

Response of the Global Legal Entity Identifier Foundation (GLEIF) to the European Banking Authority Public Consultation on the Guidelines on the Delineation and Reporting of Available Financial Means (AFM) of Deposit Guarantee Schemes (DGS)

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The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the European Banking Authority Public Consultation on the guidelines on the delineation and reporting of available financial means (AFM) of Deposit Guarantee Schemes (DGS). GLEIF will focus its comments on the use of the LEI to facilitate a more harmonized and transparent reporting regime for the treatment of recoveries and investment income of AFMs by the DGSs.

First, GLEIF would like to provide comments on question 1: *Do you agree with the proposals for the criteria that QAFM should fulfil, i.e. on the exclusion of borrowed resources, the exclusion of contributions from QAFM that contain an obligation to be repaid upon receiving recoveries and keeping track of the origin of funds, as outlined in section 4.1 and 4.4 of the guidelines?*

As outlined in sections 4.1 and 4.4 of the guidelines, ‘Competent authorities should ensure that DGSs have adequate systems in place to keep track of the origin of funds.’ GLEIF would like to highlight the importance of having an accurate track record of the origin of funds to ensure that DGSs are implementing correct treatment on recoveries and investment income, thereby achieve de-risking of the allocation of recoveries and investment income and sound protection for the depositors. For reporting purposes to the EBA, this means that the competent authorities would need a clear picture about the origin of funds, which is possible with the LEI, the only global standard for unique legal entity identification. With the LEI, the competent authorities could quickly know who is behind the DGS, where they domicile, and perform risk assessments accordingly.

As highlighted in the Consultation, in the absence of uniform rules, DGSs across the EU may potentially levy contributions from affiliated credit institutions in such a way that the consistent compliance with the Article 10(2) DGSD is not ensured and differing notions by DGSs on the reported figures could lead to a lack of clarity and comparability of DGSs’ data published on the EBA website, thereby hampering transparency.

Therefore, as a first step to ensure uniform rules across the Union, GLEIF recommends the EBA make the LEI mandatory for all the credit institutions and fund managers involved in the DGS.

In the European Systemic Risk Board’s response to the European Commission’s Consultation on the review of the Alternative Investment Fund Managers Directive (AIFMD), the ESRB proposed to the European Commission ‘*The Commission should consider requiring all alternative investment fund managers (AIFMs) to acquire and maintain an LEI for themselves and the AIFs they manage. This should apply to all types of AIFM and their AIFs, without exemptions. Article 24(2) could then be amended to include an obligation to report the AIFM LEI and AIF LEIs.*’

The LEI, a global unique identifier, could ease the due diligence efforts of the competent authorities in tracking the origin of the funds by providing a clear picture on the credit institutions and fund managers behind the DGSs. In line with the reporting guidelines set out by the EBA in the section 4.4 of the consultation paper, mandating the LEI as part of the required information would help to create an efficient regulatory information exchange flow from competent authorities to the EBA regarding the number of covered deposits, the outstanding liabilities, the alternative financing arrangements and the repayments of their DGSs.

Second, GLEIF would like to provide comments on question 8: *Do you consider that it would be beneficial to publish further data? If so, which data and for what reason?*

GLEIF would like to recommend the EBA to include the LEI of the affiliated credit institutions and fund managers managing the funds involved in the DGS as part of the additional reporting to achieve more transparency of the DGSs.

For being able to assess if the DGS has sufficient financial capacity and sound liquidity situation to reimburse the deposits, the competent authorities need to know precisely the origin of the funds of the DGS and keep a good track record of it in a systematic and standardized way. This indicates the necessity to establish a sound identification system for such need to ensure the risk is manageable when there are bank failures, and DGS can meet the deposit reimbursement requirements.

GLEIF would like to remind the EBA that a significant proportion of entities that have an LEI are investment funds, which could add value to the existing regulatory regime of AFM of DGS, and primarily ease the due diligence efforts. In addition, GLEIF would like to update the EBA regarding the Fund Relationships Policy that will be implemented from 31 March 2022. The policy aims to establish a standardized approach of fund relationship information at a global level by providing a definition for each fund relationship and better aligning the data structure with what is done for direct and ultimate accounting parent entities. The Global LEI System will be capturing the following relationships as part of corporate structure data – Fund Management Entity, Umbrella Structure and Master-Feeder Relationship. Leveraging the LEI in the AFM of DGS reporting and publish the LEI information of the financial institutions and affiliated fund managing entities would help to create a more transparent information flow regarding the liquidity situation of the DGS and its financial capacity.

Given that performing proper due diligence is vital for both competent authorities and depositors, GLEIF suggests that mandating the LEI reporting for the credit institutions and fund managing entities could facilitate a streamlined due diligence process and interlink cross-reference data in a machine-readable fashion. Specifically, publishing the LEI of the credit institutions and fund managing entities can help evaluate the investment proposition and risks for the depositors.