Reply form

**on** **the first Consultation Paper for MiCA implementation**

Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1 . Comments are most helpful if they:

* respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all comments received by **20 September 2023.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘*Your input - Consultations’*.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

• Insert your responses to the questions in the Consultation Paper in this reply form.

• Please do not remove tags of the type < ESMA\_QUESTION\_MICA\_0>. Your response to each question has to be framed by the two tags corresponding to the question.

• If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.

• When you have drafted your responses, save the reply form according to the following convention: ESMA\_CP1\_MiCA \_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP1\_MiCA \_ABCD.

• Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at *www.esma.europa.eu* under the heading *‘Your input - Consultations’.*

Publication of responses

All contributions received will be published following the close of the consultation unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’.

Who should read this paper?

All interested stakeholders are invited to respond to this consultation paper. In particular, ESMA invites crypto-assets issuers, crypto-asset service providers and financial entities dealing with crypto-assets as well as all stakeholders that have an interest in crypto-assets.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Global Legal Entity Identifier Foundation |
| Activity | Non-Governmental Association |
| Are you representing an association? |  |
| Country / Region | Switzerland |

# Introduction

Q0: Please make your introductory comments below, if any:

<ESMA\_QUESTION\_MICA\_0>

The Global Legal Entity Identifier Foundation (GLEIF) welcomes the opportunity to provide feedback to the European Securities and Markets Authority’s (ESMA) first consultation package on the guidelines applicable under the new Markets in Crypto Assets (MiCA) Regulation.

As is the case in other sectors in financial services, standardising counterparties’ identities through the Legal Entity Identifier (LEI) helps play an important role in mitigating market risks and increasing the credibility of due diligence checks.

GLEIF therefore wishes to express support to the ongoing technical work by ESMA on the technical standards under MiCA, and more concretely on the introduction of the LEI in the standard templates to be used for the CASP authorization process. Similarly, GLEIF welcomes ESMA’s approach which would require holding companies seeking to acquire a CASP to disclose the related LEIs.

As a unique, universal, and readily available identifier, the ISO 17442 LEI increases the transparency of such authorization processes by ensuring the secure and effective identification of legal entities as well as their respective holdings and subsidiaries. Furthermore, the LEI is contributing to a more efficient risk-management framework by allowing for a credible process of knowing ‘who is who’ in this digital market. Lastly, the LEI is a foundational standard that facilitates the data-sharing and advanced analytics needed for financial institutions, central banks, supervisory and other public authorities to address AML challenges. As such enabling the clear identification within the CASP authorization process advances the fight against financial crime ([see Project Aurora – the power of data, technology and collaboration to combat money laundering across institutions and borders, June 2023](https://www.bis.org/about/bisih/topics/fmis/aurora.htm)).

<ESMA\_QUESTION\_MICA\_0>

# Questions

Q1: Do you think that anything is missing from the draft RTS and ITS on the notification by certain financial entities to provide crypto-asset services referred to in Articles 60(13) and 60(14) of MiCA?

<ESMA\_QUESTION\_MICA\_0>

No comments

<ESMA\_QUESTION\_MICA\_0>

Q2: Do you agree with the list of information to be provided with an application for authorisation as a crypto-asset service provider? Please also state the reasons for your answer.:

<ESMA\_QUESTION\_MICA\_0>

The cross-border nature of the digital asset market implies that supervisors and regulators should resort to universally accepted tools when deciding whether to allow new players to join the market. As highlighted in the opening remarks, the use of the LEI for application for authorisation has the potential to increase market transparency by providing supervisors with a safe and credible means of identifying potential market players.

As a next step, GLEIF recommends:

1. introducing minor clarifications to the information provided to ensure entities are sure that the LEI refers to the ISO 17442 standard. Such step would in turn reduce potential ambiguities and administrative hurdles.
2. eliminating the data elements that are duplicative with the LEI reference data – specifically legal name, legal form, and national identification number. This will reduce regulatory reporting burden and fully leverage the globally standardized reference data associated with the LEI. For example, the entity legal form noted in the LEI record conforms to the ISO standard 20275 ‘[Financial Services – Entity Legal Forms (ELF)](https://www.gleif.org/en/about-lei/code-lists/iso-20275-entity-legal-forms-code-list)’. And the national authority providing the national identification number is a standardized code from the [Registration Authorities List](https://www.gleif.org/en/about-lei/code-lists/gleif-registration-authorities-list).
3. adding a statement that the LEI must be conforming to [Regulatory Oversight Committee policy](https://www.leiroc.org/) (ROC). The ROC was established in November 2012 to coordinate and oversee the Global LEI System. The ROC is composed of more than 65 financial markets regulators and other public authorities including ESMA. The inclusion of this statement is a necessary step to ensure the LEI is leveraged in the most efficient manner, most notably by ensuring that the refence data included is regularly updated.

<ESMA\_QUESTION\_MICA\_0>

Q3: Do you agree with ESMA’s proposals on standard forms, templates and procedures for the information to be included in the application for authorisation as a crypto-asset service provider? Please also state the reasons for your answer.

<ESMA\_QUESTION\_MICA\_0>

GLEIF supports ESMA’s proposed RTS whereby entities would have to disclose an LEI as part of the application for authorisation process.

The potential benefits of using the ISO 17442 LEI in such procedures are twofold. Firstly, it provides competent supervisors with an already existing standard to correctly identify applicant entities. Secondly, it could reduce administrative burdens on applicant businesses by providing them with a global and readily available means to verify their identity.

