Enabling global identity
Protecting digital trust

Response of the Global Legal Entity Identifier Foundation (GLEIF) to the Department of Treasury, Financial Crimes Enforcement Network comment request for individual FinCEN identifier application

October 27th, 2023

The Global Legal Entity Identifier Foundation (GLEIF) is pleased to provide comments to the Department of the Treasury, on behalf of the Financial Crimes Enforcement Network (FinCEN), request for comment on the individual FinCEN identifier application.

Consultations and proposed rules are opportunities to re-consider existing identifier schemes with longer term vision for a broader, standardized, and consistent use of global standards and open sharing across US and global regulations.

First, some background information on the LEI and GLEIF.

The LEI 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. The LEI and its associated reference data are accessible to all as open, public data. The LEI is the only global standard for legal entity identification.

Established by the Financial Stability Board (FSB) in June 2014 under the mission of improving financial stability and transparency due to the aftermath of the financial crisis, GLEIF is tasked to support the implementation and use of the LEI. Even though the primary and initial usage and adoption of the LEI predominantly was in financial markets and financial instruments, the LEI is use agnostic and therefore has been embraced by different industry sectors and regulators since its introduction by the Regulatory Oversight Committee, in which the Department of Treasury is an active member, and the Financial Stability Board in 2012. Further details on the use of the LEI in regulatory initiatives is provided here. The LEI currently exists in 43 various U.S. laws and regulations, which includes rules created by the Department of Treasury, and globally the LEI exists in more than 280 regulations and policy recommendations.

Response to comment request; individual FinCEN Identifier application:

<u>The LEI in Client Onboarding and Know Your Customer</u>

GLEIF is working directly with financial institutions (FIs) with its Validation Agent operating model (VA) to issue LEIs for their clients, in cooperation with LEI Issuer organizations officially accredited by GLEIF, by leveraging their business as usual client identification procedures in Know Your Customer (KYC) and client onboarding processes. This model, triggering LEI growth beyond regulatory mandates, in particular in payments, would help to make the financial ecosystem more transparent and accessible for all parties. FIs have already begun utilizing the LEI within client onboarding, KYC and customer due diligence processes.

Beneficial ownership identification and verification is an essential component of the client KYC onboarding and remediation process. It is at the heart of international anti-money laundering (AML) sanctions, regulations and related monitoring and therefore the success of GLEIF's VA model will result in increased assignment of LEIs for entities covered by KYC processes. The focus of the final rule is 'shell companies', which when on-boarded by FIs to engage in financial transactions, would obtain LEIs. Therefore, GLEIF proposes that FinCEN consider leveraging the LEI for tracking purposes of reporting companies. Also, as FinCEN seeks to revise existing Customer Due Diligence Rules (CDD Rule) through future rulemakings, as mentioned within this proposed rule, the LEI should be considered.

Benefits of LEI inclusion for FinCEN

Information sharing across US law enforcement organizations as well as other nations' intelligence agencies is critical for ongoing surveillance. The LEI is an ISO standard as well as an adopted U.S. standard through the American National Standards Institute (ANSI). The Global LEI System meets all the requirements for international and national information sharing:

1. The identifier is based on an international open global standard.
2. The dentifier is truly globally unique.
3. The System produces open data.
4. The Data model and data quality measures are open and clear.
5. The System is governed by public entities and is not subject to private sector dominance.

By contrast, proprietary, non-public and non-standardized identification schemes limit data sharing as a result of their licensing agreements or internalized use cases. Moreover, proprietary identification schemes are expensive and can increase in spend when data sharing among multiple agencies increases. The use of multiple identification schemes, proprietary and non-open identifiers, hampers both national and global interoperability and increases opportunities for illicit behavior to occur. Leveraging the LEI, a global identifier, in information sharing could create a common language between different parties regardless of where they are located and increase the efficiency, speed and transparency of existing information sharing mechanisms. FinCEN should consider this before introducing a new identifier that will only create challenges with interoperability for financial institutions, U.S. financial regulators and international government agencies.

