documents to be published by them. In this connection, please read the Personal Information

PERSONAL INFORMATION COLLECTION STATEMENT

1. This Personal Information Collection Statement (**PICS**) is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. The PICS sets out the purposes for which your Personal Data[1] will be used following collection, what you are agreeing to with respect to the HKMA's and the SFC's use of your Personal Data and your rights under the Personal Data (Privacy) Ordinance (Cap. 486) (**PDPO**).

Purpose of collection

2. The personal data provided in your submission in response to this consultation paper may be used by the HKMA or the SFC for one or more of the following purposes –

   (a) to administer –

      (i) the provisions of the Banking Ordinance (Cap. 155) and guidelines published pursuant to the powers vested in the HKMA; and

      (ii) the relevant provisions[2] and codes and guidelines published pursuant to the powers vested in the SFC;

   (b) to perform statutory functions under the provisions of the Banking Ordinance (Cap. 155), the Securities and Futures Ordinance (Cap. 571) and relevant provisions;

   (c) for research and statistical purposes; or

   (d) for other purposes permitted by law.

Transfer of personal data

3. Personal data may be disclosed by the HKMA or the SFC to members of the public in Hong Kong and elsewhere as part of this public consultation. The names of persons who submit comments on this consultation paper, together with the whole or any part of their submissions, may be disclosed to members of the public. This will be done by publishing this information on the HKMA and SFC websites and in documents to be published by the HKMA and SFC during the consultation period or at its conclusion.

Access to data

4. You have the righ3 -22.452f7-3.226 -.806 0 Td3687(ccess o3.226 -.806 0 Td3687(ccess o3.226 -

paper. The HKMA and the SFC have the right to charge a reasonable fee for processing any data access request.

Retention

5. Personal data provided to the HKMA and the SFC in response to this consultation paper will be retained for such period as may be necessary for the proper discharge of their functions.

Enquiries

6. Any enquiries regarding the personal data provided in your submission on this consultation paper, requests for access to personal data or correction of personal data should be addressed in writing to –

HKMA	**SFC**
Personal Data Privacy Officer Hong Kong Monetary Authority 55/F Two International Finance Centre 8 Finance Street Central, Hong Kong	Data Privacy Officer Securities and Futures Commission 35/F Cheung Kong Center 2 Queen's Road Central Hong Kong

7. A copy of the Privacy Policy Statement adopted by the HKMA and the SFC is available upon request.

EXECUTIVE SUMMARY

1. In line with G20 commitments to reform OTC derivatives markets, the HKMA and the SFC have been working on implementing an OTC derivatives regulatory regime in Hong Kong. The regime is being implemented in phases with Phase 2 Reporting and Phase 1 Clearing introduced in t-42eTc5-2 at(l(v)-(oi)-006 0 1 2e6(e7hu24( )6(e3w d 3.774g)1(o[21.5

6. According to the Technical Guidance, there should only be one transaction identifier for each transaction globally. We propose, as an interim measure, to continue allowing the use of USIs and TIDs since they serve their regulatory purposes well. As the US and the EU may have different implementation timelines for adopting the international standard for UTIs, we propose that a new UTI be required to be generated based on our proposed requirements only for transactions without a unique identifier generated based on the US or the EU requirements. In addition, reporting entities can use UTIs generated in accordance with relevant overseas requirements which are consistent with the structure and format set out in the Technical Guidance. These would avoid the need for reporting entities to generate an additional transaction identifier for cross-border transactions during the transitional period when different jurisdictions implement the international standard on UTIs at different paces.

7. We expect that the unique identifier in the US and the EU will soon conform to the structure and format set out in the Technical Guidance and in the future there will be only one unique identifier for a cross-border transaction which needs to be reported under both the US and the EU reporting requirements. As such, we propose that the interim measure be discontinued six months after both the US and the EU have adopted the international standard on UTIs. After that period, all transactions submitted to the Hong Kong Trade Repository (**HKTR**) should be identified by UTIs. The HKMA and the SFC will give notice to reporting entities the exact end date of the six-month grace period so that they will have sufficient lead time to carry out any necessary system enhancements.

