Response of the Global Legal Entity Identifier Foundation (GLEIF) to to the European Banking Authority's Consultation on Draft Regulatory Technical Standards under Article 9a (1) and (3) of Regulation (EU) No 1093/2010 setting up an AML/CFT central database in the EU

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The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the European Banking Authority's Consultation on Draft Regulatory Technical Standards under Article 9a (1) and (3) of Regulation (EU) No 1093/2010 setting up an AML/CFT central database in the EU. GLEIF will focus its comments on the use of the Legal Entity Identifier (LEI) as the only allowed identifier for legal entities to facilitate information flow, cross-border data sharing effectively, and crystalize ML/FT risks.

First, GLEIF would like to comment on Question 3: *Do you have any comments on the definition of the materiality of a weakness proposed in Article 5? If so, please provide your reasoning*.

Article 5 Materiality of a weakness includes that (e) *The weakness increases the ML/TF risk exposure of the firm or the ML/TF risk associated with the firm, or of the group which it belongs to*; (f) *The weakness has or could have a significant impact on the integrity, transparency and security of the financial system of a Member State or of the Union as a whole*; (g) *The weakness has or could have a significant impact on the viability of the firm or of the group to which the firm belongs to or on the financial stability of a Member State or of the Union as a whole.*

The Report submitted by the EU Commission to the European Parliament confirms that recent money laundering cases in the European Union involved banking activities undertaken in different parts of a group structure, through branches established in different Member States or third countries, or through subsidiaries located in Member States different than the headquarters.

Group structures often complicate customer due diligence and risk analysis. A starting point to reduce the complexity is to ensure that financial institutions effectively identify their customers during the due diligence phase, thereby enable group-wide risk assessment. GLEIF suggests that consistent use of the LEI in all customer due diligence processes ensures that the financial institution has clearly identified the customer and its parent relationships.

Identifying both the legal entity and parents through the LEI can significantly enhance the database and data management capabilities of EBA and competent authorities.

GLEIF would like to share a financial institution's LEI record (https://search.gleif.org/#/record/6SHGI4ZSSLCXXQSBB395) and a corporate entity's LEI record (https://search.gleif.org/#/record/KY37LUS27QQX7BB93L28) as examples of displaying the subsidiary information across different jurisdictions in the Global LEI Repository in a standardized way.

Lastly, GLEIF would like to remind the European System Risk Board's recent LEI Recommendation (ESRB/2020/12): *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 analyse 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. The ESRB Recommendation suggests:
"*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*".

GLEIF also would like to respond to *Question 4: Do you have any comments on the type of information as specified in Articles 6, 7 and 8 and Annex 3? If so, please provide your reasoning.*

The ability of the world's financial systems to curb fraud, terrorist financing, and other illicit financial activity, is hindered by its reliance on outdated processes for identity verification.

Following the terrorist attacks in Paris, Brussels, and London, the French, Belgian and British authorities developed lists of entities suspected to be involved in terrorism financing. These lists are shared, but because they adhere to different formats and do not support a common identifier, the speed by which authorities can react and share information is diminished. This impacts negatively on each nation's transaction surveillance processes and results in inefficient screening processes.

GLEIF agrees that the AML/CFT central database will be a key tool in coordinating efforts to prevent and counter ML/TF in the Union. However, its success will be dependent on the extent to which the format and requirements of the information submitted by the competent authorities is standardized; thereby, individual competent authorities do not lose time to "interpret" data.

Article 6 of the draft RTS requires the (b) *identification of the firm and of its branches concerned by the material weakness or the measures taken including the type of firm and where applicable the type of establishment*; (c) *where the firm is part of a group, identification of the Union parent firm, the parent firms in a Member State*.

GLEIF suggests that identifying a firm and its branches or its parent firms across borders is only possible through a digital, supra-national, and global identifier – the LEI. GLEIF welcomes the inclusion of the LEI under Annex 6 as the primary identifier. However, EBA still allows firms to be identified with their national business registry numbers if the LEI is not available. Given the LEI is already mapped to other identification systems like national business registry numbers or Business Identifier Codes (BICs), the LEI system enables stakeholders to act with greater confidence that all parties involved in a transaction are unambiguously identified. Moreover, since the LEI reference data already includes standardized data fields such as business registry ID, legal address, headquarter address, direct and ultimate parent information, requiring the LEI would substantially reduce the number of required data fields in the template.

Article 7 of the draft RTS requires that the type of information to be submitted for the material weakness includes (i) *whether the material weakness concerns the supervised firm or branch alone or whether it could also concern other firms or branches of the group; (j) any cross-border impact of the material weakness including on other firms*.

Estimating material risks and their impact on other firms and branches is crucial to act before the ML/TF risks crystalize. With the help of the LEI, competent authorities can aggregate data in an easier and efficient manner and strengthen their risk management. The Financial Stability Board (FSB) has reiterated that global LEI adoption underpins "multiple financial stability objectives" such as improved risk management in firms as well as better assessment of micro and macro-prudential risks. As a result, use of the LEI promotes market integrity while containing market abuse and financial fraud.

Recent AML/CFT scandals across Europe have shown that cross-border cooperation and data exchange is essential to an effective approach to fighting ML/TF. GLEIF suggests that making the LEI as the foundational step in the AML Database for all legal entities will facilitate the flow of information, information sharing across and between EBA and the competent authorities. The LEI can reduce data reconciliation and aggregation efforts in the EU and help to strengthen the EU AML/CFT supervisory framework.