Response of the Global Legal Entity Identifier Foundation (GLEIF) to HM Treasury Financial Services Future Regulatory Framework Review Phase II Consultation

February 2021

The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the HM Treasury Financial Services Future Regulatory Framework Review Phase II Consultation. GLEIF will focus its comments on how using the Legal Entity Identifier (LEI) in future regulatory framework in a consistent and standardized way can support the UK Government's goal to regulate better and set the UK as a world leader in key areas of financial regulation such as fintech and payments innovation, financial crime and financial inclusion.

GLEIF would like to respond to "*Question 2. What is your view of the proposed post-EU framework blueprint for adapting the FSMA model? In particular:*
• What are your views on the proposed division of responsibilities between Parliament, HM Treasury and the financial services regulators?
• What is your view of the proposal for high-level policy framework legislation for government and Parliament to set the overall policy approach in key areas of regulation?
•Do you have views on how the regulators should be obliged to explain how they have had regard to activity-specific regulatory principles when making policy or rule proposals?"

The UK aims to create an agile and flexible regulatory framework that responds quickly and effectively to emerging challenges and helps UK firms seize new business opportunities in a rapidly changing global economy. The UK already has transposed several EU regulations into its national regulatory regime. The HM Treasury emphasizes in the Consultation that while the onshored regime for financial services will provide a smooth transition to the UK's new position outside of the EU thereby minimizing disruption for firms and consumers by providing continuity around the regulatory requirements themselves. However, this structure is not intended to provide the long-term approach for regulation of financial services in the UK.

GLEIF suggests that the UK government should strongly consider the use of international standards in its financial regulatory landscape. Requiring use of a global standard for legal entity identification, the LEI, in a consistent and standardized manner in any new standalone regulation or amendments where legal entity identification is needed, would help create predictability at the business side and interoperability for the broader financial ecosystem.

UK government has the opportunity to identify and improve on pain points in other regulatory implementations so as to put in place a regime that is most beneficial to financial firms and investors. One example of a regulatory approach that did not leverage international standards is the Payment Services Directive (EU) 2015/2366 (PSD2). PSD2 did not leverage the LEI for legal entity identification; but instead introduced a siloed, single-purpose identifier (i.e., the PSP identifier) to facilitate a specific application. The PSP identifier is used to identify Third Party Payment Service Providers (TPPs) and this is administered and maintained nationally by the National Competent Authorities. So, within one regulation the following results:

• the eIDAS/PSD2 certificate is not usable for any other digital transaction partly because it contains an identifier customized for the PSD2 implementation
• each NCA maintains a register with its own identifiers for banks, TPPs, and the NCA itself thereby rendering it difficult to aggregate data within the PSD2 ecosystem
• the PSP ID identifier cannot be used to connect to other data sources, enable analysis, or facilitate any other digital communications outside the PSD2 protocol.

What if the LEI were used instead? The eIDAS/PSD2 certificate could be parsed and, using the publicly available GLEIF API, banks could get a clearer picture of the TPP it is engaging with. TPPs would not need to put in place another process for managing yet another company identifier. NCAs could implement a less complex structure for recognizing TPPs. In total, all parties would gain in efficiency and the PSD2 framework would be rendered more interoperable, thereby also facilitating a more integrated EU payments market.

Non-inclusion of the LEI in PSD2 is an example of a missed opportunity at the European level to leverage international standards so as to create an effective and harmonized approach in the payments. Therefore, GLEIF suggests that the UK regulators consider the broader impact of the requirements and standards they introduce in standalone UK regulations.

GLEIF agrees with the HM Treasury that a regulatory regime with a sufficiently strong focus on financial stability, consumer protection and competition will promote confidence in UK regulated firms and thereby enhance their ability to compete internationally. As already highlighted by the Bank of England, the use of the LEI, a global identifier, in open finance frameworks could help firms, particularly SMEs, have better access to finance and boost their competitiveness. The use of the LEI, an already recognized global standard for entity identification, can minimize firms' compliance burden. As of January 2021, 153,442 UK entities have already obtained an LEI due to various regulatory requirements.

The Bank of England demonstrates in the following publications that the LEI can be applied across financial transactions monitoring to enhance supervisory capabilities and private sector communications:

- Integrating the LEI in the Bank's new Real Time Gross Settlement system and mandating its use in payment messages.
- Suggesting Companies House generate LEIs as a unique global identifier either for all entities on a systematic basis as a primary identification number, or on an ad-hoc basis for entities who wish to have LEIs as a secondary identification number in its response to the UK Department for Business, Energy & Industrial Strategy Corporate Transparency and Register Reform Consultation Paper.
- Recognizing the LEI supports cross-border identification and digitization in its recent open data for SME finance paper.

Lastly, GLEIF would like to bring into the attention of the HM Treasury the recent recommendation of the European Systemic Risk Board's (ESRB) Recommendation of 24 September 2020 on identifying legal entities (ESRB/2020/12):
"*The Commission is* ***recommended to propose that Union legislation incorporates a common Union legal framework*** *governing the identification of legal entities established in the Union that are involved in financial transactions by way of a legal entity identifier (LEI)…*" and until then

"…the relevant authorities require or, where applicable, continue to require, all legal entities involved in financial transactions under their supervisory remit to have an LEI; 2. ***the authorities, when drafting, imposing, or amending financial reporting obligations include*** *or, where applicable, continue to include, in such obligations* ***an obligation to identify by way of an LEI****: (a) the legal entity subject to the reporting obligation; and (b) any other legal entity about which information must be reported and which has an LEI*".

In the ESRB Recommendation, there is a strong emphasis on mainstreaming the LEI also for non-financial companies as financial contagion occurs because financial and non-financial entities are linked through financial transactions, and by financial assets and liabilities. The ESRB Recommendation is particularly important to confirm this missing link from the existing EU regulatory framework and to provide a planning to remediate it.

Therefore, in its future regulatory framework, GLEIF suggests that the UK Government considers also the broader use of the LEI as an efficient tool for identifying all legal entities in both traditional and digital environments. Operating based on global standards would enable UK to interoperate and excel at the international level after Brexit. The consistent and standardized use of the LEI in the UK can help the UK achieve a regulatory environment favorable to all market participants, including its innovative Fintech community, by creating a clear and effective legal entity identification mechanism while maintaining high regulatory standards.