

## **Response of the Global Legal Entity Identifier Foundation (GLEIF) to the Organization for Economic Cooperation and Development (OECD) Public Consultation Document on the Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard**

### **April 2022**

The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the Organization for Economic Cooperation and Development (OECD) Public Consultation Document on the Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard. GLEIF will focus its comments on the use of the Legal Entity Identifier (LEI) within the proposed changes with respect to the “reporting requirements” and “due diligence procedures”. GLEIF specifically suggests that the identification of crypto-asset service providers and entity crypto-asset users with the LEI shall allow easier and quicker data collection, aggregation, and data exchange efforts across borders to reduce tax evasion. Moreover, the LEI requirement within this building block, can create the proper foundational basis for subsequent building blocks to succeed.

GLEIF welcomes the inclusion of the LEI among the potential identifiers to identify crypto-asset service providers in the consultation paper. That being said, GLEIF suggests that the LEI’s use could be extended to other parties, including the crypto-asset user entities.

First, GLEIF will provide some background on the LEI and then why the LEI should be part of the Crypto-Asset Reporting Framework.

The development of a system to uniquely identify legal entities 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 the Global LEI System with a global governance framework representing the public interest that will, 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 usefulness of the LEI can be leveraged for any purpose. The LEI is use case agnostic and can be used in any process of entity identification, from finance to healthcare to verifying all counterparties of businesses supply chain.

The LEI initiative is driven by the Financial Stability Board (FSB) on behalf of the finance ministers and governors of central banks represented in the Group of Twenty (G20). In 2011, the G20 called on the FSB to take the lead in developing recommendations for a global LEI and a supporting governance structure. The related FSB recommendations endorsed by the G20 in 2012 led to the development of the Global LEI System as a broad public good that provides unique identification of legal entities participating in financial transactions across the globe and the subsequent establishment of the GLEIF by the FSB in 2014. As outlined in the GLEIF's Statutes, the Global LEI System is designed and developed to be used by the (i) public authorities and (ii) by the private sector to support improved risk management, increased operational efficiency, more accurate calculation of exposures and other needs. The GLEIF, a supra-national not-for-profit organization, is overseen by a committee of more than 65 financial markets regulators and other public authorities and 19 observers from more than 50 countries, known as

the [Regulatory Oversight Committee \(ROC\)](#). The OECD joins the ROC as an observer and is represented by Mr. Graham Pilgrim from the Statistics and Data Directorate.

The LEI itself is a 20-digit, alpha-numeric code based on the ISO 17442 standard developed by the International Organization for Standardization (ISO). The code connects to key reference information that enables clear and unique identification of legal entities participating in financial transactions including their ownership structure. Moreover, the LEI provides freely accessible look up (identification) of the parties to transactions. The complete database of LEIs and the associated LEI reference data is available free of any charge or barrier to anyone on the web. GLEIF operates under the Open Data Charter terms, which means the data can be accessed and used by all users without limitations. Today, the LEI is widely used in reporting regimes globally, as demonstrated by the adoption of the LEI in 124 rules/regulations across the globe.

With this background, GLEIF would like to respond to the question under “Reporting requirements” “4. *Regarding Reportable Retail Payment Transactions, what information would be available to Reporting Crypto-Asset Service Providers pursuant to applicable AML requirements (including the FATF travel rule, which foresees virtual asset service providers collecting information on originators and beneficiaries of transfers in virtual assets) with respect to the customers of merchants in particular where the customer does not have a relationship with a Reporting Crypto-Asset Service Provider, for whom it effectuates Reportable Retail Payment Transactions? Are there any specific challenges associated with collecting and reporting information with respect to Reportable Retail Payment Transactions? What measures could be considered to address such challenges? Would an exclusion of low-value transactions via a de minimis threshold help reducing compliance burdens? If so, what would be an appropriate amount and what measures could be adopted to avoid circumvention of such threshold by splitting a transaction into different transactions below the threshold?”.*

As noted in the public consultation, the Crypto-Asset market has given rise to a new set of intermediaries, such as Crypto-Asset exchanges and wallet providers facilitating exchanges between Crypto-Assets, as well as between Crypto-Assets and Fiat Currencies. These intermediaries also fall within the scope of obliged entities for FATF purposes (i.e. virtual asset service providers) and as such the relevant AML/KYC due diligence requirements.

With respect to such Reportable Retail Payments Transactions, the customer of the merchant for, or on behalf of, whom the Reporting Crypto-Asset Service Provider is providing a service effectuating Reportable Retail Payment Transactions must be treated as the Crypto-Asset User, and therefore as the Reportable User, in addition to the merchant.

GLEIF suggests that collecting the LEI of the Crypto-asset user merchant and merchant’s customers (e.g., B2B transactions) is crucial for accurate and unambiguous identification of these users. A foundational step in fulfilling AML requirements is Know Your customer (KYC) and Know Your Customer’s Customer. The crypto-asset service provider should request from the merchant the LEI of the merchant and merchant’s customer’s. Adopting a consistent, high-quality, and globally recognized identifier, the LEI, is essential for all involved legal entities to fulfill KYC requirements and tackle anti-money laundering in today’s digital world. For example, Dr. Franz Kaiser, Head of Treasury Reporting & Middle Office, Finance FTR at Airbus [commented](#) that “Corporates need to be able to transparently identify counterparties when making and processing payments. This is challenging when dealing with legal entities in different jurisdictions. Airbus payment and KYC processes could be eased if transaction counterparties could easily

