

Response of the Global Legal Entity Identifier Foundation (GLEIF) to the Bermuda Monetary Authority on the Consultation Paper on New Legislative Framework for Fund Administrators; “Fund Administration Provider Business Act 2019”

May 2019

The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the Bermuda Monetary Authority on the Consultation Paper on New Legislative Framework for Fund Administrators; “Fund Administration Provider Business Act 2019”. GLEIF will focus its comments on the use of the Legal Entity Identifier (LEI) in the consultation.

First some background on the LEI.

The development of a system to uniquely identify legal entities globally had its beginnings in the 2008 financial crisis. Regulators worldwide acknowledged their inability to identify parties to transactions across markets, products, and regions for regulatory reporting and supervision. This hindered the ability to evaluate systemic and emerging risk, to identify trends, and to take corrective steps. Recognizing this gap, authorities, working with the private sector, have developed the framework of a Global LEI System (GLEIS) that will, through the issuance of unique LEIs, unambiguously identify legal entities engaged in financial transactions.

The LEI initiative is driven by the Financial Stability Board (FSB) on behalf of the finance ministers and governors of central banks represented in the Group of Twenty (G20). The related FSB recommendations endorsed by the G20 in 2012 led to the development of the Global LEI System that provides unique identification of legal entities participating in financial transactions across the globe and the subsequent establishment of the GLEIF by the FSB in 2014. The GLEIF is overseen by a committee of currently 71 global regulators and 18 observers, known as the LEI Regulatory Oversight Committee (LEI ROC).

The LEI itself is a 20-digit, alpha-numeric code based on the ISO 17442 standard developed by the International Organization for Standardization (ISO). The code connects to key reference information that enables clear and unique identification of legal entities participating in financial transactions including their ownership structure. Moreover, the LEI provides freely accessible look up (identification) of the parties to transactions. The complete database of LEIs and the associated LEI reference data is available free of any charge or barrier to anyone on the web. GLEIF operates under the Open Data Charter terms, which means the data can be used by all users without limitations.

Since the financial crisis regulators have increasingly scrutinized the fund industry, this has meant new regulation such as the US Dodd-Frank Act Title IV, the European Union Directive on Alternative Investment Fund Managers (AIFM), Money Market Funds (MMF) Regulation and the Undertakings for Collective Investment in Transferable Securities (UCITS) V Directive, all aimed at better fund regulation

and reporting. In the US, the Securities Exchange Commission has adopted a rule that requires all U.S. registered funds to report an LEI starting from 2019.

Through two public consultations with market participants, LEI ROC has evaluated which fund relationship should be captured and how the standardized collection of fund relationship information can be ensured within the Global LEI system. It is expected that the LEI ROC will publish the final policy framework outlining the fund relationship types and requirements for including this information in the Global LEI System going forward for legal entities that are funds. Implementation is expected by January 2021.

Given Bermuda Monetary Authority (BMA) clearly stated in the Consultation Paper that the aim of the changes is to make sure that there is no gap between the new legislative regime and international standards in respect to funds and fund administrators, GLEIF suggests BMA to consider mandating LEI, an international standard for clear and unique identification of legal entities participating in financial transactions, for all eligible investment funds and fund administrators.

BMA underlined in the Consultation Paper that existing Investment Funds Act of 2006 requires fund administrators to submit an annual statement of compliance to the Authority. However, the information to be included in the statement is general in nature and BMA would like to achieve better alignment with international best practices in this area through expansion and specification of the requirements. If BMA is considering reporting using an international standard, such as XBRL for reporting the annual statement of compliance from fund administrators, GLEIF and XBRL International have worked together to incorporate the LEI into XBRL to maximize benefits that stakeholders in the public and private sectors can derive from digital entity identification.

Identifying all concerned legal entities by their LEIs could provide a complete record of all registered funds and improve data quality and transparency in funds market in Bermuda as well as enhance supervisory capabilities of BMA.