The LEI in regulation:

On December 23rd, 2022, Financial Data Transparency Act (FDTA) became law, with its inclusion as a title within the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023. The FDTA directs eight financial regulators, including the Treasury, to adopt standardized data reporting practices for information collected from regulated entities, and mandates the adoption of an open, non-proprietary legal entity identifier to allow for easy and consistent matching of filings from the same entity across different financial regulators. The adoption of open data standards through the FDTA will improve transparency and accountability for federal agencies and the public and can also accelerate policy innovation. GLEIF asserts that the LEI is the only legal entity identifier that fully meets the requirements specified in the FDTA. Currently, the FDTA is ten months into a two-year implementation phase which will culminate with a join-rulemaking from the financial regulators outlined in the new statute.

This month, the Bank for International Settlements' Committee on Payments and Market Infrastructures (CPMI) published the final report for the CPMI's harmonized ISO 20022 data requirements for the enhanced processing of cross-border payments. The consultation recognizes the LEI for identification of the legal identity of the entity responsible for a particular role in a payment transaction in addition to the Business Identifier Code (BIC) for the entity operationally responsible for executing a payment transaction. Additionally, for entities involved in payment messages, name and postal address may be substituted by the LEI. Further, the CPMI encourages the industry to operationalize these harmonization requirements by end-2027, to the extent possible. This allows for a two-year implementation period after the end of the ISO 20022 coexistence period with the previous payment financial messaging standard, currently scheduled for November 2025.

Also, this month, the Wolfsberg Group published their updated Payment Transparency Standards (the previous version dates from 2017). The revised Standards begin to identify how various capabilities within the ISO 20022 structure can be utilized to enhance payment transparency. These standards state that to the fullest extent permitted by the payment market infrastructure, the "debtor agent payment service provider (PSP) – order institutions/payer PSP" use the LEI or other equivalent reference codes to enhance the accuracy of identification information on relevant parties. Additionally, policies may set out where a unique identifier code such as the LEI is sufficient to identify the debtor without full name and address information. Wolfsberg's membership is made up of FIs, some of which are VAs, that are extremely familiar with the LEI.

These recent developments follow the transparent support offered by the FSB earlier this year the published the G20 Roadmap for Enhancing Cross-border Payments Priority actions for achieving the G20 targets, using established international standards in the payment financial messages that will be the source of AML, CFT and sanctions screening. The publication set the stage for future international initiatives, like the examples previously mentioned above. Most notably, national regulators and others, the role the LEI might play in assisting entities with due diligence for KYC (consistent with existing FATF Recommendations), as well as other use cases.

<u>In Conclusion:</u>

Recently, a collaboration between GLEIF and Open Ownership has resulted in LEIs being integrated into datasets produced in line with the beneficial ownership data for the first time. The goal of the collaboration is to promote greater transparency in corporate ownership and control in support of safer, faster, and more efficient payment activities globally and a more secure financial landscape. It does this by enhancing the usability of beneficial ownership data, by allowing Open Ownership's database to be mapped more easily to other datasets globally through use of the LEI. This announcement follows the recent the mapping of OpenCorporate identifiers and national business identifiers to LEIs.

Stephen Abbott Pugh, Head of Technology, Open Ownership, comments: "The lack of beneficial ownership data has been identified by the Financial Action Task Force (FATF) as a leading source of friction during anti-money laundering / counter-financing of terrorism checks in cross border payment processing. By building on the crucial mapping of OpenCorporates identifiers to the LEI and including this trusted international identifier alongside OpenCorporate identifiers and national identities within Open Ownership's database, we can disambiguate entities and extend the opportunities for any data user to connect our high-quality beneficial ownership data with other datasets from all over the world. This will improve the quality of available data and reduce friction when it comes to cross-border payments and contribute to a more transparent and secure financial landscape for all."

GLEIF remains at your disposal to further discuss and support FinCEN in your work.

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