*be uniquely identified, alongside their ultimate beneficiary owners. LEI usage in cross-border payments would bring significant benefits to corporates globally."*

It is stated in the consultation that a Reporting Crypto-Asset Service Provider must report the following information for its entity Crypto-Asset Users: the name, address, jurisdiction(s) of residence, TIN(s) of each Reportable User and, the information on the controlling persons. GLEIF suggests that the change in the rule setting is an excellent opportunity to move to digital reporting and reporting based on digital and machine-readable data. The LEI is a more comprehensive due diligence tool than a static name and address information collection. Moreover, despite broader TIN usage, it is not a global identification solution, unlike the LEI. Furthermore, the TIN has the following limitations:

- It may not be a globally unique identifier for a company,
- There is no global data quality program for the TIN
- There is no global governance structure for the TIN
- The TIN is not fit for digital communications – there is no standard structure for the code and associated reference data
- The TIN is not an open global identifier that facilitates counterparty discovery

The addition of the LEI as a component of self-certifications provided by entity crypto-asset users would ensure that authorities can easily and quickly verify the information with respect to the Entity Crypto-Asset User, such as the legal name, address, business registry number via the publicly and globally accessible Global LEI Repository. The LEI connects to key reference data that provides the information on a legal entity identifiable with an LEI. The Global LEI System links with the local business registries that might be proprietary and in different character sets. Instead of navigating through various access points and languages, the Global LEI System allows consumers to conduct quick due diligence in a trusted way. Moreover, the relationship information (direct and ultimate parent information based on financial consolidation) on the Global LEI Repository can help authorities to obtain information on the controlling person of the entity. A report by the [Banque de France](#) demonstrates how the LEI can be used to analyze groups' global expansion strategies especially the use of off-shore financial centres (OFCs). The Banque de France concludes that extending the obligation to have an LEI would thus help to make global financial transactions more transparent.

GLEIF would also like to comment on the requirements for "Information on the Reporting Crypto-Asset Service Provider". Subparagraph A(2) requires that the Reporting Crypto-Asset Service Provider must report its name, address and **identifying number (if any)**. Identifying information on the Reporting Crypto-Asset Service Provider is intended to identify the source of data reported and subsequently exchanged to allow the providing jurisdiction to follow-up on an error that may have led to incorrect or incomplete information reporting. The "identifying number" of a Reporting Crypto-Asset Service Provider is one of the following types of numbers assigned to a Reporting CryptoAsset Service Provider for identification purposes: *a TIN, a business/company registration code/number, or a Global Legal Entity Identifier (LEI)*. If no identifying number is assigned to the Reporting Crypto-Asset Service Provider, then only the name and address of the Reporting CryptoAsset Service Provider are required to be reported.

GLEIF would like to emphasize that a vague requirement such as "if any" identifying number could create confusion and ambiguity with respect to reporting requirements applicable for crypto-asset providers. As TIN is a broadly used for identification of taxpayers, in the consultation document an "exception" is granted for certain cases, including that TIN is not required to be reported with respect to

a Reportable Person that is resident in such a Reportable Jurisdiction, or with respect to whom a TIN has not been issued. TIN specifications (i.e. structure, syntax, etc.) are set by each jurisdiction's tax administrations. Moreover, where a Reportable Jurisdiction has issued a TIN to a Reportable Person and the collection of such TIN cannot be required under such jurisdiction's domestic law (e.g., because under such law, the provision of the TIN by a taxpayer is on a voluntary basis), the Reporting CryptoAsset Service Provider is not required to obtain and report the TIN. Some jurisdictions even have a different TIN structure for different taxes or different categories of taxpayers (e.g., residents and nonresidents). GLEIF highlights that these exceptions relative to the collection and reporting of TIN, unstandardized nature of the TIN syntax and potential limitation of the availability of TIN in certain cases show that an additional, robust and global identification scheme is needed to identify crypto-asset service providers and users in the Crypto-Asset Reporting Framework. Moreover, a clear LEI requirement would help to fulfill rules to avoid duplicative reporting in case a Reporting Crypto-Asset Service Provider has links to more than one jurisdiction.

It is stated in the consultation that jurisdictions are expected to provide Reporting Crypto-Asset Service Providers with information for the issuance, collection and, to the extent possible and practical, structure and other specifications of taxpayer identification numbers and their functional equivalents. The OECD will endeavor to facilitate its dissemination. GLEIF would like to highlight that in addition to the taxpayer identification numbers, collection and distribution of the LEIs can facilitate due diligence procedures of crypto-asset service providers over crypto asset users, which are entities, and data collection, aggregation and exchange efforts of authorities. Additionally, instead of requiring a global standard for entity identification, allowing functional equivalents of identifiers has the potential to create a siloed approach and reduce efforts in promoting tax transparency.

Lastly, GLEIF would like to highlight that in the FATF Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers, the LEI is suggested to be used as additional information in payment messages. Moreover, in the European Regulation (EU) 2019/1937 requires that crypto-asset service providers shall report their LEI before they apply for authorization as a crypto-asset service provider to the competent authority of the Member State where they have their registered office (Article 57). Additionally, the same Regulation requires that the European Securities and Markets Authority (ESMA) register contains the LEI of the issuer of asset referenced tokens. As confirmed by Regulation (EU) 2019/1937, standardization of the identification of crypto-asset providers and users is crucial for investor protection and market integrity and a well-functioning Crypto-Asset Reporting Framework.