

## **Response of the Global Legal Entity Identifier Foundation (GLEIF) to the Financial Action Task Force (FATF) Public Consultation on FATF Draft Guidance on a risk-based approach to virtual assets and virtual asset service providers**

April 20<sup>th</sup>, 2021

The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the Financial Action Task Force (FATF) Public Consultation on FATF Draft Guidance on a risk-based approach to virtual assets and virtual asset service providers.

GLEIF would like to respond to *Question 3-Does the revised Guidance in relation to the travel rule need further clarity (paragraphs 152-180 and 256-267)?*

- *Are there issues relating to the travel rule where further Guidance is needed? If so, where? Please provide any concrete proposals.*
- *Does the description of counterparty VASP due diligence clarify expectations, while remaining technology-neutral and not prescribing how VASPs must undertake this process (see paragraphs 172-177 and 261-265)?*

First, GLEIF welcomes to the reference to the Legal Entity Identifier (LEI) under paragraph 165 as optional additional information in payment messages for legal entities and the invitation of FATF to relevant stakeholders (e.g., the Payment Market Practice Group in the FIs space, industry associations of VASPs, working groups in VASP sector) to work to define a common market practice for whether and how to include the LEI in the relevant VA data transfer messages alongside without changing the current message structure.

That being said, GLEIF would like to encourage the FATF to take a more prescriptive approach for standardization of the travel rule in its final Guidelines.

Adopting a consistent, high-quality, and globally recognized identifier, the LEI, for legal entities is essential to tackle anti-money laundering in today's digital world. Although more than 25,800 service providers are licensed or registered to undertake VASP activities worldwide, less than 100 are actively connected to travel rule solutions.<sup>1</sup> The lack of guidance and universally agreed workable transitional arrangements for the sunrise issue are significant reasons for the inconsistent and irregular travel rule information on VASPs<sup>2</sup>. As an existing global standard already applicable in 200+ jurisdictions, the LEI is the natural solution to overcome this problem.

The Global LEI System itself sets an excellent example of how international coordination and cooperation can help the adoption of international standards, strengthening regulatory supervision, and avoiding fragmentation both at national and international levels. Given today's business relationships

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<sup>1</sup> The figures and the analysis were taken from the presentation of Siân Jones, XReg Consulting. 'FATF VACG travel rule meeting', April 8<sup>th</sup> 2021.

<sup>2</sup> Ibid.

and actors are complex, multi-layered, with business partners located in various jurisdictions, legal entity identification of all business actors needs a global standard more than ever.

Moreover, the LEI can be used in the ISO20022 standard to identify beneficiary and originator on an optional or **mandatory** basis according to the preference of respective market infrastructure.

The Financial Stability Board's [Stage 3 Report](#) identifies the LEI as a solution to develop a global digital unique identifier for cross-border payments for legal entities. GLEIF engages with the Financial Stability Board and other stakeholders for exploring opportunities and challenges, if any, on the road for further adoption of the LEI in cross-border payment messages. Therefore, GLEIF invites the FATF to recommend using the LEI for originator and beneficiary information for legal entities as a global best practice in the final Guidelines.

Additionally, pertaining to paragraphs 172-177, where the FATF provides guidelines for counterparty VASP identification, GLEIF would like to remind that identifying the involved VASPs with an LEI would create visibility and transparency and enable effective communications between involved parties and with regulatory authorities. This is the same principle that was applied when regulatory authorities introduced the LEI for derivatives markets starting 2012. For example, in paragraph 174, FATF requests that for the benefit of effective and efficient counterparty due diligence, a regulated institutions list may especially, but not exclusively, contain the VASP name and registered VASP address. Regulated institutions lists should also contain the LEI of the VASP where the VASP is a legal entity. First this ensures consistency as the LEI reference data already includes the information on the legal name and address thereby avoiding transliteration, translation and abbreviation issues that would occur based on different standards applying to the different regulated institutions lists. The additional LEI reference data on the corporate structure, the last update date, reference data corroboration and change history are also critical information for understanding the VASP identity.

