

Response of the Global Legal Entity Identifier Foundation (GLEIF) to the European Commission Consultation Document Targeted Consultation on the Review of the Revised Payment Services Directive (PSD2)

July 2022

The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the European Commission Consultation Document Targeted Consultation on the Review of the Revised Payment Services Directive (PSD2).

GLEIF wants to highlight that PSD2 was instrumental in initiating open banking in Europe and setting an example for other jurisdictions to follow. However, lack of the LEI within the requirements hindered the identification opportunity of all parties on a consistent basis. Now with the review of the PSD2, there is an opportunity for the technical standardization of the account servicing payment service provider, payment initiation service provider, account information service provider, payer and payee information with the LEI in retail payment frameworks within the EU. Persistent use of the LEI will enable interoperability both domestically and across borders, thereby reducing reconciliation costs, time, and uncertainties for all involved parties and increase security of the overall framework.

First, GLEIF would like to respond Question 6: *“In your view, has PSD2 achieved its objectives in terms of secure payments?”*.

GLEIF agrees that the PSD2 has contributed to making payments secure by making sure that AISPs, PISPs and CBPIIs identify themselves towards the ASPSPs via qualified digital certificates. Digital certificates enable both organizations and individuals to engage digitally, safe in the knowledge that their business partner, together with the certified activities being performed, is trusted in a digital context.

Yet the system is flawed. As the use of certificates continues to grow in both number and use-case application, so too does the time and cost required to maintain them. Legal entities commonly hold multiple certificates from different certificate schemes and issuers, meaning records are kept in multiple silos by a variety of organizations, globally. The lack of ‘links’ between certificates makes the job of managing multiple certificates difficult.

What’s more, the reference data available with each certificate (such as the name, legal form and address) is embedded as text strings that are potentially distinct to the certificate’s issuer due to differences in local language, abbreviation, address format, etc. This means that manual checks are often needed to establish that a) the certificate in question does indeed match to the counterparty’s organizational representation in internal databases and b) that the certificate itself remains current and the information it contains is up to date.

This latter point exposes yet another problem. Entities’ circumstances change; digital certificates do not. Should an entity rename itself, move premises or change its legal status, for example, these vital updates can not be reflected in their live certificates. Updating them effectively means starting again: legacy certificates are revoked. Updated certificates are reissued. However, this process only works in

some circumstances. In case a downstream application can't access the relevant revocation list, outdated information persists.

For example, recently, a TPP was acquired by another company and thereby lost its “legal” identity. However, it kept using its legacy certificates with outdated information, which caused operational and legal truth to diverge. Given a certificate shows only the snapshot of the current moment, the only way to ensure that the reference data in a certificate is correct is using a dynamic attribute: the Legal Entity Identifier (LEI). If the LEI were embedded into digital certificates (QWACs and eSeals), it can become the common link between them that is so urgently needed. This would allow anyone to easily tie together all certificate records associated with an entity, determine which certificates are current, and clear up variances. In this way, the digital certificate with the LEI embedded can provide certainty of identity and trust in any online interaction between entities, making it easier for everyone to participate safely in the global digital marketplace. It also significantly reduces the complexity and cost, both people and technology-related, associated with due diligence and validation of customers, partners and suppliers.

Therefore, GLEIF suggests that adding the LEI as an additional attribute in digital certificates will allow AISPs, PIs, PISPs and CBPIIs to be identified across member states through a global identity and reduce overall compliance costs within the ecosystem. Given the LEI connects to key reference information that enables clear and unique identification of legal entities participating in financial transactions, including the local business registration number, the LEI attribute in the certificates will enable recipients of the certificate to conduct more efficient due diligence and to better automate verification tasks by avoiding business registry specific checks for each country.

GLEIF would like to respond to Question 15. *“Do you consider that the provisions on authorisation (licensing) of providers of payments services in PSD2 are still adequate?”*

GLEIF suggests adding the LEI as one of the requirements for the application authorization under Article 5. Adding the LEI will enable simplification of the identification of the payment service provider by the involved authorities and business counterparties. It will also bring efficiencies by reducing the number of business registry specific checks/operational protocols that approving authorities need to develop to review applications from entities in different member states or other jurisdictions.

