanism for rebating or recovering the excess, either during that year or at a later time?

Q8. Do you believe that a UPI Service Provider should be allowed to cross-subsidise the provision of UPI Services with revenues from other business lines, either with regard to start-up costs or on an ongoing basis? Why or why not?

Q9. Should a UPI Service Provider be permitted to provide value-added products and services (i.e., products and services that incorporate UPI data but are not required by the UPI Technical Guidance)?

Q10. What is your evaluation of the risks of restrictive practices limiting open access, e.g. through the bundling of UPI Services with value-added services? How and by whom could such practices be prevented or restricted?

Q11. Should a UPI Service Provider that engages in other business activity be required to "ring fence" its UPI functions? If so, what sort of corporate, legal, and/or accounting mechanisms would be necessary to effect such an arrangement?

Q12. Should ownership of any intellectual property created by a UPI Service Provider be assigned to a third party in order to maintain and ensure continuation of open access in the event that the provider were to become insolvent or subject to administration or voluntarily withdraw? If so, how should that third party be structured?

Q13. Should access to a vendor-proprietary identifier in the UPI Reference Data Library be limited to only those market participants who have a corresponding license agreement with the respective vendor? If so, how should that underlying asset or index be identified for non-licensees?

Q14. Do you believe that wherever possible elements within the Reference Data Library should use established International Data Standards?

Q15. Do you agree that, for similar reasons as were traversed in the UTI Consultation, the ISO is the most appropriate body to undertake the functions of an International Standardisation Body for the UPI?

Q16. Do you think it desirable that all elements in the UPI Reference Data Library be subject to ISO standards?

Q17. Do you agree with the FSB's preliminary conclusions about codelists and related topics in section 5.3 above?

Q18. If you believe that the UPI data can and should be used for purposes other than solely regulatory reporting, describe in detail and provide specific examples of any such additional purposes.

Q19. Considering the pros and cons of each of the above-mentioned models (Single UPI Service Provider model or Competitive model), what would in your view be the most suitable? Please provide detailed reasoning.

Q20. Do you believe that there should be a single UPI Reference Data Library if multiple UPI Service Providers coexist in the UPI System? Why or why not?

Q21. What would be the value added in having competing UPI Service Providers if there was a single entity centrally managing the UPI Reference Data Library?

Q22. How could the applicable technical principles and governance criteria mentioned in section 6.1 be followed if there were multiple UPI Service Providers?

Annex 2 List of acronyms and defined terms

Authorities	National or regional authorities
CPMI	Committee on Payments and Market Infrastructures
Data Element	A general term for each of the discrete categories of information that might be reported or processed pertaining to an OTC derivatives transaction. In the context of the UPI, "Data Element" shall mean the UPI; or data that represents a particular instance of a UPI.
Data Standard	A set of characteristics or qualities that describes the features of a Data Element. A Data Standard for a given Data Element includes or may include such things as a structural definition and format specifications. The use of the term "standard" is not intended to denote a particular level in a hierarchy, nor does it necessarily denote the output of the work of an International Standardisation Body or Standard-Setting Body.
FSB	Financial Stability Board
Governance Arrangements	Governance structures, procedures or protocols. The term encompasses only the arrangements as adopted or to be adopted by the FSB, exclusive of the broader Governance Framework in which these arrangements will exist.
Governance Framework	The background setting, including legal structures, in which any Governance Arrangements may be established. This broader framework includes national regulatory authorities, international and national standard-setting bodies, national and international law, and guidance.
GUUG	FSB Working Group on UTI and UPI Governance
Harmonisation Group	CPMI and IOSCO working group for harmonisation of key OTC derivatives data elements
HG	Harmonisation Group
Initial Consultation	See footnote 2.
IRG	An Industry Representation Group, which could include representatives of, inter alia, reporting entities, derivatives infrastructure providers, or market data providers
International Data Standard	A Data Standard issued by an International Standardisation Body

International Standardisation Body	An international body, other than a Standard-Setting Body, that promulgates standards, including data standard-setting bodies such as the ISO.
IOSCO	International Organization of Securities Commissions
IP	Intellectual property
ISO	International Organization for Standardization
Maintenance (with respect to the UPI Technical Guidance or the UPI Data Standard)	The ongoing process of revising and potentially updating the UPI Technical Guidance or the UPI Data Standard
OTC	Over-the-counter
RDL Operator	An operator of the UPI Reference Data Library
Standard-Setting Body	A grouping or body of Authorities (with or without observers that are not Authorities), that is responsible for issuing standards or recommendations for the guidance of Authorities, market participants and/or other addressees, for example, the CPMI or IOSCO
TR	Trade Repository (as defined)
Trade Repository	a) An entity that maintains a centralised electronic record (database) of transaction data and is authorised to receive reports about transactions and make this information available to authorities as appropriate; or b) an entity, facility, service, utility, government authority, etc. that is not established as an authorised trade repository but that maintains a centralised electronic record (database) of transaction data and is used by market participants to report transaction data, or provides TR-like services.
UIROC	A Unique Identifiers Regulatory Oversight Committee which would represent relevant Authorities from relevant jurisdictions
UPI	Unique Product Identifier, a Data Element that will identify the product type for an OTC Derivative (see definition of Data Element above)
UPI Code	A unique set of characters that represents a particular OTC derivative product
UPI Data Standard	The Data Standard for the UPI, including the structure and format (see definition of Data Standard above)
UPI Governance Arrangements	Governance Arrangements for the UPI

