

LEGAL ENTITY IDENTIFIER (LEI) UPDATE

LEIs were introduced following the global financial crisis of 2008, so that all participants in the financial system would be easily identifiable in order to facilitate assessment and monitoring of financial stability.

In January 2013, the Global LEI System (GLEIS) was launched by the Financial Stability Board after being tasked by the G-20 with creating a global public interest system of legal identifiers ¹for counterparties to financial transactions in order to, *inter alia*:

- meet the G-20 objectives of improved transparency, mitigation of systemic risk and protection against market abuse;
- assist regulatory authorities in conducting market surveillance and enforcement, supervision of market participants and resolution activities and in preparing high quality financial data for regulatory purposes;
- facilitate OTC derivatives central reporting to trade repositories by market participants;
- support improved risk management, increased operational efficiency, the more accurate calculation of exposures.

The GLEIS comprises a three-tier federated structure made up of –

- An upper-level regulatory oversight body, the Regulatory Oversight Committee (“ROC”) designed to oversee the system (<http://www.leiroc.org/>);

¹ A LEI is a 20-digit, alpha-numeric code that uniquely identifies entities when entering into financial transactions both locally and abroad. The following method is to be used:

- Characters 1-4: A four character prefix allocated uniquely to each LOU.
- Characters 5-6: Two reserved characters set to zero.
- Characters 7-18: Entity-specific part of the code generated and assigned by LOUs according to transparent, sound and robust allocation policies.
- Characters 19-20: Two check digits as described in the ISO 17442 standard

The following set of reference data attributes are regarded as the minimum set of information that should be available at the launch of the LEI as specified in ISO 17442:2012:

1. The official name of the legal entity;
2. The address of the headquarters of the legal entity;
3. The address of legal formation;
4. The date of the first LEI assignment;
5. The date of last update of the LEI;
6. The date of expiry, if applicable;
7. For entities with a date of expiry, the reason for the expiry should be recorded, and if applicable, the LEI of the entity that acquired the expired entity;
8. The official business registry where the foundation of the legal entity is mandated to be recorded on formation of the entity, where applicable;
9. The reference in the official business registry to the registered entity, where applicable

- A middle-level Central Operating Unit governed by a foundation, the Global LEI Foundation (“GLEIF”) that operationally co-ordinates the system; and
- A lower-level of registrars, called Local Operating Units (“LOUs”) that assign LEIs.

From 7 October 2015, new institutions that wished to become LEI issuers needed to be accredited by the GLEIF. The GLEIF assumed this responsibility following accreditation following the conclusion of a Memorandum of Understanding between the GLEIF and the ROC. Prior to that date, the ROC was responsible for endorsing organisations as LEI issuers. Existing LEI issuers, previously endorsed by the ROC, are referred to as ‘pre-LOUs’.

Each LEI issuer endorsed by the ROC is required to apply to become GLEIF accredited. They are subject to the same evaluation criteria as any new organisation seeking accreditation. Only GLEIF accredited organisations will be authorised to issue LEIs.

Organisations currently operating based on ROC endorsement will continue issuing LEIs while they undergo the GLEIF accreditation process. All LEIs issued remain valid regardless whether the issuer succeeds in becoming GLEIF accredited or not. In the event that an organisation currently issuing LEIs should fail to meet the requirements of the GLEIF accreditation, the LEIs already issued by that organisation would be transferred to a GLEIF accredited issuer.

SA DEVELOPMENTS

The FSB serves on the LEI ROC Plenary and Executive Committee and acted as a Sponsoring Authority, (in the interim before the establishment of the GLEIF) responsible for the submission of applications by pre-LOUs to the ROC and provided confirmation to the ROC that all pre-LOU endorsement requirements have been complied with, both at the time of the application and on an on-going basis.

The following developments should be noted with regards to the implementation of LEI’s in South Africa:

- On 18 December 2015 the ROC endorsed Strate (Pty) Ltd (Strate) as a pre-Local Operating Unit (pre-LOU). As of the date of this endorsement, all certified codes issued by Strate are globally recognised by the ROC for reporting purposes.
- Strate (as a pre- LOU) went live with the LEI application program in February 2016. Whilst Strate is currently in the process of being accredited as a Local Operating Unit (LOU) by the GLEIF, they are continuing to issue LEI’s which are globally recognised.

- In South Africa the use of LEI's by OTC Derivatives Providers to report transactions to a Trade Repository will be mandatory once the draft OTC Regulations come into effect.

EUROPEAN UNION (EU) REGULATIONS

The use of LEIs is already required or recommended under a number of the European Union regulations, in particular:

- European Markets Infrastructure Regulation (EMIR) - as from 1 November 2017 the EU trade repositories are mandated to reject trade reports that do not contain an LEI (irrespective of whether they pertain to the EU or non-EU market participants),
- Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR) - With effect from 3rd January 2018, the implementation date of the Markets in Financial Instruments Directive (MiFID II), reporting entities must identify each and every client using their LEI identifying code. Firms subject to MiFID II reporting obligations will not be able to trade on behalf of a client or with a counterparty, either within the EU or globally, who is eligible for a LEI code and does not have one.
- Market Abuse Regulation (MAR),
- Capital Requirements Regulation (CRR), and
- Central Securities Depositories Regulation (CSDR),
- Transparency Directive

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