Additionally, adding the LEI to Article 28, will ensure that the authorized payment institution wishing to provide payment services for the first time in a Member State other than its home Member will enable quick and easier verification by supervisory authority of the provider in the host Member State.

GLEIF would like to respond to Question 34. *“Next to the rules on access, PSD2 includes ways in which the access to accounts can be limited, for instance by an Account Servicing Payment Service Provider (ASPSP). a. Please consider the following suggestions and indicate whether you think the suggestion should be implemented or not.”*

GLEIF agrees that the EU legislation on payments should include a common API standard. Harmonization of data attributes in the process of developing an API standard across the EU, requires using a neutral, yet globally recognized identifier. The persistent use of the LEI can ensure technical interoperability and decrease the compliance costs for ASPSPs and TPPs.

GLEIF would like to respond to Question 40. *“In your view, is the unique identifier (Art. 88) sufficient to determine the payment account of the payee or should, for example, the name of the payee be required too before a payment is executed?”.*

GLEIF understands that here the unique identifier that is being referenced is the IBAN according to Article 88 of the PSD2 Directive. GLEIF agrees that IBANs provide unique identification of the payment accounts of the payee. While IBAN uniquely identifies an account, the LEI identifies the account holder uniquely. An entity might have multiple accounts, thereby multiple IBANs, but only one LEI throughout its lifecycle. Therefore the IBAN does not meet a fundamental requirement in payment processing – precise identification of the payer and payee.

Moreover, we hear concerns from corporates about using the IBAN as the matching key, given the use of virtual IBANs (vIBANs) presents potential challenges in terms of identification and authentication of parties to a payment transaction. While a regular IBAN is matched 1:1 with a bank account, with a virtual IBAN, you can have multiple unique vIBANs that all send payments into the same central bank account. With virtual IBAN accounts, companies do not need to open and maintain several bank accounts to carry out international transactions. Although on one hand it is considered as a measure to ease of doing business, on the other hand it raises questions on where actually funds go through and creates potential challenges for AML/CFT measures. Therefore, GLEIF suggests that the LEI should be added as a data attribute, in addition to the IBAN, for identifying the legal entity payer and legal entity payee. Via the IBAN the involved parties have a precise manner of identifying the accounts involved and via the LEI the involved parties would have a precise manner to identify the legal entities involved. Furthermore this enhances interoperability in cross-border payments where multiple identification schemes are involved.

This would also enable effective confirmation of payee. Currently confirmation of payee relies on text strings like the name and address. This approach results in too many false positives and false negatives meaning that either too much money and human resource is wasted chasing transactions that are legitimate and still too much fraud passes through undetected. Leveraging the LEI in confirmation of payee would reduce the possibility of fraud to almost zero.

The Financial Stability Board is leading a cross-border payments initiative where the LEI is suggested as a solution to identify legal entities in payment messages for full transparency and traceability. Regarding identification, the FSB has two workstreams, one for individuals, and one for legal entities, given with the privacy and data protection concerns, the approach for individuals is more complex. However, FSB is seeing the LEI as a solution to identify legal entities on a global basis. GLEIF expects that the FSB will publish its stocktaking exercise on the LEI and its recommendations in early July 2022.

GLEIF would like to respond to Question 42. *“In your view, are the requirements regarding fraud prevention in PSD2, in particular those on procedures and reporting, still adequate?”*

GLEIF believes that PSD2 was instrumental to initiate open banking in Europe and set an example for other jurisdictions to follow. Now, as open banking is moving to open finance and open data, a single standard for legal entity identification becomes even more important. With this transition, API users will be able to offer more services to end users. With open finance, new actors such as banks, insurance companies, and pension funds will get involved. And with open data, we have a larger universe of data providers, such as hospitals, telecom providers or energy suppliers.

In today's PSD2 framework, there is no standardization of authorization numbers. Therefore, it is a big challenge for TPPs and API providers to check and validate in real-time who has access to what. GLEIF welcomes the suggestion of the EBA in its response to the PSD2 that the LEI would reduce discrepancies between the data contained on the national and EBA registers. As EBA rightly outlines in the paper, the LEI will allow the unambiguous identification of PIs, EMIs, TPPs and potentially other unregulated entities (e.g., merchants, payment schemes) if their services are considered within the scope of the PSD2 after the review process. The LEI will ensure interoperability between different systems and facilitate automation and comparability of data across the Union.