UPI Reference Data Elements	Data Elements contained in the UPI Reference Data Library
UPI Reference Data Library	A data library that contains UPI Reference Data Elements that, in combination, identify and describe the characteristics of an instrument and underlier for an OTC derivative product; for a given OTC derivative product, a given set of values for the Data Elements in the UPI Reference Data Library will map to a unique value for the UPI Code, thus creating a product identification for the OTC derivative product. In this way, the UPI Reference Data Library will help to classify OTC derivatives by product type.
UPI Services	The generation and issuance of UPI Codes and the reception, retention, storage, and/or transmission of the corresponding Reference Data Elements
UPI Service Provider	Any entity, other than an Authority, Standard-Setting Body or International Standardisation Body, that provides UPI Services
UPI System	The UPI Data Standard, the UPI Reference Data Library, and the process of assigning a UPI Code to a set of UPI Reference Data Elements
UPI Technical Guidance	The contents of the reports (issued in the first instance by the CPMI jointly with IOSCO) setting out regulatory guidance on the UPI Data Standard, and which may contain material other than Data Standards, such as recommendations on associated matters, or commentary on Data Standards or associated matters
UTI	Unique Transaction Identifier

Annex 3 Members of the Working Group on UTI / UPI Governance

as at time of publication

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	Thomas Brown Senior Standards Specialist Office of Financial Research Department of the Treasury
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European Securities and Markets Authority	**Olga Petrenko** Senior Policy Officer, Market Integrity Team
CPMI	**Philippe Troussard** Member of Secretariat
IOSCO	**Tim Pinkowski** Policy Adviser
Harmonisation Group Observers	**Marc Bayle** *(Harmonisation Group Co-chair)* Director General, Market Infrastructure and Payments European Central Bank
	Markus Mayers Adviser, Market Integration Division European Central Bank
	Robert Stowsky Data Management Branch, Office of Data and Technology, US Commodity Futures Trading Commission
	William Treacy Adviser Federal Reserve Board
FSB Secretariat	**Laurence White** Member of Secretariat

Annex 4: Functional allocations table

Note: As explained in the document to which this forms an Annex, the FSB proposes that the Industry Review Group (IRG) operate under the general oversight of the Unique Identifiers Regulatory Oversight Committee (UIROC). As such, the FSB proposes that the UIROC have oversight of all functions proposed to be allocated to the IRG in this draft allocation of functions table, notwithstanding the absence of text highlighting the oversight role of the UIROC for each function allocated to the IRG. In addition, the FSB recognises that some of these operations may, in practice, be combined or structurally linked. For example, the UPI Reference Data Library operator (RDL Operator) may also be the UPI Service Provider or the IRG may have operational or executive control of the UPI Service Provider(s). Terms such as "ISB" (International Standardisation Body) and "Authorities" are defined in Annex 2.

Governance function	UPI Service Provider(s)	RDL Operator	IRG	UIROC	ISB	Authorities
5.1 Functions related to ongoing generation of UPIs						
F5.1.1 Production and routine maintenance						
(a) Producing and assigning UPI Codes to OTC derivatives products in conformity with the UPI Technical Guidance, the UPI Data Standard, and any other standards relating to the UPI System that may prevail.	Operational functions					
(b) Updating and publishing the list of UPI Codes (including historical data) and associated UPI Reference Data Elements for each UPI Code.	Operational functions including transmission of RDEs to RDLO	Publication of list of UPI Codes and UPI RDEs				
(c) Maintaining (i) the UPI Reference Data Library (containing the UPI Reference Data Elements) and (ii) the permissible values thereof per asset class/product type.		Maintaining the RDL			Maintaining permissible values	
(d) Establishing and maintaining adequate policies and procedures to ensure conformity with the UPI Technical Guidance, the UPI Data Standard, and any other standards relating to the UPI System that may prevail.	Operational policies/ procedures	Operational policies/procedures	Stakeholder input and review			
(e) Maintaining a history of issued UPI Codes to avoid reuse; to ensure compatibility of old/new versions of the UPI; and to facilitate the performance of historical data analysis.	Avoiding re-use by testing UPI Codes against historical data and previous versions of UPI	Keeping historical UPI Reference Data and make it available for analysis				
F5.1.2 New UPI protocol						

