

Response of the Global Legal Entity Identifier Foundation (GLEIF) to the European Banking Authority consultation on the new guidelines on cooperation and information exchange in the area of anti-money laundering (AML) and countering the financing of terrorism (CFT).

August 2021

The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the European Banking Authority consultation on the new guidelines on cooperation and information exchange in the area of anti-money laundering (AML) and countering the financing of terrorism (CFT). GLEIF will focus the comments on the use of the Legal Entity Identifier (LEI) in the consultation.

Firstly, GLEIF would like to provide comments to Question 2: *“Do you consider that the general provisions are appropriate and sufficiently clear?”*

GLEIF welcomes EBA's proposed Guidelines for cooperation and information exchange across prudential authorities, AML/CFT supervisors, and Financial Intelligence Units (FIUs). As stated in the general provision, such cooperation and information exchange should enable effective cooperation and information exchange to identify ML/TF risks. An effective cooperation would disable unnecessary duplications of risk identification efforts of different authorities.

Although GLEIF understands that the EBA prefers *“Option 3: Provision of sufficient guidance to ensure an effective framework for cooperation and information exchange”* instead of a more prescriptive approach presented under Option 2, GLEIF would like to comment on how the inclusion of the LEI in information sharing modalities/templates can help to foster an efficient cooperation and information exchange throughout the supervisory life cycle and reduce ML/FT risks across the Union.

The LEI connects to key reference data that enables a clear and unique identification of legal entities participating in financial transactions: the official name of the legal entity as recorded in the official registers, the registered address of that legal entity, the country of formation. The Global LEI System links with the local business registries that might be proprietary and in different character sets. With the LEI, national authorities could quickly identify the entities involved in potential AML breaches instead of navigating through various access points and languages.

In the draft Guidelines, under Subject Matter, it is stated that *“These guidelines specify the manner of cooperation and information exchange, particularly in relation to cross-border groups and in the context of identifying serious breaches of anti-money laundering rules, according to Article 117(6) of Directive 2013/36/EU.”* To identify cross-border groups and the interconnectedness of these institutions, it is essential to use a global identifier, the LEI, which shows interconnectedness of entities in a cross-border group structure.

GLEIF suggests that a clear LEI requirement also could be instrumental in EBA's plan to establish and keep up to date a central database with information on AML/CFT weaknesses that competent authorities across the EU have identified in respect of individual financial institutions. EBA already has proposed the LEI as the primary identifier. However, EBA still allows firms to be identified with their

national business registry numbers if the LEI is not available. GLEIF would like to reiterate that the AML Database's 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 would not need to spend time and effort to "interpret" data and exchange this information with each other.

The value of the LEI in AML to support transparency and efficiency has already been recognized by the European Commission in its [anti-money laundering and countering the financing of terrorism legislative package](#). In the new AML Regulation, it is stated in Article 18 that *"Identification and verification of the customer's identity - the LEI is required, where available, for the identification of a legal entity; for a trustee of an express trust or a person holding an equivalent position in a similar legal arrangement and for other organizations that have legal capacity under national law"*.

Therefore, for a coherent, efficient and effective information exchange for AML/CFT supervisory tasks within the EU, GLEIF invites EBA to have a clear LEI requirement in the Guidelines; thereby, prudential authorities, AML/CFT supervisors, and FIUs could exchange information pertaining to legal entities seamlessly, and potential AML breaches could be identified efficiently, especially across borders.

GLEIF would also like to provide comments to Question 3: *"Do you consider that the mechanisms for cooperation, information exchange and confidentiality treatment are appropriate and sufficiently clear?"*

Under the Chapter 5. Mechanisms for cooperation, information exchange and confidentiality treatment, "Practical modalities for cooperation and information exchange", it is stated that *"Prudential supervisors and AML/CFT supervisors should agree to set up a regular exchange of information where considered appropriate for the supervision of an institution or of cross border groups or institutions with branches established in other jurisdictions. Where agreed to set up a regular exchange of information, prudential supervisors and AML/CFT supervisors should share with each other at regular intervals information that is considered to be relevant for the performance of the other supervisor's tasks."*

GLEIF suggests that adding the LEI as a required data field as part of the information exchanged across prudential supervisors and AML/CFT supervisors is crucial to identify the cross border groups or institutions with branches established in various jurisdictions across the EU in a standardized and efficient manner.

GLEIF would like to give the [Goldman Sachs Group Inc.](#) as an example. According to the Global LEI Repository, the Goldman Sachs Group Inc. has 41 direct children and 2180 ultimate children captured by Global LEI System. The relationship information is collected on the basis of financial consolidation. Again if we go continue with the same example, at a first glance, there seems no connection between "Goldman Sachs Group Inc." and the "[HH ASIA LTD](#)" registered in Cayman Islands. However, the LEI data shows that the HH Asia Ltd is consolidated by the Goldman Sachs Group Inc. We provide this example to demonstrate the value of including a global unique identifier as part of the information to be exchanged for the cooperation for AML/CFT tasks. A recent [blog](#) published by the Banque de France highlights that the LEI can be quite instrumental to monitor groups' ownership structure of large entities in offshore financial centers, which offer a high degree of financial secrecy and thereby facilitate tax evasion and the financing of illicit activities. The same applies for companies located in tax havens.

Under Chapter 7 "Cooperation and information exchange in ongoing supervision" "7.2. Assessment of mergers", it is stated that *"When a prudential supervisor is assessing merger applications for institutions, it should exchange relevant information related to the merger application with the relevant AML/CFT supervisors of the merging institutions and of the new institution created by the merger."* GLEIF would like to highlight the new Legal Entity Events policy, which will be effective from March 31st, 2022. With this new policy, high priority legal entity events specified in this policy will be tracked in an even more detailed manner. Regulatory Oversight Committee ([ROC](#)) will announce the timeline for mid-priority and low priority legal entity events after March 31st, 2022. Mergers are in the mid-priority legal entity events list. In line with these changes, new data elements will be introduced in the LEI Data Record to support the collection of data for all Legal Entity Events specified in this policy. For example, "Effective Date of the Change", meaning when Legal Entity Events become legally effective according to the Validation Authority, will be introduced in the LEI Record Set. The LEI Record Set also will be enhanced to include a new data element, Entity Creation Date. The capability to track the speed of updates to records will be implemented as a data quality measure.

To address the risks involved in money-laundering and terrorist financing more profoundly, having a sound, standardized and supra-national entity identification approach is a must, and it applies to both the financial sector and non-financial sector. As in the European Systemic Risk Board's (ESRB) Recommendation on using the LEI, ESRB acknowledged that the adoption of the LEI by non-financial sector entities is limited. However, due to the interconnectedness of financial and non-financial sectors, the impact of the non-financial entities on the financial sector is profound. For a more unified approach and maximizing the benefits arising from the use of the LEI, ESRB identifies (i) the need for establishing a legal framework regulating the use of LEI in the EU and (ii) ask all national competent authorities to add the LEI requirement in newly drafted/amended regulations, guidelines or texts.

Therefore, GLEIF suggests that adding the LEI as a required data field in information exchange modalities across all relevant stakeholders will help to create an efficient, clear and effective information sharing within the EU.