

Response of the Global Legal Entity Identifier Foundation (GLEIF) to the Hong Kong Monetary Authority (HKMA) and Securities and Futures Commission (SFC) Joint Consultation Paper on Enhancements to the OTC Derivatives Regulatory Regime for Hong Kong to – (1) mandate the use of Unique Transaction Identifiers for the reporting obligation, (2) revise the list of designated jurisdictions for the masking relief of the reporting obligation and (3) update the list of Financial Services Providers under the clearing obligation

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The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the Hong Kong Monetary Authority (HKMA) and Securities and Futures Commission (SFC) Joint Consultation Paper on Enhancements to the OTC Derivatives Regulatory Regime for Hong Kong to – (1) mandate the use of Unique Transaction Identifiers for the reporting obligation, (2) revise the list of designated jurisdictions for the masking relief of the reporting obligation and (3) update the list of Financial Services Providers under the clearing obligation. GLEIF will focus its comments on the use of the Legal Entity Identifier (LEI) in the consultation.

GLEIF would like to offer a response to Q1: “Do you have any comments or concerns about our proposals to mandate the use of UTIs in OTC derivatives trade reporting, in particular, the interim measure and to allow counterparties to bilaterally agree on the responsibility to generate a UTI prior to adopting the list of factors recommended in the Technical Guidance? If you foresee any operational difficulties in implementing the proposals, please provide specific details.”

As highlighted in the consultation paper, HKMA and SFC propose to adopt the Technical Guideline specifying the structure and the format of UTIs developed by the CPMI-IOSCO Harmonization Working Group for OTC Derivatives which is being used as the basis for the work undertaken by the International Organization for Standardization to develop an ISO data standard for the UTI. GLEIF welcomes this proposal set out in the Consultation Paper and would like to emphasize the importance of holistic use of standard identifiers and data elements for the purposes of data aggregation.

Moreover, GLEIF would like to highlight that according to the EU Commission Implementing Regulation 2019/363 laying down technical standards with regard to the format and frequency of reports on the details of securities financing transactions (SFTs) to trade repositories, a report shall be identified through a UTI agreed by the counterparties. The Regulation is effective starting from April 11, 2019 and the reporting obligations of legal entities will be launched in April 2020.

GLEIF would also like to respond Question 3: *“Do you have any comments or concerns about the proposed revision to the Designated List for the purposes of the masking relief?”*

The FSB Trade reporting legal barriers document released on November 19, 2018 underlines that masking of newly reported transactions should be discontinued by end 2018 once barriers to reporting are removed, since masking prevents comprehensive reporting. Identification of the counterparties masking relief is not possible and masking not allowed under European Market Infrastructure Regulation (EMIR), which mandates the unique identification of the counterparties to a derivative transaction through LEI. In line with HKMA’s and SFC’s joint efforts for keeping up the OTC regulatory framework in Hong Kong on par with international developments and standards in OTC Derivatives Transactions Reporting, if HKMA and SFC adopt the approach of not allowing masking relief, GLEIF proposes that LEI can be the key identifier that can be used to uniquely and permanently identify all counterparties to OTC derivatives transactions.

GLEIF would also like to emphasize that the deadline is July 1, 2019 for unmasking the outstanding historical transactions with Singaporean counterparties under the Securities and Futures (Amendment) Act 2017.