8. To reduce the compliance burden for reporting entities, we propose to mandate the use of UTIs only for the reporting of new trades (including their subsequent life-cycle events) that take place on or after the implementation of the mandatory use of UTIs as described above in April 2020. In proposing the implementation timeline, we have taken into account our urgent need for UTIs to enable better matching and avoid double counting of transactions in the HKTR.

11.

INTRODUCTION

17. To meet the G20 commitments to reform OTC derivatives markets, the HKMA and the SFC have been working on implementing a regulatory regime for OTC derivatives in Hong Kong. The regime, which is now in place, provides for, among other things, the introduction of reporting, clearing, trading and record keeping obligations in respect of OTC derivative transactions.

18. In line with other markets, our OTC derivatives regulatory regime is being implemented in phases. To that end, Phase 1 Reporting commenced on 10 July 2015, followed by Phase 2 Reporting on 1 July 2017. Phase 1 Clearing took effect on 1 September 2016. The use of LEIs was mandated for identifying entities on the reporting entity's side of a transaction on 1 April 2019. In addition, we have adopted trading determination criteria to identify which products would be appropriate for a platform trading obligation in Hong Kong.

19. With a view to keeping our OTC derivatives reporting and clearing regimes relevant and appropriate as the market evolves, this consultation proposes the following:

    (a) mandating the use of UTIs for the reporting obligation;

    (b) revising the Designated List for the masking relief of the reporting obligation; and

    (c) updating the FSP List under the clearing obligation.

MANDATING THE USE OF UNIQUE TRANSACTION IDENTIFIERS FOR THE REPORTING OBLIGATION

A. Current reporting requirements for identifiers for OTC derivative transactions

20.

22. In the case where neither a USI nor a TID has been assigned for the transaction, the mandatory reporting of a bilaterally agreed UTI is currently deferred as requested by market participants, pending the finalisation of an international standard for UTIs. While we did not specify an implementation date for mandatory reporting of UTIs, we highlighted in the Supplementary Reporting Instructions for OTC Derivative Transactions (**SRI**)[3] that transactions without a USI or a TID must be assigned a unique and bilaterally agreed UTI which is shared and paired between the two

derivative transaction reported to TRs. We propose to adopt the characteristics of and approaches to UTIs as set out in the Technical Guidance, except for the assignment of the responsibility for generating UTIs. In particular:

(a) Each reportable transaction should have its own UTI which should not be reused.

(b) When a particular transaction is reported more than once, the same identifier should be adopted consistently for each report.

(c) A transaction should keep the same UTI throughout its lifetime. If a previously reported transaction –

  (i) is replaced by another transaction, eg, in the case of a centrally cleared trade;

  (ii) is split into different transactions; or

  (iii) involves a change in either one of the counterparties other than error correction,

  a new UTI should be used and reported.

(d) During the life-cycle of an OTC derivative transaction, a new UTI may be needed. Other than the situations stated in paragraph (c) above, the rationale to determine whether a new UTI has to be generated should be as follows:

  (i) When new information is being reported about an OTC derivative transaction for which a report has already been made or some previously reported information has changed, then the report should be updated with the same UTI used previously.

  (ii) Otherwise, a new UTI should be used.

  (iii) If more than one such change is to be reported at the same time, and if any of these changes would require a new UTI, then a new UTI should be used for the transaction.

Proposed responsibility for generating UTIs

27. To avoid more than one UTI being generated for a single reportable transaction, we propose that counterparties bilaterally agree[7] on who would generate the UTI for their transactions. In cases where a bilateral agreement cannot be reached or has not been reached, we propose that counterparties should adopt the list of factors, where applicable, recommended in the Technical Guidance for allocating responsibility for UTI generation. The list of factors is shown in textual form in Annex 1.

[7] For the avoidance of doubt, counterparties may bilaterally agree to adopt the list of factors shown in Annex 1.

Proposed structure and format of UTIs

events take place on or after the implementation date. The exception is when the life-cycle event requires a new UTI to be used as explained in paragraphs 26(c) and 26(d) above.

34. To support the implementation of mandatory use of UTIs, two data fields will be designated for the reporting of the UTI and the Prior UTI. The data field designated for UTI is for reporting the value of a bilaterally agreed UTI in the structure and format consistent with the Technical Standard, while the data field designated for Prior UTI is for reporting a unique identifier of a prior related transaction as stated in paragraphs 26(c) and 26(d) above.