The LEI is a more comprehensive due diligence tool than a static name and address information collection. FATF's recommendation in the same paragraph, encouraging the increased usage of digitalized processes and machine-readable formats in the financial industry, confirms the need for international data standards and structured data formats for identifying VASPs. Without the LEI, these regulated institutions lists will remain siloed publications with very limited ability to communicate across regulators and also for the parties involved in VASP enabled transactions. They also perpetuate the shortfalls of the existing financial ecosystem such as lack of interoperability, minimal ability for financial markets participants and authorities to communicate with each other, and reliance on non-standardized, non-digital formats. These are the exact shortfalls that criminals exploit in today's financial markets to carry out illicit transactions.

Lastly, GLEIF would like to comment on Question 5. *Are there any further comments and specific proposals to make the revised Guidance more useful to promote the effective implementation of FATF Standards?*

GLEIF agrees that the licensing and registration of the VASP in the jurisdiction where it is created is an essential step to curb the anonymity and reduce the ML/FT risks. Ideally, all jurisdictions shall apply this requirement, thereby preventing regulatory arbitrage worldwide.

GLEIF suggests that any global problem requires a coordinated global solution. The LEI, is the global solution for the identification of all legal entities on a global scale in a standardized way, regardless of their jurisdiction of business formation or legal form. The Global LEI System was created to respond to the global challenges in legal entity management worldwide after the financial crisis of 2008 and the inability of regulators 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, identify trends, and take corrective steps quickly.

The LEI, a global standard (ISO 17442), should be leveraged by regulators across jurisdictions for uniquely identifying entities providing/involving virtual asset services. If all regulators worldwide require an LEI for each licensed and registered VASP that is a legal entity, (i) anonymity of these new players and the risks that they could pose could be eliminated; (ii) LEIs of VASPs could be used by regulators to ensure precise and efficient communication with each other; (iii) updates to both entity and relationship data of the VASPs could be tracked (e.g. headquarter address change) relative to this provider via an open, publicly available [Global LEI Repository](#). Therefore, in line with paragraphs 110 and 111 in the draft Guidelines, GLEIF suggests the FATF add the LEI as a required identifier for registration and licensing of VASPs. GLEIF specifically suggests below addition into paragraph 111:

*"In accordance with INR. 15 paragraph 3, at a minimum, VASPs should be required to be licensed or registered in the jurisdiction(s) where they are created. References to creating a legal person include the incorporation of companies or any other mechanism that is used domestically to formalise the existence of a legal entity, such as registration in the public register, commercial register, or any equivalent register of companies or legal entities; recognition by a notary or any other public officer; filing of the company bylaws or articles of incorporation; allocation of a company tax number; **allocation of the Legal Entity Identifier (LEI).**"*

Due to the global nature of VASPs, adding the LEI as one of the attributes that must be provided for licensed VASPs is particularly important for domestic and international information exchange, as highlighted under paragraph 123. Authorities may inform their counterparties that VASPs, which they have previously registered or licensed, operate in their counterparties' jurisdictions. The publicly available, open Global LEI Repository could facilitate cooperation and information sharing across different parties without any data privacy restrictions.

Furthermore, the addition of the LEI is aligned with objectives described in the principles of information sharing and co-operation amongst VASP supervisors. The guidance aims to "set out best practice in relation to the types of information countries should maintain on licensed/registered VASPs". Furthermore, supervisors should exchange information "constructively" with their foreign counterparts. Relying on national standards for translation, transliteration, or abbreviation of names and addresses is neither a best practice nor a constructive way of sharing information. This is the current approach for information sharing amongst supervisors and criminals have demonstrated how easy it is to bypass such antiquated information sharing mechanisms. It is not enough to ensure that information is readily accessible. Information also has to be published in a way that enables machine processing and eliminates the need for human intervention and interpretation. The LEI is the critical data element needed for an effective information exchange between supervisors.

For the time being, although VASPs operate on a global basis and it is a concern for 200+ jurisdictions, only approximately 30 national competent authorities publish data for VASPs. Some of these authorities

publish the LEI of the VASP, but not all of them. Therefore, globally there is no way without significant manual intervention to determine if the same service provider is registered with many regulators, which leads to uncertainty for national authorities as well as all participants in the global financial system. If all jurisdictions identify registered VASPs via the LEI and the LEI was consistently exchanged across supervisory authorities, supervisors and Financial Intelligence Units, the result would be a digitally enabled financial ecosystem thereby enabling faster and more efficient monitoring as well as a decreased compliance burden for the private sector.