



GLEIF response to Consultation Paper on framework for mandating additional disclosures from Foreign Portfolio Investors (FPIs) from the Securities and Exchange Board of India

Sr. No.	Para. no. of the consultation paper	Extract from the consultation paper	Comments / Suggestions	Rationale
1	5.16	<p>'At the time of registration, high-risk FPIs shall be asked to submit an undertaking confirming that they have suitable mechanisms/ agreements in place with their investors (on a full look through basis), which shall include waiving off their privacy rights in their respective home jurisdictions in favor of SEBI, to allow for submission of additional granular disclosures to SEBI/ DDP if any of the concentration or size threshold conditions were to be crossed.'</p>	<p>Supporting the recommendation 41 of the "Report of the Working Group on FPI Regulations" chaired by Mr. H.R Khan on LEI.</p> <p>GLEIF would like to propose SEBI to consider mandating to all FPIs (existing and new) to provide their active LEI at the time of registration. Further, SEBI may consider utilizing LEIs for monitoring purposes including compliance with clubbing requirements.</p>	<p>The LEI is the only global standard for legal entity identification. It is a 20-character, alpha-numeric 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.</p> <p>For example, an LEI contains below critical data fields which could be helpful from SEBI's perspective:</p>



			<ul style="list-style-type: none">- 'Parents' and 'Children' fields indicate the entity's relationship data based on accounting consolidation;- 'Jurisdiction of formation' field indicates the jurisdiction in which the entity is legally registered.- 'Addresses' fields indicate where the entity is registered or located. <p>These information could help in monitoring investment by foreign entities that are part of the same group or in land-bordering countries with India, therefore preventing the two issues mentioned in Section 2 of the consultation.</p> <p>Furthermore, the LEI is already being adopted in different regulations. The Reserve Bank of India has also made Legal Entity Identifier (LEI) code mandatory for all participants (other than individuals) undertaking transactions in the markets regulated by RBI viz., Government securities markets, money markets (markets for any instrument with a maturity of one year or less) and non-derivative forex markets (transactions that settle on or before the spot date). Beyond India, other countries or regions are also adopting the LEI. For example, MIFID II (European Union Directive for Financial Instrument transactions</p>
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			<p>compliance) requires all Financial Instrument transaction participants to obtain LEI. In the U.S., Commodity Futures Trading Commission and Securities and Exchange Commission also required the usage of LEI for certain security transaction reporting. Additionally, the Korean government recently approved a revision bill of the Enforcement Decree of the Financial Investment Services and Capital Markets Act (FSCMA). Once the revised Enforcement Decree takes effect, foreign corporate entities can use their LEIs to open investment accounts.</p> <p>In conclusion, regulators and supervisor authorities continue to incorporate the LEI in regulations and policy recommendations. In parallel Financial Institutions continue to broaden their use of the LEI in client on-boarding. Now is the time for SEBI to consider mandating to all FPIs (existing and new) to provide their active LEI at the time of registration. Even common application for FPIs notified by the Government of India on August 21, 2018 require submission of LEI but it is not a mandatory field . There is however need to prescribe LEI for existing FPIs and make it mandatory for fresh FPI registrations.</p>
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