35. For transactions which take place on or after the date of the implementation of the mandatory use of UTIs and during the period for the interim measure, we propose that reporting entities should follow the instructions below to report the transaction identifiers:

(a) s:

af a T-32(u(t -0)-46-3e 0.149 2(e.22l(e.22l(e1(t)l)-44(e d(t -0 -1.22 T-32(r)-29on0(ep)(r)-29-0

Q2.	**Will you have any difficulties adopting the use of UTIs in OTC derivatives trade reporting in the proposed timelines as stated above? If so, please provide specific details.**

REVISING THE LIST OF DESIGNATED JURISDICTIONS FOR THE MASKING RELIEF OF THE REPORTING OBLIGATION

A. The current masking relief for OTC derivatives reporting

45. When Phase 1 Reporting took effect in July 2015, we introduced a masking relief to deal with situations where a reporting entity is prevented from reporting Counterparty Information to the HKMA via the HKTR. The relief was based on submissions we received concerning Reporting Barriers in certain jurisdictions. This relief was meant to be a temporary measure, pending international consensus on the issue and the FSB's efforts to promote the removal of barriers to full transaction reporting.

46. Under Rule 26(1) of the Securities and Futures (OTC Derivative Transactions – Reporting and Record Keeping Obligations) Rules (**Reporting Rules**), the current masking relief enables reporting entities to mask the identity of the counterparty when they report a transaction to the HKMA via the HKTR if both of the following preconditions are fulfilled:

    (a) The submission of Counterparty Information is prohibited by a jurisdiction's laws or regulations.

    (b) This jurisdiction has been designated by the SFC.

47. Market participants submitted a list of jurisdictions with perceived Reporting Barriers. We designated these jurisdictions and the Designated List was gazetted by the SFC on 7 July 2015. The list consists of the following 18 jurisdictions:

FSB member jurisdictions	Non-FSB member jurisdictions
1. Argentina	1. Algeria
2. France	2. Austria
3. India	3. Bahrain
4.	

Information. Consequently, the relief is granted in a way that if the first precondition in paragraph 46(a) above is not fulfilled, the masking relief is not applicable. In other words, reporting entities are not allowed to mask any new transactions once it has been clarified that the relevant legal or regulatory prohibition no longer exists even though that jurisdiction still remains on the Designated List.

49. We had previously provided a masking relief for reporting entities to obtain the necessary counterparty consent, which expired in January 2016. We would like to clarify that so long as the reporting of Counterparty Information can be made with a standing consent of the counterparty concerned, the lack of consent does not constitute a legal or regulatory prohibition under the first precondition of the masking relief. This is consistent with the international consensus set out in the 2018 F(.008 Tc61i.09)-29(n)

Australian OTC derivatives trade reporting regime, reducing the list of jurisdictions for which masking is permitted to two: the PRC and Saudi Arabia[9].

C. Proposals to revise the Designated List

54.

be provided to justify the continuation

reasonable efforts to obtain counterparty consent and unmask the relevant transactions within one month after obtaining it[10].

67. In addition, it should be noted that transactions which have matured, expired or been terminated before the end of

(a) They belong to a group of companies appearing on the list of global systemically important banks (**G-SIBs**) published by the FSB, or on the list of dealer groups which undertook to the OTC Derivatives Supervisors Group to work collaboratively with central counterparties, infrastructure providers and global supervisors to continue to make structural improvements to the global OTC derivatives markets (**G15-dealers**); and

(b) They are members of the largest CCPs offering clearing for interest rate swaps in the US, Europe, Japan and Hong Kong (**IRS CCPs**).

List of G-SIBs

78. As part of our annual update of the FSP List, we reviewed the list of G-SIBs published by the FSB in November 2018 to identify changes from the list published in November 2017.

(a) Groupe BPCE t

WAY FORWARD

86. The two enhancements to the reporting regime arise from recent developments and are largely in line with requirements that are or will be imposed in other major jurisdictions. The enhancement to the clearing regime is an annual update to the FSP List which we have already committed to. Therefore, we believe that market participants will have anticipated the substance of our proposals. We also believe our proposals strike the right balance between ensuring a robust regime and addressing market concerns. As always, we welcome market views about where the proposals may be insufficient or result in unintended consequences.

