

Response of the Global Legal Entity Identifier Foundation (GLEIF) to the European Banking Authority (EBA) Draft Guidelines specifying the conditions for the application of the alternative treatment of institutions' exposures related to "tri-party repurchase agreements" set out in Article 403(3) of Regulation (EU) 575/2013 for large exposures purposes

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The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the European Banking Authority (EBA) Draft Guidelines specifying the conditions for the application of the alternative treatment of institutions' exposures related to "tri-party repurchase agreements" set out in Article 403(3) of Regulation (EU) 575/2013 for large exposures purposes. GLEIF will focus its comments on the use of the Legal Entity Identifier (LEI) as a necessary component for assessing institutions' overall exposure considerations to a collateral issuer and its group of interconnected clients.

GLEIF would like to respond to the Question 5: Do you consider that the criteria listed in this section, in particular in paragraph 18, provide a sufficient guidance for institutions to determine limits? Are there any other elements that would be useful to include?

In the Consultation Paper it is stated that an institution should ensure that the sum of all its exposures to a collateral issuer and its group of connected clients, if available, plus the limits instructed to the tri-party agent as regards the securities issued by that collateral issuer, after taking into account the effect of credit risk mitigation, do not exceed the limits set out in Article 395(1) of the Capital Requirements Regulation (CRR). For these purposes, an institution should integrate the instructed limits in its systems and procedures so that it has real-time knowledge of its exposures to a collateral issuer and its group of connected clients, including the instructed limits to a tri-party agent in respect of the securities issued by the same collateral issuer.

For an institution to assess its exposure to a collateral issuer and its group of connected entities, including the tri-party agent as regards the securities issued by that collateral issuer, it is essential to identify these entities in an unambiguous manner; so that, regardless if they use alternative treatment or not, they can comply with the obligation to observe the large exposure limits set out in Article 395(1) of the CRR at all times.

The use of the LEI, a global unique identifier, can streamline institutions' data aggregation and risk exposure processes in a standardized way and facilitate to identify connected clients across borders. Consistent use of the LEI can help institutions to take into account possible connections between single collateral issuers or between single collateral issuers and clients of the whole portfolio that could lead to a group of connected clients according to Article 4(1)(39) of Regulation (EU) No 575/2013. It would also facilitate more efficient communications with supervisory authorities given a breach occurs.

As highlighted in the recent [European Risk Systemic Board \(ESRB\) Recommendation](#) clear identification of the individual entities and the connections between them is a key requirement for drawing a reliable map of the global economic and financial landscape, which is necessary in order to reduce contagion.

Large financial groups, such as those of Global Systemically Important Institutions (G-SIIs) often have a significant number of subsidiaries and/or international branches and interact with numerous major counterparties. The failure of one or more such G-SIIs would have a negative impact on the financial system in many countries and, more widely, on the global economy. The use of a unique, exclusive and universal LEI has increased authorities' abilities to evaluate systemic and developing risks and adopt remedial measures. In particular, the clear identification of contractual parties in a network of global financial contracts processed electronically at a very high-speed permits authorities to make use of existing technologies to analyze interconnectedness, identify potential chains of contagion, and track market abuse for financial stability purposes. **The LEI has also become critical for connecting existing datasets of granular information on entities from multiple sources.**

For this purpose, ESRB recommends all relevant authorities, including the European Banking Authority, to **pursue and systematize their efforts to promote the adoption and use of the LEI**, making use for this purpose of the various regulatory or supervisory powers which these authorities have been granted by national or Union law. First, if the entity subject to the reporting obligation were required to hold an LEI to identify itself, this would allow authorities to uniquely identify entities across different reporting frameworks. Second, the LEI should be used in a more systematic and comprehensive way to identify other entities for which the reporting entity is also required to report information. Such entities include – but are not limited to – issuers of financial instruments, counterparties to financial transactions, and related entities.

Therefore, GLEIF suggests that the EBA considers this Recommendation of the ESRB in these draft Guidelines and requires reporting of the LEI of the tri-party agent, parties to the Service Agreement and any other relevant entities to the National Competent Authorities (NCA). For example, in the current draft Guidelines, under *4.5 Communication with competent authorities*, an institution is supposed to notify the NCA, ex-ante, “the identification of the tri-party agent(s)” that institution intends to make use of the alternative treatment. However, the manner in which identification is to be provided has not been specified. GLEIF suggests that the EBA could consider a clear LEI requirement for the identification of the tri-party agent.

Again, in the current draft Guidelines, regarding a breach of the instructed limits, GLEIF sees that the EBA requires that the tri-party agent reports the name of the collateral issuer in relation with which the breach has occurred. A requirement for the LEI of the collateral issuer, instead of/in addition to its legal name, could enhance supervisory authorities' data aggregation, risk analysis and information-sharing capabilities.

Lastly, GLEIF would like to share with the EBA that in the United States, the Office of Financial Research (Office) [requires](#) that a covered reporter submits the LEI of each covered reporter, direct clearing member, counterparty, and broker involved in a repo transaction. It is stated in the Final Rule that the submission of LEIs would enhance the ability of the Office to identify potential risks to U.S. financial stability by facilitating an understanding of repo market participants' exposures, concentrations, and network structures.

Both the quality and accuracy of LEI data will be maintained as reporting entities renew and keep current their LEI entity and relationship data. GLEIF expects that over time the LEI will be used for multiple public and private purposes and for that reason only valid and renewed LEIs will ensure that the LEI becomes a broad public good as expected by the Financial Stability Board (FSB). Therefore, GLEIF

also would like to propose the EBA consider requiring that LEIs that are maintained, meaning duly renewed, to satisfy the reporting obligation.