From a supervisory perspective, GLEIF wishes to point out that the LEI is included in the standard forms used by entities wishing to issue, purchase or sell financial instruments, as stipulated under the Markets in Financial Instruments regulation (MiFIR). Such example highlights how the LEI can be a driver of market transparency without increasing hurdles on enforceability.

<ESMA\_QUESTION\_MICA\_0>

Q4: Do you agree with ESMA’s proposals to specify the requirements, templates and procedures for the handling of client complaints by crypto-asset service providers? Please also state the reasons for your answer.

<ESMA\_QUESTION\_MICA\_0>

No comments

<ESMA\_QUESTION\_MICA\_0>

Q5: Do you think that it is useful to keep the possibility for clients of CASPs to file their complaints by post, in addition to electronic means?

<ESMA\_QUESTION\_MICA\_0>

No comments

<ESMA\_QUESTION\_MICA\_0>

Q6: Do you think that other types of specific circumstances, relationships or affiliations should be covered by Articles 1 and 2 of the draft RTS on the identification, prevention, management and disclosure of conflicts of interest by crypto-asset service providers?

<ESMA\_QUESTION\_MICA\_0>

No comments

<ESMA\_QUESTION\_MICA\_0>

Q7: Do you think that other types of specific prevention or mitigation measures should be highlighted in the minimum requirements of Article 3 of the draft RTS on the identification, prevention, management and disclosure of conflicts of interest by crypto-asset service providers?

<ESMA\_QUESTION\_MICA\_0>

No comments

<ESMA\_QUESTION\_MICA\_0>

Q8: Do you agree with the information request laid down in Article 1 and with the granularity envisaged for the information to be provided by proposed acquirers that are trusts, AIF or UCITS management companies or sovereign wealth funds?

<ESMA\_QUESTION\_MICA\_0>

No comments

<ESMA\_QUESTION\_MICA\_0>

Q9: Do you agree with the proportionate approach to the request of information to be submitted by proposed indirect acquirers of qualifying holdings based on whether they are identified via the control or the multiplication criterion?

<ESMA\_QUESTION\_MICA\_0>

No comments

<ESMA\_QUESTION\_MICA\_0>

Q10: Do you consider the list of information under Article 8 complete and comprehensive to assess the financing of the acquisition, in particular as regards funding originated in the crypto ecosystem?

<ESMA\_QUESTION\_MICA\_0>

No comments

<ESMA\_QUESTION\_MICA\_0>

Q11: Do you agree with the identified cases where reduced information requirements apply and with the related requirements and safeguards?

<ESMA\_QUESTION\_MICA\_0>

No comments

<ESMA\_QUESTION\_MICA\_0>

Q12: In which EU jurisdiction(s) do you plan to be authorised to provide CASP services? In which EU jurisdiction(s) do you plan to provide CASP services under cross-border provision of crypto-asset services as specified in Article 65 of Regulation (EU) 2023/1114?

<ESMA\_QUESTION\_MICA\_0>

No comments

<ESMA\_QUESTION\_MICA\_0>

Q13: What crypto asset services as listed in point 16 of Article 3(1) of Regulation (EU) 2023/1114 do you plan to offer (e.g. reception/transmission of orders; execution of orders on behalf of clients; operation of a trading platform etc.)? In addition, please provide some high-level explanation of the business model, including, what type of trading systems do you plan to use.

<ESMA\_QUESTION\_MICA\_0>

No comments

<ESMA\_QUESTION\_MICA\_0>

Q14: If you are planning to operate a trading platform:

<ESMA\_QUESTION\_MICA\_0>

No

<ESMA\_QUESTION\_MICA\_0>

(a) How many white papers do you estimate to publish on you platform?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

(b) What turnover, in terms of crypto-assets trading volume, do you expect to attract on your platform according to your business forecasts for the upcoming years?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

(c) Do you plan to undertake transactions on the basis of an on-chain ledger or an off-chain one?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

i. In case of the former, which type of DLT are you planning to use (e.g. Ethereum, Corda, Stellar etc.)? Do you plan to store transaction data on-chain or off-chain or a mix of the two?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

ii. If the latter, how would you link on-chain and off-chain transaction data?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

Q15: If you are planning to execute/place orders on behalf of clients:

<ESMA\_QUESTION\_MICA\_0>

No

<ESMA\_QUESTION\_MICA\_0>

(a) How many white papers do you estimate to offer to your clients for execution/order placement?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

(b) What is the expected turnover (i.e. revenues) according to your business forecasts for the upcoming years?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

(c) Do you plan to undertake transactions on the basis of an on-chain ledger or an off-chain one?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

i. In case of the former, is transaction data stored on-chain or off-chain or a mixed of the two?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

ii: If the latter, how do you link on-chain and off-chain transaction data?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

Q16: If you are planning to receive and transmit orders:

<ESMA\_QUESTION\_MICA\_0>

No

<ESMA\_QUESTION\_MICA\_0>

(a) How many white papers do you estimate to offer to your clients for order transmission?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

(b) What is the expected turnover (i.e. revenues) according to your business forecasts for the upcoming years?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

(c) Which are the main platforms/brokers you are intending to transmit orders to?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

(d) In which jurisdictions are these platforms/brokers based?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>

(e) How do you plan to keep track of the transmitted orders?

<ESMA\_QUESTION\_MICA\_0>

N/a

<ESMA\_QUESTION\_MICA\_0>