Response of the Global Legal Entity Identifier Foundation (GLEIF) to the European Securities and Markets Authority (ESMA) Call for Evidence DLT Pilot Regime and review of MiFIR regulatory technical standards on transparency and reporting
March 2022

The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the European Securities and Markets Authority (ESMA) Call for Evidence DLT Pilot Regime and review of MiFIR regulatory technical standards on transparency and reporting. GLEIF will focus its comments on the use of the Legal Entity Identifier (LEI) in the Call for Evidence.

First, GLEIF would like to respond to Q1. "*Please provide any general observations or comments that you would like to make on this call for evidence, including any relevant information on you/your organization and why the topics covered by this call for evidence are relevant for you/your organization.*"

GLEIF welcomes ESMA's Call for Advice to enable and support the potential on new opportunities and issues raised by DLT in terms of innovation and competition while mitigating the associated risks for financial stability, investor protection and market integrity.

It is stated in the Call for Advice that the DLT Pilot aims at creating an EU framework that enables markets in crypto assets, which qualify as financial instruments (i.e., tokenized financial assets) and the wider use of DLT in financial services.

The fundamental concept of DLT is that it is a shared database which is accessible to multiple users or participants. One of the key characteristics is that the distributed ledger is maintained by its participants, and not by a central database administrator or party. Since these technologies aim to remove intermediary parties; who joins these permissioned networks is playing a significant role. Given crypto-assets operate cross-border, developing a prudential treatment will require global standards. The LEI, a global standard (ISO 17442), could be leveraged by all regulators, as well as participants in a crypto-asset transaction, across jurisdictions for uniquely identifying entities involved in creation of crypto-assets. In particular, parties involved in crypto-asset transactions could easily exchange information in a protected and private manner; but leverage the LEI to access the publicly available LEI data pool in order to identify precisely who is involved in a particular transaction when a transacting party is a legal entity.

As the financial industry moves to digitalized processes and machine-readable formats, the need for international data standards and structured data formats for identifying parties is increasing. The LEI is already required under the MiFID II regulations for uniquely identifying counterparties in the transactions under the scope of the regulation. Therefore, the extension to the DLT and use of the digital representation of securities makes the collection of the LEI of the issuer more important. Legal entities, such as the issuer of crypto-assets/tokenized financial assets, their counterparties, the platform where these assets are distributed and/or transacted, and the provider of custody/safekeeping services should all be easily identified, as their traditional counterparties with their LEI.

Additionally, GLEIF suggests that the verifiable LEI (vLEI) could be leveraged during the DLT pilot phase by ESMA. The vLEI will fulfill a critical requirement of establishing trusted decentralized identification and verification of organizations and the persons who represent them officially or functionally in a digital and globalized economy.

By combining three concepts – the organization's identity, represented by the LEI, a person's identity represented by their legal name, and the role that the person plays for the legal entity, vLEI credentials can be issued and become part of organizational wallets. Then vLEIs could be used to identify and verify digitally organizations and persons acting on their behalf for transactions on DLTs.

Recently GLEIF has [published](#) the verifiable LEI (vLEI) Ecosystem Governance Framework to create a fully digitized LEI service capable of enabling instant and automated identity verification between counterparties operating across all industry sectors, globally. GLEIF invited stakeholders from across the digital economy to engage in a cross-industry development program to create an ecosystem and credential governance framework, together with a technical supporting infrastructure, for a verifiable LEI (vLEI), a digitally verifiable credential containing the LEI.

The vLEI will give supervisory authorities, companies and other legal entities worldwide the capacity to use non-repudiable identification data pertaining to their legal status, ownership structure, authorized representatives and employees in a growing number of digital business activities. This includes approving business transactions and contracts, onboarding customers, transaction within import/export and supply chain business networks and submitting regulatory filings and reports. GLEIF already is engaged in research partnerships and technical trials with stakeholders across the pharmaceutical, healthcare, telecom, automotive and financial services sectors.

GLEIF would like to respond to Q26. *"Executing entity and submission entity identification codes; MiFID II Investment Firm indicator (Fields 4-6); Buyer details and decision maker (Fields 7-15); Seller details and decision maker (Fields 16-24): Is it necessary to amend the current fields for their application in the context of a DLT environment? Do you expect any implementation issues on basis of the current fields? Should new fields be added in the context of a DLT environment?".*

The MiFIR reporting requirements were designed to provide National Competent Authorities with a full view of the market when conducting their market surveillance activities, including cross-markets and cross-asset class trading within the EU. To achieve this goal, Articles 26 and 27 introduce a standardized reporting regime in a common format across the EU.

In respect of the parties to be identified in the transaction report, ESMA confirms that where the entity is eligible for an LEI, such entity should be identified with the LEI pursuant to MiFIR Article 26(6) and Article 5 and 13 of Commission Delegated Regulation (EU) 2017/590. As stipulated under Q1, GLEIF suggests that for all fields where the legal entity identification is required, the LEI shall be leveraged in the context of a DLT environment, as in traditional transaction reporting. If the DLT is supposed to include crypto-asset transactions, then the crypto-asset issuer field could be added in addition to the fields mentioned above.

GLEIF would like to respond to Q32. *"Issuer related fields (Field 5): Is it necessary to amend the current field for the application in the context of a DLT environment? Do you expect any implementation issues on basis of the current fields? Should new fields be added in the context of a DLT environment?".*

GLEIF agrees with ESMA's assessment that the LEI of the issuer of the financial instrument will be required except the fact that operators of trading venues can populate field 5 of Table 3 of the Annex to RTS 23 with their own LEI only where they create or issue themselves the financial instrument to be reported under the MiFIR Article 27. GLEIF does not expect any implementation issues on basis of fields currently proposed.

Lastly, GLEIF would like to respond to Q56. "*Do you see any issue with obtaining the data elements required by RTS 22 and 23 from external databases like GLEIF, ISO 4217 list (currencies), ISO 10383 (MIC) or ANNA-DSB (ISIN) before the data is permanently stored into the distributed ledger? Please explain your answer.*"

GLEIF would like to respond to this question with regards to the accessibility of the Global LEI Repository. The GLEIF API gives developers access to the full LEI Data search engine functionality, including filters, full-text and single-field searches of legal entity and ownership data, and "fuzzy" matching of relevant data fields such as names and addresses. In addition to LEI reference data, the GLEIF API also makes available further related data, e. g., reference data of LEI issuers, code lists used in LEI records and mapped identifiers like BIC or ISIN codes.