87. In view of the above, we propose to allow one month for the submission of comments in respect of the proposed update to the FSP List and two months for the submission of comments in respect of the other proposals. This means comments on the proposed update to the FSP List must reach the HKMA or the SFC by no later than 25 May 2019 and comments on our other proposals must reach the HKMA or the SFC by no later than 25 June 2019.

88. We are minded to conclude the proposals on FSPs in Q2 2019 and finalise other proposals in Q3 2019. Subject to the completion of this consultation and support from the market, we aim to publish the updated FSP List for clearing and the revised Designated List for reporting in the Government Gazette in Q4 2019. To implement our proposals, the Supplementary Reporting Instructions, and where appropriate, the Frequently Asked Questions relating to the reporting and clearing obligations and the gazetted data fields for reporting will also be amended accordingly.

89. We will also consult the market on other proposals with respect to the OTC derivatives regulatory regime from time to time, and we will maintain close dialogue with market participants throughout the process.

ANNEX 1 – Factors to be considered for allocating responsibility for UTI generation in the absence of bilateral agreements between the counterparties

Step	Factor to consider	Responsibility for UTI generation
1.	Is a CCP a counterparty to this transaction?	If so, the CCP. Otherwise, see step 2.
2.	Is a counterparty to this transaction a clearing member of a CCP, and if so is that clearing member acting in its clearing member capacity for this transaction?	If so, the clearing member. Otherwise, see step 3.
3.	Was the transaction executed on a trading platform?	If so, the trading platform. Otherwise, see step 4.

4.03 [51

ANNEX 2 – Updated List of Financial Services Providers

The following entities are proposed to be designated as FSPs for the purposes of the Clearing Rules. Changes from the current FSP List are explained in the notes set out below:

	Name of the entities	Notes
1.	Abbey National Treasury Services plc	Part of a G-SIB group. It is no longer a member of an IRS CCP, but other entities within the group remain as members. We propose to keep it on the FSP List. Please refer to paragraphs 80 to 81.
2.	Agricultural Bank of China Limited	
3.	Banco Santander S.A.	
4.	Bank of America, N.A.	
5.	**Banque Palatine S.A.**	Part of a new G-SIB group and a member of an IRS CCP. We propose to include it in the updated FSP List. Please see paragraph 79.
6.	Barclays Bank PLC	
7.	**Barclays Bank UK PLC**	Part of a G-SIB group and a new member of an IRS CCP. We propose to include it in the updated FSP List. Please refer to paragraph 79.
8.	Barclays Capital Inc.	
9.	BNP Paribas Fortis SA/NV	
10.	BNP Paribas SA	
11.	BNP Paribas Securities Corp.	
12.	CACEIS Bank SA	
13.	Citibank, N.A.	
14.	Citigroup Global Markets Inc.	
15.	Citigroup Global Markets Japan Inc.	
16.	Citigroup Global Markets Limited	
17.	Credit Agricole Corporate and Investment Bank	
18.	Credit Foncier de France	
19.	Credit Suisse (Schweiz) AG	

	Name of the entities	Notes
20.	Credit Suisse AG	
21.	Credit Suisse International	
22.	Credit Suisse Securities (Japan) Limited	
23.	Credit Suisse Securities (USA) LLC	
24.	Deutsche Bank AG	
25.	Deutsche Bank Securities Inc.	Part of a G-SIB group. It is no longer a member of an IRS CCP but other entities within the group continue to remain as members. We propose to keep it on the FSP List. Please refer to paragraphs 80 to 81.
26.	DB Privat- und Firmenkundenbank AG	
27.	Goldman Sachs & Co. LLC	
28.	Goldman Sachs Bank USA	
29.	Goldman Sachs Financial Markets Pty Ltd	
30.	Goldman Sachs International	
31.	Goldman Sachs Japan Co., Ltd.	
32.		

	Name of the entities	Notes
67.	RBC Capital Markets, LLC	
68.	RBC Europe Limited	
69.	Royal Bank of Canada	
70.	Santander Investment Securities Inc.	
71.	SG Americas Securities LLC	
72.	SMBC Capital Markets Inc.	
73.		