



February 13, 2015

European Securities and Markets Authority

Re: Consultation Paper Review of the technical standards on reporting under Article 9 of EMIR

{HYPERLINK "http://www.esma.europa.eu"}

Subject: Your input - Consultations

Responding to Q4 noted below in response to item 29 and item in Annex Table 1 referred to as 'Counterparty Details to be reported to trade repositories', both also noted below

Q4: Do you think the adaptations illustrated in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

29. To avoid any misuse of Interim Entity Identifier, BIC or Client codes, ESMA assessed the necessity of allowing all of those code types in all relevant fields. According to the assessment, in certain instances, a private individual could not be identified in a particular field and therefore it is proposed to delete the possibility of using a client code in that field. As LEIs, fulfilling the ROC principles and the ISO 17442 standard are already in place, there is no need to provide the possibility of using less robust identifiers like BICs or Interim Entity Identifiers any longer and therefore these are proposed to be deleted as well.

Annex

Details to be reported to trade repositories

Table 1

Counterparty Data

12 - Beneficiary ID - The party subject to the rights and obligations arising from the contract. Where the transaction is executed via a structure, such as a trust or fund, representing a number of beneficiaries, the beneficiary should be identified as that structure. If the beneficiary of the contract is not a counterparty to this contract, the reporting counterparty has to identify this beneficiary by a unique code or, in case of a private individuals, by a client code used in a consistent manner as assigned by the legal entity used by the private individual.

We note that the LEI 'adaptations' as cited in item 29 relies on the use of LEIs as currently issued that are being used exclusively in swaps data reporting. They are to be embedded in financial transactions reported to trade repositories where it is intended that they be useful not only in unique identification of counterparties and other financial intermediaries in the swaps trade life cycle, but also for risk data aggregation for purposes of understanding beneficiary and/or parent risk exposures. This is evident in the absence of an ability to aggregate data by counterparty across multiple trade repositories currently and will certainly become even more problematic when attempting to aggregate counterparty data for systemic risk analysis across multiple markets across sovereign jurisdictions.

As is such intentions, the Global LEI System (GLEIS) is still a work in progress. Its architects have yet to determine methods of constructing hierarchies of ownership and/or control; how corporate events that change the control structure and hence the risk exposure of each LEI in a group of LEIs under common control can be affected across a globally disbursed set of LEI registries; when will a global register of consolidated LEIs be made available from the 30 separate registers that now exist globally (presumably there will be many more when the GLEIS is fully enabled); how and when will a global 'virtual' register as prescribed in the enabling LEI recommendations accepted by the Financial Stability Board (FSB) be made available; and how will either the interim central data base or the final virtual data base meet quality, timeliness, latency, volume and availability requirements yet to be set to keep pace with financial transactions that are entered into and completed in real-time.

It is therefore important to consider that the terms 'pre-LEI' and 'interim-GLEIS' are the operative terms issued by the ROC to describe the current transitional state of the GLEIS. Notwithstanding that on Jan. 28, 2015 in their annual progress report they stated

The members of the ROC, representing more than 60 public authorities in over 40 jurisdictions, are agreed that with the Foundation in place, those identifiers are now full-fledged LEIs and not anymore called "pre-LEIs".

there is much more to be done to go from an 'interim-GLEIS' to the final operational GLEIS. As such there is no assurances that upon adaptations to further market segments - corporate security issuers; national and provincial government debt issuers; all manner of collective investment vehicles; trusts and special investment vehicles; etc. that changes would not be made in the construction of the LEI code itself. Today the code is not useful for data aggregation in trade repositories, although it could be if, for example a registering parent was embedded in the code itself.

Further, given the largest of financial institutions, designated as systemically important (SIFIs), are known to have thousands of legal entities, many not yet registered, they could be offered a different status for registering their LEIs, in keeping with other global identification regimes. For instance both large Internet participants and commercial trade supply participants are allowed to register their own unique identifiers (the multiple unique email accounts associated with a corporations unique domain name) and the multiple product codes associated with a unique company prefix in the barcode).

Another EU entity, the European Insurance and Occupational Pension Association (EIOPA) has recently opined on the LEI but expressed prudence in endorsing the LEI unequivocally - EIOPA, Final Report on

Public Consultation No. 14_037 on the Proposal for Guidelines on the use of the Legal Entity Identifier (LEI), Oct. 20, 2014, {HYPERLINK "<https://eiopa.europa.eu/publications/eiopa-guidelines/guidelines-on-the-use-of-the-legal-entity-identifier/index.html>"}

"The use of the terminology LEI and/or pre-LEI: It is highlighted that LEI codes do not yet technically exist. Currently all LEIs are pre-LEIs until the Central Operating Unit sanctions them."

"The transition to full GLEIF management will occur over the next year. Following this transition all codes will no longer be interim. Until the formal transition the Guidelines apply to pre-LEI..."

"The Global LEI System (GLEIS) is not yet fully operational but a number of entities, sponsored by national authorities, have already started to issue LEI- like identifiers (pre-LEIs) in order to satisfy local reporting requirements.

These Pre-LEI codes will become the LEI codes, when the system is fully operating. These Guidelines are applicable to the Pre-LEI stage accordingly."

"While the GLEIS is still being formed, some regulators have already begun to require market participants to have LEIs. These are being issued by so called "pre-LOUs. These pre-LEIs codes match the format of the LEI, and can work as basic identifiers till the regular GLEIS is fully operating."

We believe in the goals of the LEI, in fact, we were one of its most significant proponents even before the financial crisis gave recognition to the issue of lack of global standards for financial supply chain participants and the contracts and instruments that they own, process and trade. The GLEIS is not yet fully operational, to provide an unqualified endorsement to the existing LEIs when so much is yet to be done would not, in our opinion, be prudent.

Respectfully,



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