

Response of the Global Legal Entity Identifier Foundation (GLEIF) to the Financial Crimes Enforcement Network, Department of Treasury on the Notice of Proposed Rulemaking on the Sharing of Suspicious Activity Reports

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The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the Financial Crimes Enforcement Network (FinCEN), Department of Treasury, on the sharing of suspicious activity reports (SARS).

GLEIF will focus our response to the following question:

(c) how the quality, utility, and clarity of the information to be collected may be enhanced?

First, some Background on GLEIF and the LEI

The development of a system to identify legal entities uniquely and globally had its beginnings in the 2008 financial crisis. Regulators worldwide acknowledged their inability 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, to identify trends, and to take corrective steps. Recognizing this gap, authorities, working with the private sector, have developed GLEIF with a global governance framework representing the public interest that, through the issuance of unique LEIs, unambiguously identify legal entities engaged in financial transactions. Although the initial introduction of the LEI was for financial regulatory purposes, the LEI is use case agnostic. The usefulness of the LEI can be leveraged for any purpose or process requiring entity identification, from finance to healthcare to verifying all counterparties of businesses supply chain.

The LEI is the only global standard for legal entity identification. It is a 20-character, alphanumeric code based on the ISO 17442 standard developed by the International Organization for Standardization (ISO). The LEI connects to key reference information that enables clear and unique identification of legal entities participating in financial transactions but is not limited to identifying entities involved in financial transactions. LEIs also contain information about an entity's ownership structure and thus answers the questions of 'who is who' and 'who owns whom'. Simply put, the publicly available LEI data pool can be regarded as a global directory, which greatly enhances transparency in the global marketplace. An LEI record does not include information on a legal entity's beneficial owners.

The LEI with financial institutions operations

GLEIF is working directly with financial institutions (FIs) with its Validation Agent operating model (VA) to issue LEIs for their clients, in cooperation with LEI Issuer organizations officially

accredited by GLEIF, by leveraging their business as usual client identification procedures in Know Your Customer (KYC) and client onboarding processes. This model, triggering LEI growth beyond regulatory mandates, in particular in payments, would help to make the financial ecosystem more transparent and accessible for all parties. FIs have already begun utilizing the LEI within client onboarding, KYC and customer due diligence processes. Beneficial ownership identification and verification is an essential component of the client KYC onboarding and remediation process. It is at the heart of international anti-money laundering (AML) sanctions, regulations, and related monitoring and therefore the success of GLEIF's VA model will result in increased assignment of LEIs for entities covered by KYC processes.

Moreover, FIs are no strangers to the LEI. For many years data vendors have provided the LEI and LEI reference data alongside related entity content within data feeds to FIs. These data feeds are often the life blood of FIs entity databases which are shared or used in cooperation with KYC data. From a consistency standpoint, since the use of the LEI in KYC operations is increasing steadily and FIs already are familiar with the LEI, GLEIF proposes that FinCEN consider leveraging the LEI of the company included in the SAR report when sharing data with foreign branches, subsidiaries, and affiliates. The LEI and associated LEI reference data, both of which are open and redistributable, includes items like entity legal name, legal address, entity legal form, ultimate and direct parents, to name just a few.

Benefits of LEI inclusion for FinCEN

Information sharing across US law enforcement organizations as well as other nations' intelligence agencies is critical for ongoing surveillance. The LEI is an ISO standard as well as an adopted U.S. standard through the American National Standards Institute (ANSI). The Global LEI System meets all the requirements for international and national information sharing:

1. Identifier is based on an international open global standard.
2. Identifier is truly globally unique.
3. System produces open data.
4. Data model and data quality measures are open and clear.
5. System is governed by public entities and is not subject to private sector dominance.

By contrast, proprietary or non-public identification schemes are not open and therefore limit data sharing because of their licensing agreements. Moreover, proprietary identification schemes are expensive and can increase in spend when data sharing among multiple agencies increases. FinCEN could leverage the LEI, as an established open source, to harmonize and sharing of critical data both at home and abroad. The use of multiple identification schemes, in particular proprietary and non-redistributable identifiers, hampers both national and global interoperability and increases opportunities for illicit behavior to occur. Leveraging the LEI, a global identifier, in information sharing could create a common language between different parties regardless of where they are located and increase the efficiency, speed and transparency of existing information sharing mechanisms.

The inclusion of the LEI by FinCEN can help overcome challenges associated with reconciling names and addresses – for example, abbreviations of common terms, differences in translations, and the provision of transliteration for in non-Latin character sets. Parsing text is inefficient and causes confusion both within a financial institution and in its communications with regulatory authorities. Today, name-matching techniques for AML screening work either through deterministic or probabilistic matching technology. For instance, a matching relationship between two records only is direct or deterministic when a client name exactly matches with the name in the sanction list(s). However, the existence of more than one “Main Street Trading Inc” causes a tremendous number of false positives. To reduce false positives for legal entity clients, a consistent, quality controlled, and open means of identifying the client is needed. Each LEI record contains the legal name of the entity, the legal and headquarter address (in addition to other reference data), all of which can be used to distinguish between similar names. The LEI is fit for this purpose.

