Response of the Global Legal Entity Identifier Foundation (GLEIF) to the European Banking Authority Consultation on effective management of ML/TF risks when providing access to financial services (EBA/CP/2022/13)

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The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the European Banking Authority on the Consultation Paper Guidelines amending Guidelines EBA/2021/02 on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions under Articles 17 and 18(4) of Directive (EU) 2015/849 and Guidelines on policies and controls for the effective management of money laundering and terrorist financing (ML/TF) risks when providing access to financial services under Directive (EU) 2015/849. GLEIF will focus its comments on using the Legal Entity Identifier (LEI) in countering de-risking and its impact on access to financial and banking services.

First, GLEIF welcomes EBA's new draft guidelines, especially the Annex to the EBA's ML/TF risk factors guidelines dedicated to customers that are not-for-profit organizations (NPOs).

NPOs are integral for facilitating humanitarian assistance in conflict zones. However, according to a well-known NPO active in this area, in 2021, 1000 fund transfers of this particular NPO to its NPO partners in conflict zones were stopped by correspondent banks, given the KYC risks that the final recipients potentially entail. Another NPO mentioned in a conference that the similarity of the recipient NPOs to the names of legal entities in the sanctions list or mention of sanctioned countries in the fund transfer order was enough to stop the very timely needed transfer of funds.

Behind this trend are some of the very measures put in place to safeguard financial transactions. Global financial institutions follow a relatively conservative approach in their anti-money laundering (AML)/counter terrorist financing (CTF) risk perception. This approach is linked with increasing costs due to (i) penalties for non-compliance with AML, Know your Customer (KYC), and sanctions regulations and (ii) client identification.

A research report produced by Loudhouse on behalf of GLEIF found that financial institutions use on average 4 different identifiers for identifying a legal entity client. Using multiple identifiers leads to inconsistent information, a drain on resources as reconciliation of different identifiers requires manual intervention, and lack of transparency due to reliance on proprietary identification systems. Identifiers of legal entities are easily obtained from a host of different issuers but are not kept up-to-date in a systematic way.

Therefore, the current financial system is already costly due to existing inefficiencies in client identification processes, reliance on respondent banks' client identification and KYC processes. These inefficiencies in client identification make it more expensive for many financial institutions to accept new clients in risky perceived jurisdictions.

GLEIF suggests that improved and standardized legal entity identification using the Legal Entity Identifier (LEI) can reverse this trend and help to create an efficient, secure and transparent financial ecosystem for all. As suggested in the report of the International Finance Corporation (IFC) of the World Bank, encouraging emerging market banking customers to obtain LEIs would further support banks' capacity for CDD and AML/CFT. The LEI, a globally recognized standard for entity identification, can help to overcome the informality gap in some developing countries, where local systems for entity identification are not easily accessible, may not be transparent, and sometimes lack quality standards. Equipping the entities in these countries with the LEI could help them to access cross-border payments, credit facilities, and supply chains without identity restrictions. It would also enable clear communication and information sharing between all involved parties – respondent banks, correspondent banks, and supervisory authorities. Therefore, contributing to a secure financial ecosystem where all involved parties are clearly identified and verified.

The European Commission already recognized the value of the LEI in the proposed AML Regulation and Transfer of Funds Regulation (recast 2015) for identifying legal entities, where applicable. Using the LEI consistently across borders can reduce errors related to language ambiguity, human interpretation, and manual intervention. Moreover, the Financial Stability Board (FSB) has put its full weight behind a landmark recommendation that the LEI should be widely adopted across the global payments ecosystem. FSB called FSB member jurisdictions, national and regional regulatory authorities, global standards-setting bodies and international organizations with authority in the financial, banking, and payments space to drive forward LEI references in their work. The report also recommends guidance and further outreach on the use of the LEI as a standardized identifier for sanctions lists and as the primary means of identification for legal entity customers or beneficiaries, with specific reference to customer due diligence and wire transfers. By helping to make these transactions faster, cheaper, more transparent, and more inclusive, while maintaining their safety and security, the LEI has been deemed by the FSB to support the goals of the G20 roadmap. Given the Union's membership in the FSB, GLEIF suggests the recommendations to FSB member jurisdictions may be particularly interesting.

Therefore, GLEIF suggests that EBA has the opportunity to future-proof its Guidleines within its remit under the Directive (EU) 2015/849 and add the LEI of the NPO, where applicable, as part of the basic information in Annex in the proposed Guidelines. Where applicable indicates where the NPO already has an LEI. As the global population of LEI increases with further mandates such as the EU AML Regulation and activity related to the FSB's cross-border payments work , EBA could consider adding the LEI as a full requirement for customer due diligence. Extensive and cross-border use of the LEI both in wire transfer and sanctions screening will allow an interoperable, efficient and inclusive financial ecosystem where the unintended consequences of de-risking can be avoided.