GLEIF is aware that national competent authorities may find a national approach to entity identification sufficient for internal use, but there are clear downsides to siloes. Today, access to the national registries is difficult and cumbersome, making the identification of parties more difficult and fraud more likely to happen. Today, in the EU, some registries keep the entire data behind a pay wall (e.g., Spain), others provide just some basic information and for additional documents there is again a fee (e.g., Italy); in some cases, all data are available free of charge (e.g., Belgium, Bulgaria) and some of the registries provide an API free of charge (e.g., Ireland). And of course each of these registries makes access and general information available in the local language. The Global LEI Repository presents a cost-free and barrier-free access opportunity for entity data that solves language issues and reduces identification fraud substantially.

GLEIF would like to respond to Question 51. *"In your view, are the PSD2 requirements on delegated acts and regulatory technical standards adequate? Please be specific and if possible, offer textual proposals."*

GLEIF suggests the addition of the LEI in below delegated acts:

- **Commission Delegated Regulation (EU) 2021/1722**

Article 10 - Information and data to be reported for information or statistical purposes: GLEIF suggests adding the LEI of the payment institution in the home Member State in accordance with the form in Annex V1. Currently, in Annex V, the unique identification number is requested on where applicable basis and the LEI on where available basis. The LEI is not referenced in Article 10. Moreover, there is a strong support from the statistical community as displayed in the [ESRB Recommendation](#), various ESAs reporting requirements and [recent ECB publications](#) on broader use of the LEI.

- **Commission Delegated Regulation (EU) 2019/411**

Article 15 - Search of information: EBA developed an [electronic central register](#) with the information of institutions based on name. GLEIF suggests the addition of the LEI code to the EBA Payments Institution Register. Adding the LEI will allow easy access and search for the information listed. Thereby, the updates on the LEI reference data could be reflected on the EBA Registry in real time.

- **Commission Implementing Regulation (EU) 2019/410**

Annex – Table 1: Information on payment institutions: Currently, competent authorities provide the **"Official Name of the payment institution"**, **"Commercial name of the payment institution"**,

¹ Form to be used for reporting data for information and statistical purposes

to the EBA in text format (250 characters) and different language character sets: Hellenic Alphabet, Cyrillic and Latin. Additionally, they provide information on the headquarter address of the payment institution, including the country, city, street and postcode. The competent authorities need to provide either the national identification number, LEI, authorisation number, registration number and other equivalent means of identification.

GLEIF suggests that a mandatory inclusion of the LEI would enable straight through processing of information shared digitally between competent authorities and the EBA. The fact that there is no primary identifier for the payment institution, may limit the EBA's ability to conduct oversight, and to understand how entities work and interact across competent authorities. It may also prevent the EBA from obtaining a complete picture of entity and related entities' activities.

Additionally, the LEI reference data contains many additional data points that are referenced in the exchange - legal name, legal address, headquarter address and registration number of the entity. Leveraging the LEI as a global digital identifier to access this information will ensure consistency and would prevent any potential errors that can stem from language/text errors.

Lastly, GLEIF would like to provide its comments for Question 56. *"Are there any other issues that have not been raised in this questionnaire that you think would be relevant for the review of PSD2 and its possible revision? If these are specifically relevant for particular stakeholder(s), please make this known in your answer."*

GLEIF would like to highlight that the PSD2 currently lacks an important foundation - reliable and barrier-free identification. And this problem will only grow with the transition from open banking to open finance. Therefore, an extension of the LEI requirement for all PSPs and API users is crucial to ensure instant and reliable entity identification and at the same time reduce compliance costs for TPPs and all involved parties.

GLEIF suggests that the EBA Register should be able to facilitate process of provision of payments in the EU by providing an interoperable solution between the systems of the various market participants. The inclusion of the LEI in the EBA Register should cover any party under the PSD2 Directive (and participants within the scope of the EMI Directive considering a potential merge of two directives). Having the LEI on the EBA Register will permit the identification of payment institutions on a consistent basis. Beyond that, requiring the LEI in the broader sense (incl. merchants) in payments would be the opportunity to ensure a high level of transparency, consumer protection and interoperability.