Governance function	UPI Service Provider(s)	RDL Operator	IRG	UIROC	ISB	Authorities
Establishing and maintaining policies and procedures governing applications for obtaining new UPI Codes. This would include the form and manner of data submission, how users must connect to the UPI Service Provider(s) to provide data and request a UPI Code, and timing	Operational functions	Operational functions	Stakeholder input and review			
F5.1.3 Review and assessment						
(a) Review the UPI System to accommodate new product types, including deciding whether each addition or change to product types requires a change to associated reference data (e.g., through addition of new allowable values for the UPI Reference Data Elements within given asset class/product type).	Operational functions		Stakeholder input and review		Maintaining permissible values	
(b) Reviewing the UPI System to maintain granularity, having a process for accounting for errors in issuance of UPIs, and deprecating UPIs that become obsolete.	Operational functions		Stakeholder input and review			
(c) Periodically assessing the distribution of products within the classification system and ensuring that products are assigned their proper taxonomical classification when appropriate.	Operational functions		Stakeholder input and review			
5.2 Functions associated with the oversight of the UPI System						
F5.2.1 Oversight of production and routine maintenance						
(a) Coordinating as necessary and where appropriate with market participants, UPI Service Providers (if there are more than one), third parties who issue any underlier identifiers used in the UPI Reference Data Library, infrastructure providers, and regulators with regard to changes in or introductions of the identifiers of underliers or other UPI Reference Data Elements.			Stakeholder input and review	Coordination role		
(b) Issuing recommendations for further updates or changes to UPI Reference Data Elements or related data structures.				Oversight Issuing technical standards		

Governance function	UPI Service Provider(s)	RDL Operator	IRG	UIROC	ISB	Authorities
(c) Overseeing the technical decisions of any UPI Service Provider and the RDL operator and ensuring that there is a mechanism for responding to complaints and inquiries.			Lead role			
(d) Coordinating with international regulatory oversight bodies and Authorities.			Stakeholder input to UIROC	Lead role		
F5.2.2 Functions associated with implementation						
(a) If the FSB were to determine that there should be an International Data Standard for the UPI Code and/or any UPI Reference Data Elements, taking necessary steps to achieve such a standard.			Stakeholder input to UIROC	Taking necessary steps to achieve an International Data Standard	Issuance of Internat-ional Data Standard	
(b) Recommending a coordinated approach for UPI implementation by Authorities, including timing aspects.				Lead role		
(c) Implementation of the UPI through Authorities' rules and regulatory oversight.				Monitoring		Supervisory and regulatory functions
F5.2.3 Functions associated with oversight of ongoing operation						
(a) Disseminating UPI Technical Guidance. The UPI Technical Guidance, as addressed to Authorities, shall be disseminated to facilitate its broad application.				Disseminating		
(b) Overseeing the UPI Service Provider(s) and the monitoring of their adherence to the UPI Technical Guidance, the UPI Data Standard, any other standards relating to the UPI System that may prevail, the UPI Governance Arrangements, and any terms or conditions forming part of such arrangements.			Monitoring Stakeholder input to UIROC	Oversight		Supervisory and regulatory functions

Governance function	UPI Service Provider(s)	RDL Operator	IRG	UIROC	ISB	Authorities
(c) Taking any action with regard to the provision of services by the UPI Service Provider(s), including applicable procedural safeguards.			Stakeholder input and frontline communication with UPI Service Provider(s)	Oversight		
(d) Monitoring implementation of the UPI by Authorities. There may be the need to monitor implementation at the global level and identify implementation issues which hinder a harmonised approach.				Monitoring		
(e) Coordinating the analysis of and response to issues relating to the UPI Data Standard (and any other standards relating to the UPI System that may prevail), UPI Technical Guidance updates and maintenance with other relevant standard-setting bodies, standards development organisations, regulators, or Authorities. This may include coordination relating to changes in or introductions of the identifiers of underliers.			Stakeholder input	Oversight	Standard-isation	
(f) Receiving and considering any recommendation by a UPI Service Provider for further updates or changes to reference data or related data structures.			Lead role on 'receiving' and advisory role to UIROC on 'considering'	Lead role on 'considering'		
(g) Considering updates to the UPI Technical Guidance and the costs and benefits of updates to the UPI Technical Guidance.			Stakeholder input to UIROC	Lead role		
(h) Reviewing use of the UPI by market participants, UPI Service Providers and regulators.				Monitoring of regulators' use of the UPI		Review of market participants' use of the UPI
(i) Processing requests for information and providing clarification on the UPI Technical Guidance.			Stakeholder input	Oversight		Supervisory and regulatory functions
(j) Maintenance of technical aspects of the UPI Data Standard (and any other standards relating to the UPI System that may prevail) as an International Data Standard.				Consultation	Standard-isation	