The value proposition of LEI has already been recognized by several U.S. regulators such as the Federal Reserve, Consumer Financial Protection Bureau, Municipal Securities Rulemaking Board, National Association of Insurance Commissioners, U.S. Treasury, which utilize the LEI. The U.S. Customs and Border Protection (CBP) is working on the Global Business Identifier (GBI) Initiative, in which CBP will test the LEI as part of an evaluative proof of concept to improve the U.S. government’s ability to pinpoint high-risk shipments and facilitate legitimate trade.

H.R. 2989, the Financial Transparency Act (FTA) is a bill that seeks to unlock data in the financial regulatory sector. The proposed bill would direct seven of the Financial Stability Oversight Council (FSOC) financial regulatory agencies to adopt consistent data fields and formats for the information they already collect from industry under securities, commodities, and banking laws. On October 25th, the U.S. House of Representatives concluded consideration of the FTA. The bill passed with overwhelming support, 400-19. The legislation now moves to the Senate for consideration. The bill was sponsored by Representative Carolyn Maloney, who also sponsored the Corporate Transparency Act. Although specific standards such as the LEI are not specifically mentioned in the bill, the requirement for “legal entity identifiers” is cited. The LEI is the only entity identifier that meets the criteria specified in the FTA, most notably, “be nonproprietary or made available under an open license” and “incorporate standards developed and maintained by voluntary consensus standards bodies”.

A Global Approach

In the European Union, the European Commission recognized the value of the LEI as a required data element in client identification its AML Rulebook published in July 2021. The European Systemic Risk Board (ESRB) in its Recommendation highlighted that clear identification of the legal entities and the connections between them with the LEI is a key requirement for drawing a reliable map of the global economic and financial landscape and called for action all relevant parties to close the LEI gap in the EU. Specifically, it recommends the introduction of a Union framework on the use of the LEI by June 2023. The ESRB in its recent paper also highlighted that

"the extensive use of the LEI could also make anti-money laundering measures work more effectively, for instance by helping to identify (chains of) legal entities involved in financial transactions (payments)."

Recently, SWIFT published its **Guiding principles for screening ISO 20022 payments**. The report highlights that unstructured data is a barrier to building effective transaction screening and monitoring tools that mitigate sanctions and AML risks. As the payments industry prepares to adopt ISO 20022, banks are revisiting their screening environments. The report advises that BIC and LEI codes of entities published on sanctions lists are listed as the relevant information that should be screened against. This targeted screening approach allows financial institutions to avoid false positives linked to mismatches between information types (e.g. debtor name hitting against vessel names, street name information hitting against embargo data). SWIFT's Guidelines have been endorsed by the Wolfsberg Group, who develop frameworks and guidance for the management of financial crime risks, particularly with respect to Know Your Customer, Anti-Money Laundering and Counter Terrorist Financing policies.

Work also is underway by the Financial Stability Board to improve the global cross-border payments ecosystem. FSB is considering the LEI as a potential solution to identify payer and payees in payment chains. GLEIF already has started to see the power of FSB Reports in encouraging national authorities to leverage the LEI in payment messages in various jurisdictions. For example, the Reserve Bank of India (RBI) mandates that parties to transactions above 5 crores (approximately 5,5 million Euros) are identified with an LEI in payment messages starting from April 2021. GLEIF thinks that this is the first step of the RBI for using the LEI in broader cross-border payments landscape. Similarly, China recently declared that by the end of 2021, it will publish rules to enable the use of LEIs in reporting large-value transactions, suspicious transaction reporting, RMB cross-border payments and digital yuan. While these examples from national authorities are significant to show the buy-in for further use of the LEI in payment messages; the role of policy makers and standard setting bodies is still essential for further adoption of the LEI so as to harmonize today's fragmented and siloed data formats. In advance of the FSB, the Bank of England has already chosen to include the LEIs in its Clearing House Automated Payments System (CHAPS) and Real-Time Gross Settlement (RTGS) initiatives, which also includes a migration to ISO 20022, a payment standard that already includes the LEI.

The value of the LEI in strengthening uniformity and standardization of data flow has already been recognized in the recent **Cross-Border Payments Survey Results on Implementation of the FATF Standards**. Under the Section 5. "Conclusions and suggestion from the industry to address key challenges" it is stated that many respondents asked for increasing uniformity in the list entries and greater use of structured identifiers such as Legal Entity Identifiers (LEIs), Business Identifier Codes (BICs) and digital identities and linkage of list entries between UN and country lists would simplify the screening process and improve detection performance. They also indicated that wider adoption of the LEI for entity client identification and identifying beneficiary and originator in payment messages would support widespread interoperability between systems, reduce costs and increase precision and transparency.

In Conclusion:

GLEIF would like to reiterate that the Global LEI Repository is an open source of truth and validation for more than 2.1 million entities. FIs are very familiar with the LEI within KYC and utilize the LEI within entity master databases. The LEI continues to gain regulatory support globally and is currently under consideration as a means to identify reporting companies as part of the Corporate Transparency Act's reporting of beneficial owners. As such, FinCEN should consider including the LEI of the company as information shared along with SARs as part of the amendment of existing rules to permit data sharing. The inclusion of the LEI would allow the recipient to access the reference data about the entity in the Global LEI System through its LEI.

GLEIF would also suggest that FinCEN consider including the LEI in the SARs as well.