

Response of the Global Legal Entity Identifier Foundation (GLEIF) to the HM Treasury on the Amendments to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 Statutory Instrument 2022 Consultation October 2021

The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the HM Treasury on the Amendments to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 Statutory Instrument 2022 Consultation. GLEIF will focus its comments on how the Legal Entity Identifier, a globally recognized open standard for legal entity identification, can establish the first foundational step in legal entity data collection and facilitate an efficient data collection, aggregation and exchange, which will reduce money laundering and terrorism financing risks substantially.

GLEIF would like to provide comments to Chapter 3: Clarificatory changes to strengthen supervision, and specifically Question 15: *"In your view, would allowing AML CTF supervisors access to the content of SARs help support their supervisory functions? If so, which functions and why?"*

First, some background on the LEI.

The LEI, a globally accepted open standard for unique and unambiguous identification of legal entities, 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. Use of the LEI consistently can ensure an accurate and unique identification of all legal entities. Besides, the LEI data provides entity reference data in the native local language of the entity and in the transliterated version (as applicable). This enables users to understand the language used to represent the entity and also have a roman character representation of the name. And the [GLEIF API](#) is a globally accepted protocol for accessing identity information for legal entities in a digital and machine-readable fashion.

GLEIF fully supports HM Treasury's proposal of strengthening supervision and allowing AML/CTF supervisors access to the content of Suspicious Activity Reports (SARs). The flow of intelligence information is crucial between all involved parties in the fight against money laundering - supervisory authorities, financial institutions, and law enforcement bodies. However, there is general frustration that information sharing does not function well both at the domestic level and across borders. If the information flow from a financial institution to supervisory authorities included the LEI as a global identifier for the legal entity, all parties would have a clear understanding of the identity of the entity in question. Today, identification is largely based on name matching, which is highly imprecise and prone to false positives. Making the LEI part of information sharing mechanisms would bring maximum transparency. The LEI would enhance law enforcement agencies' and supervisory authorities' ability to aggregate data across financial institutions. Tagging all relevant entities with their LEI in SARs is particularly important for automation and data efficiency.

Imagine the LEI is added to SAR subsequently when the user selects “legal entity” as the Main Subject. Adding the LEI would make “Legal entity name”, “country of registration”, “house number”, “street”, “city/town”, “country”, “postcode” and other address details unnecessary. The LEI reference data already includes the legal entity name, business registry ID of the entity and the ISO compliant address field. Connecting to the powerful and free-to-use GLEIF API could even return entities where there is a match against a former name and increases transparency by all means for the National Competent Authority.

GLEIF would like to provide the HM Treasury the FinCEN paper leak incident as an example. The leaked FinCEN papers revealed the inherent problems regarding SARs. According to media coverage, FinCEN received 2 million SARs in 2020. This is an extraordinary volume of data meaning FinCEN must rely on automated processing to identify initial trends and highlight outliers. Adding the LEI instead of or in addition to the entity name would help FinCEN avoid time wasted, incorrect identification using name matching and focus on value-added tasks of aggregating and analyzing transactions. This idea can be extrapolated beyond FinCEN to any supervisory authority involved in receiving SARS reports. Not only would the supervisory authority render its own work more efficiently, it could also share feedback with financial institutions and enable financial institutions to create better, data-driven risk profiles of their clients.

The value of the LEI in AML is already recognized by regulators. In the recent [anti-money laundering and countering the financing of terrorism legislative package](#) of the European Commission, it is stated in Article 18 that *"Identification and verification of the customer's identity - the LEI is required, where available, for the identification of a legal entity; for a trustee of an express trust or a person holding an equivalent position in a similar legal arrangement and for other organizations that have legal capacity under national law"*.

GLEIF would like to provide comments to Chapter 4: Expanded requirements to strengthen the regime and in particular, Box 4.D: Reporting of discrepancies: Expansion of Regulation 30A to introduce an ongoing requirement to report discrepancies in beneficial ownership information, Question 43. *"Do you have any other suggestions for how such discrepancies can otherwise be identified and resolved?"*

It is stated in the consultation paper that since the MLRs came into force on 10 January 2020, over 35,000 beneficial ownership discrepancies have been reported to Companies House. Whilst around a third of these prove not to be valid (for example, minor discrepancies in spellings of names, and differences in interpretation of the nature of the control exercised by an identified beneficial owner), the number of reports suggest that further enhancing the accuracy and reliability of the companies register will play an important role in the fight against economic crime.

One of the FATF's key criteria for assessing if a country has a robust AML regime is the availability of accurate and up to date information on basic company and beneficial ownership information. Under wider reforms on the future of Companies House, the government has indicated its intention to extend the scope of the discrepancy reporting regime.

