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ESMA Consultation Paper: Draft technical standards on the Regulation (EU) xxxx/2012 of the European Parliament and the Council on short selling and certain aspects of credit default swaps (the “Paper”)

Dear Sir or Madam:

In response to the proposal for the use of a global identification number on legal entities (LEI) in Article 2, 1) and Table (1) of Annex 1 (Field identifier 2) of the Draft Regulatory Technical Standards, BVI¹ supports ESMA's planned approach on the identification of legal entities. BVI is pleased to note that ESMA's paper recognizes the importance of developing a globally accepted legal entity identifier (LEI). We strongly support ESMA's intention to use in the long run the standard for the identification of legal entities currently under discussion at the Financial Stability Board if and once agreed and operational.

We fully support the Financial Stability Board's (FSB) process currently underway to develop a recommendation on a global LEI standard to be delivered to the G20 at their June 2012 summit and are actively involved in the process through the Industry Advisory Panel. Consistent with its G20 man-

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¹ BVI Bundesverband Investment and Asset Management represents the interests of the German investment fund and asset management industry. Its 82 members currently handle assets of EUR 1.8 trillion in both investment funds and mandates. BVI's members directly and indirectly manage the capital of 50 million private clients in 21 million households. BVI's ID number in the EU register of interest representatives is 96816064173-47. For more information, please visit www.bvi.de.

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date, we are confident that the FSB process will deliver the necessary recommendations, including corporate governance, in a timely manner to move the LEI solution forward in line with the public interest. While we fully recognize and support FSB's work on a global LEI standard and its implementation, we respectfully would like to draw your attention to the efforts made by a group of Trade Associations which have made the following recommendations for the LEI Solution Providers, originally released in July 2011²:

- **Standards body** – The International Organization for Standardization, i.e., ISO's new standard, ISO 17442, is recommended for use as the new, authoritative legal entity identification standard. There is now a LEI test file available on the web³. The file contains provisional legal entity identifiers for over 2,600 entities that mirror the structure of the draft ISO 17442 LEI Standard and the core data attributes prescribed by the draft ISO standard. The test file may assist regulators and industry in their discussion on a global LEI standard.
- **Core Issuing and Facilities Manager** – The Depository Trust & Clearing Corporation (DTCC) and the Society for Worldwide Interbank Financial Telecommunications (SWIFT), along with DTCC's wholly-owned subsidiary AVOX Limited, are recommended as key partners to operate the core LEI utility as the central point for data collection, data maintenance, LEI assignment, and quality assurance.
- **Federated Registration** – ANNA, through its network of local national numbering agencies (NNAs), is recommended as a key partner in the solution for registering, validating and maintaining LEIs for issuers, obligors, and other relevant parties in their home markets. The NNAs are envisioned to serve as the "face" of the LEI Utility to those markets while leveraging the functionality of the centralized LEI Utility for the assignment, further validation and global distribution of LEIs.

² A summary of the background and status of the work of the industry on the implementation of a LEI solution is available at:

[http://www.gfma.org/uploadedFiles/Initiatives/Legal_Entity_Identifier_\(LEI\)](http://www.gfma.org/uploadedFiles/Initiatives/Legal_Entity_Identifier_(LEI))

³ [http://www.gfma.org/initiatives/legal-entity-identifier-\(lei\)/legal-entity-identifier-test-file-download/](http://www.gfma.org/initiatives/legal-entity-identifier-(lei)/legal-entity-identifier-test-file-download/)



The Trade Associations believe that the LEI standard as well as the issuance capability and management solution recommended by the industry can be implemented and be made available for use before January 2013, so that the EU and the other G20 countries can meet their G20 commitments. As this timeframe extends only slightly beyond November 2012 it should also be acceptable for the implementation of the reporting measures consulted by ESMA. Hopefully, this will allow ESMA to simply recommend the use of the global LEI standard in its final report and submission of draft technical standards to the EU Commission.

The use of the renamed ISO Business Identifier Code (BIC) (ISO 9363) by those legal entities which hold BIC as an intermediate measure until the availability of the LEI could then be avoided. If, however, the use of the BIC is still required as a precautionary measure, we suggest to provide for a 20 digit field identifier in the reports formats to be better able to accommodate the ISO LEI when available.

We appreciate the opportunity to comment on ESMA's consultation paper and would be happy to answer any questions about the LEI requirements or recommendations. Our response can be made available for publication.

Kind regards,

Rudolf Siebel, LL.M.

Marcus Mecklenburg