

Legal Entity Identifier

OPSG

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What is a Legal Entity Identifier LEI ?

- * A Legal Entity Identifier (LEI) is a globally standardized 20-digit alpha numeric code that will be assigned to all entities participating in the global financial markets.
- * Aims to enable a clear and unique identification of entities and their activities worldwide.
- * Currently supervisory authorities use identification codes issued by various business registers maintained at national levels.

The origin of LEI

- * In 2011, the G20 asked the Financial Stability Board (FSB) to lead the coordination of international regulatory work with a view to achieving a unique, worldwide identification of parties to financial transactions.
- * In 2012, the FSB developed 35 'Recommendations for the Development and Implementation of the Global LEI System (GLEIS)', which were endorsed by the G20.
- * In July 2012 EMIR adopted. Includes in Article 9 the reporting obligation of OTC derivative transactions to a trade depositary. The reporting obligation started on 12 February 2014.
- * Solvency II also includes a reporting obligation for some insurance and reinsurance companies

LEI timeline and implementation

- * **EIOPA's expected timeline**

- * 29 June 2014 - publish the Guidelines for Public Consultation
- * 29 August 2014 - end of Public Consultation
- * 14 September 2014 - summary of the Public Consultation's responses
- * 28 September 2014 - BoS meeting: BoS approval of the Guidelines
- * 29 October 2014 - official publication (all translated versions)
- * 29 December 2014 - end of Comply or Explain procedure; Guidelines in force
- * 30 June 2015 -Deadline for entities within the threshold defined in Solvency II to request a LEI
- * 30 June 2016 - Deadline for all other institutions (including IORPs and small insurance companies) to request a LEI
- * Some MS's have already started the implementation of LEI

Content of the Guidelines

- * National competent authorities (NCA's) shall request all institutions under their supervisory remit to obtain a code issued by a Local Operating Unit (LOU).
- * EIOPA requests NCA's to provide instructions on the use of the LEI to the entities they supervise.
- * NCAs will have to use the LEI codes when they provide data to EIOPA.

Observations

Timeline

- * A consultation on these guidelines published on 29 June 2014.
- * IORPs will need to have (and use) a LEI by 30 June 2016 at the latest.

Observations

Format

- * No legal obligation established in EU legislation imposing the Member States the obligation to request their supervised entities to use the LEI.
- * Only indirectly through EMIR (through the reporting obligation of OTC derivatives, but which does not specify the need to use a LEI) and Solvency II (only for entities above a certain threshold).
- * The format of Guidelines is therefore controversial. Members States are not legally obliged to comply with EIOPA's Guidelines, but on the other hand if they don't implement them they will have to explain why they didn't do so and they will be reported as non-compliant.

Observations

- * Introduction 1.8. "If not defined in these Guidelines, the terms have the meaning defined in the legal acts referred to in the introduction."
-> No legal acts referred to in the introduction.
- * Article 16: *The Authority shall, with a **view to establishing consistent, efficient and effective supervisory practices within the ESFS, and to ensuring the common, uniform and consistent application of Union law**, issue guidelines and recommendations addressed to competent authorities or financial institutions.*
-> No legal basis in Union law for the LEI.
- * Article 16 (2): 3. The **competent authorities and financial institutions shall make every effort to comply with those guidelines** and recommendations. **Within 2 months** of the issuance of a guideline or recommendation, **each competent authority shall confirm whether it complies or intends to comply with that guideline** or recommendation. In the event that a competent authority does not comply or does not intend to comply, it shall inform the Authority, stating its reasons.

Observations

Scope

- * The G20 focused on the use of the LEI when reporting financial transactions. EIOPA's guidelines invites NCA's to request all the institutions under their supervisory remit to obtain a LEI.
- * What if an IORP participates in the financial markets only through asset managers?
- * The guidelines say that entities will have to use the LEI when "fulfilling their reporting obligations". Which ones? Will IORPs only need to use the LEI when participating in the financial markets or also when reporting other type of information?

Observations

Benefits and costs

- * The LEI will facilitate the gathering of data by the competent authorities.
- * Supervisory authorities (national and EU) will have a better understanding of the markets, and they will be in a better position to fulfill their supervisory obligations.
- * Registration and annual fees for LEI codes (+- 100 Euros)