GLEIF suggests that the LEI is a key foundational first step for reducing discrepancies in beneficial ownership reporting regime. When businesses register at the Companies House, the LEI can be assigned

as a complementary information. The Bank of England¹ already suggested that the Companies House generate LEIs as a unique global identifier either for all entities on a systematic basis as a primary identification number, or on an ad-hoc basis for entities who wish to have LEIs as a secondary identification number. Data consistency is key to increasing data efficiency of processing and reducing time and costs of data processing. Use of the LEI more wisely would help achieve this. Cleaning and reconciling identity data is one of the most significant inefficiencies in AML/ CFT data processing across both public and private sector. The LEI offers an independent, robust standard to ensure data insights can be more readily attributed to entities, avoiding much of the current re-checking and discovery processes. Linking national standards to a global LEIs will allow more efficient and consistent data sharing across boundaries. A global approach to entity identification is a key element of ensuring more effective AML processes.

GLEIF would like to give the [HSBC HOLDINGS PLC](#) as an example. According to the Global LEI Repository, the HSBC HOLDINGS PLC has 38 direct children and 412 ultimate children captured by Global LEI System. The relationship information is collected on the basis of financial consolidation. Again if we go through the same example, at a first glance, there seems no connection between “HSBC HOLDINGS PLC” and the “[MIL \(CAYMAN\) LIMITED](#)” registered in Cayman Islands. However, the LEI data shows that the MIL (CAYMAN) LIMITED is consolidated by the HSBC HOLDINGS PLC.

While accounting consolidation parent information is not equivalent to beneficial ownership information, we provide this example to demonstrate the power of assigning a global open identifier to corporate structures. By requiring the LEI as the identifier for legal entity beneficial owners, users can quickly establish ownership networks and complement this with the company and ownership reference data available in the Global LEI System. In total, this makes for a powerful tool for data analysis and monitoring.

The value of the LEI has already been recognized by a recent [Open Standards GitHub Challenge](#) for the Beneficial Ownership Data Standard. It is stated in the consultation paper that “*We envisage that the Open Standard for Beneficial Ownership data will make use of the UK Government’s future Legal Entity Identifier via adoption of the [ISO 17442-1:2020 standard](#).*” At the moment, the LEI reference data does not include the beneficial ownership information. This also means that there is no privacy or data protection concerns. As stated in the [Financial Stability Board’s Thematic Review on Implementation of the Legal Entity Identifier: Peer Review Report](#), the [Regulatory Oversight Committee](#) may take a decision to expand relationship information collection to include the beneficial ownership information.

The UK already pioneered to establish a public register system for beneficial ownership back in 2016. Other jurisdictions follow a similar trend and aim to create registries for the collection of beneficial ownership information (e.g., the U.S. Corporate transparency Act 2021). The European Commission recently finalized the legal framework for the [Beneficial Ownership Registers Interconnection System \(BORIS\)](#). The BORIS allows national registration numbers to be used for data exchange, instead of the LEI, a global data standard: “*In relation to a company or other legal entity, as well as in relation to a trust or a similar arrangement, data on the profile shall include information on the name, legal form, as well as the registration address and the national registration number, if any.*” GLEIF highlights this as missed opportunity at the EU level to harmonize and standardize information exchange in an efficient,

¹ Please see the Bank of England’s [response](#) to the UK Department for Business, Energy & Industrial Strategy Corporate Transparency and Register Reform Consultation Paper

interoperable and digital manner. The BORIS network will lack a foundational element that enables data usability – a globally unique identifier for companies or legal entities that are beneficial owners. This is an unfortunate demonstration of how basic principles of data management and usability are overlooked when designing a resource that is intended to provide the users – both EU and international – valuable information on company structure.

Therefore, GLEIF suggests that HM Treasury considers this consultation as an opportunity to improve data management with the addition of global standards, including the LEI as a foundational step, to reduce discrepancies of beneficial ownership information reporting.

GLEIF would like to provide comments to Chapter 5: Information sharing & gathering, in particular to the Question 1. *“What regulatory burden would the proposed changes present to Annex 1 financial institutions, above their existing obligations under the MLRs? Please provide evidence where possible.”*

GLEIF agrees that high quality intelligence and information sharing across both public and private sectors is a key tool in the fight against financial crime as demonstrated in the Economic Crime Plan 2019-22.

GLEIF suggests that a consistent and standardized collection of the LEI, instead of accepting a plethora of identifiers or creating purpose-only codes, would reduce the regulatory burden on obliged entities and simultaneously enhance information gathering and sharing practices between supervisory authorities and other relevant institutions.

Adopting a standardized approach for legal entity identification by the FCA would reduce the reporting burden of obliged entities. GLEIF would like to provide an example from the U.S. A study conducted by GLEIF and Data Foundation demonstrates that the U.S. federal government alone uses 50 distinct entity identification systems - all of which are separate and incompatible with one another. Reporting with multiple identifiers not only makes it difficult for supervisory authorities to detect potential ML/TF activities, but also creates cumbersome administrative burden for the involved entities.