Taking this opportunity GLEIF would like to bust 5 myths with regards to the use of the LEI in payments:

Myth #1: LEI is not needed in payments, since BICs and IBANs are used in payment transactions GLEIF agrees that today IBANs are used for uniquely identifying payer/payee accounts and BICs are used for routing the payments to the relevant divisions/sub-divisions of financial institutions. However, despite their importance in processing payments, neither BICs nor IBANs are designed for identifying parties to the transaction. Today's highly digitized payment networks require faster, cheaper, and more secure transactions. When the LEI is added as a data attribute in the payment messages, any originator or beneficiary legal entity can be instantly and automatically identified. There is no comparable identifier for individuals, so there needs to be a distinctly different approach towards natural person identity and legal entity identity in payments. This is aligned with the FSB cross-border payments initiative. As Europe

moves towards instant payments, the LEI is a natural solution for B2B and C2B payments so as to reduce manual interventions and facilitate a framework that could be considered "instant". Without the LEI for such payments the frequency of manual interventions to investigate similar names/addresses remains the same and Europe cannot really achieve instant payments.

For example, Dr. Franz Kaiser, former 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."*

Myth 2: LEI is not available for individuals in business capacity

Individuals acting in a business capacity are eligible to obtain LEIs, provided they conduct an independent business activity as evidenced by registration in a business registry. Therefore, any B2B transactions can be covered with the LEI. Moreover, for any C2B transaction, consumers can easily and quickly verify and validate the recipient business to which they transfer money. Verification through the LEI will enhance consumer protection and prevent fraud attempts.

Myth 3: Adding the LEI as an additional identifier in payment messages could hamper automation

GLEIF suggests that the LEI is the only pan-European solution that can enable automation of legal entity identification within payment chains. Given GLEIF API is free of charge and without any barriers to access, any user can verify and validate the LEI of a counterparty within milliseconds. Therefore, having LEI matched with the IBAN of a payment account can prevent fraud attempts and facilitate straight-through processing without any inconsistencies.

Moreover, both at the European level and global level, as market infrastructures move to the ISO20022 framework, the LEI can easily be added into the payment messages as a mandatory data field, which would require minimal technical changes for financial institutions within this transition period.

Myth 4: LEI is not easy to obtain and costly

The ESRB in its [first recommendation report](#) recommended that all legal entities established in the European Union that are involved in financial transactions obtain and maintain an LEI. ESRB particularly recommends 'to seek the introduction of a Union legal framework to uniquely identify legal entities engaged in financial transactions by LEIs and to make the use of the LEI more systematic in respect of supervisory reporting and public disclosure'.

The ESRB recommends two models for mass LEI adoption in the EU for increasing availability and reducing costs particularly for SMEs. First, an entity can obtain an LEI at the point of registration at the local business registry; and second, financial institutions can provide LEIs to their clients at the stage of onboarding if they become Validation Agents of GLEIF.

Once the financial institutions tag their clients with the LEI at the stage of onboarding as part of the GLEIF's Validation Agent model, for no or minimal additional cost for their clients, any business with a banking relationship can obtain an LEI. Today, the Validation Agent model is up and running and large financial institutions such as Citi, JPM and fintech organizations are already onboarded.

Another way for mass adoption is that companies obtain an LEI at the point of registration from national business registries.

Moreover, today, the weighted average retail price of the LEI, without two models discussed above, is around 65 EUR, which is way below 220 EUR, when the Global LEI System was launched eight years ago. Requiring companies to obtain one, digitally-enabled, globally recognized and regulatory backed identifier will allow them to get rid of the maintenance costs of other propriety identifiers.

Myth 5: There are not enough LEIs to require the LEI as a data field

GLEIF emphasizes that the Global LEI System has grown due to regulatory requirements around the world. While Europe was a leader in consistently using the LEI in its regulatory and supervisory frameworks, other jurisdictions have used the LEI in new areas such as payments (e.g., China, India).

GLEIF suggests that a phased approach for obtaining the LEI can be developed by the Commission. The LEI could be required only for large companies above a certain market cap and then extended to smaller entities.

In line with the ESRB recommendation, Europe has an opportunity to introduce a Union wide legal framework for making LEI more accessible by June 2023. Therefore, a phased approach could be developed around this important milestone.