GLEIF would like to provide comments to Chapter 6: Transfers of cryptoassets, specifically Question 59. *“Do you agree that the above requirements, which replicate the relevant provisions of the FTR, are appropriate for the cryptoasset sector?”*

It is stated in the Consultation Paper that *‘Cryptoasset firms will need to put in place systems for ensuring that personal information of the originator and beneficiary of a cryptoasset transfer is transmitted and received alongside the transfer, in an appropriate format. The relevant fields such as name, address, account number of the originator/beneficiary required to be sent with a transfer of cryptoassets within the provisions of the FTR.’* GLEIF suggests that the guidance should go a step further so as to ensure a prudential treatment of cryptoassets.

Identifying the involved cryptoassets service providers as well as originator/beneficiary with an LEI would create visibility and transparency and enable effective communications between involved parties in the transactions and with regulatory authorities. First this ensures consistency as the LEI reference data already includes the information on the legal name and address thereby avoiding transliteration, translation and abbreviation issues that would occur based on different standards applying to the different jurisdictions. The additional LEI reference data on the corporate structure, the last update

date, reference data corroboration and change history are also critical information for understanding the true identity of the cryptoassets service providers involved in the transaction.

The [European Securities and Markets Authority \(ESMA\) Advice on Initial Coin Offerings and Crypto-Assets](#) highlights that there are concerns around fraudulent Initial Coin Offerings (ICOs), whereby cryptoassets either do not exist or issuer/developers disappear after the ICO. These could represent up to 80% of ICOs according to some sources. Identifying such parties with an LEI would enable clear identification of who one is doing business with, clear identification of the parties involved in these transactions and a means to investigate the entity given an issue arises with the ICO.

As highlighted in the consultation, the FATF Recommendation 16 (R.16) requires that countries should ensure that financial institutions send and record information on the originator and beneficiary of a wire transfer, and that this information remains with the transfer or related message throughout the payment chain. This information enables financial institutions to detect potential ML/TF activity by ensuring that the identities of the parties to the transaction are known, and facilitates investigations by law enforcement by ensuring that appropriate records of transactions are kept.

In the recent AML package of the European Union, the European Commission made it clear that primary drivers for enhancements to the existing EU AML/CFT framework are “new and emerging challenges linked to technical innovation.” It names virtual currencies, more integrated financial flows in the Single Market and the global nature of terrorist organizations among these challenges. The LEI has been referenced within the AML/CFT rules of the proposed [“Revision of the 2015 Regulation on Transfer of Funds”](#), which is extended beyond their current remit, to apply fully to the crypto sector.

In section (25), which outlines that transfers of funds or crypto-assets from the Union to outside the Union should carry complete information on the payer and payee, a new requirement has been introduced: *“Complete information on the payer and the payee should include the Legal Entity Identifier (LEI) when this information is provided by the payer to the payer’s service provider, since that would allow for better identification of the parties involved in a transfer of funds and could easily be included in existing payment message formats such as the one developed by the International Organisation for Standardisation for electronic data interchange between financial institutions.”*

Therefore, GLEIF invites HM Treasury to add the LEI as a required data field to identify originator/beneficiary information so as to better prevent illicit financial flows and enhance transparency. With the LEI, the cryptoasset service provider, before making a cryptoasset available to the beneficiary, can verify the accuracy of beneficiary information received with the transfer in milliseconds through publicly available, free, Global LEI Repository.

Lastly, GLEIF would like to provide comments to Chapter 6: Transfers of cryptoassets Question and specifically to *Question 62. Do you agree that where a beneficiary’s VASP receives a transfer from an unhosted wallet, it should obtain the required originator information, which it need not verify, from its own customer?*

GLEIF fully agrees with the HM Treasury’s proposal that the originator information should be required when a beneficiary VASP receives a transfer from an unhosted wallet. The unhosted wallet presents significant illicit financial activity risks since it does not involve identity verification, recordkeeping and reporting regimes, therefore, no traceability when there is illicit financial activity detected.

Therefore, GLEIF suggests that a consistent, high-quality, and globally recognized identifier for legal entity clients is essential to tackle ML/TF risks in the cryptoassets sector. GLEIF thinks that any legal entity parties to a cryptoasset transaction should be identified via the LEI, so as to ensure an efficient framework for prudential treatment. This requirement should expand also to unhosted wallet providers and wallet owners; so that risk exposure of these parties can be better evaluated across borders. Data lineage is a key component to tracking entities over time. As such, the LEI could be used as the primary entity identifier for tracking legal entities, thus creating a historical record per entity over time. The LEI could also be used to track all reports from each reporting financial institution historically. Aggregation of reported content could be achieved by associating the LEI of the entity to the LEI of the reporting financial institution.

The LEI has already been adopted as an optional field for identifying the VASP, originator and beneficiary in inter-VASP Messaging Standard IVMS101. The interVASP messaging standard is intended for use in the exchange of required data between VASPs. This opens the door for leveraging the LEI to bring transparency and enhance consumer protection for crypto-assets and tokenization transactions. To conclude, GLEIF invites HM Treasury to expand the regulatory requirement to unhosted wallet so as to strengthen the robust framework of ML/TF risk detection in the virtual asset sector, via adopting the LEI as the global, digital and consistent identifier for all parties involved in virtual asset transactions.