



Survey on legal entity identifiers

Fields marked with * are mandatory.

Background

This survey is addressed to financial market participants subject to one or multiple European regimes as well as towards entities such as Crypto Asset Service Providers which will be subject to record keeping requirements under the Markets in Crypto Assets Regulation (MiCA).

This survey is intended to gather their preferences and information regarding their use of legal identifiers in transaction reporting and record keeping obligations.

In light of ongoing discussions (see below) around introducing optionality regarding the legal identifiers to be used to identify legal entities, ESMA is consulting the industry on how the optionality of legal identifiers would impact market participants were it to be introduced in future reporting regimes or in the review of existing reporting regimes.

Obligations to identify financial market participants with an LEI in EU law

The financial sector depends heavily on accurately identifying parties involved in financial transactions. This is crucial for supervisors to monitor market functioning effectively and to foster investor confidence. Over a decade ago, following the first regulatory reforms prompted by the global financial crisis, financial regulators have been guiding market participants towards compliance with the [Legal Entity Identifier](#) requirement.

Why was LEI mandated for both financial and non-financial participants? Post-financial crisis, financial markets supervisors have seen a significant increase in the volumes and types of data reported to them. In order for these reporting obligations to be meaningful, supervisors have built sophisticated systems to process and interpret the data received with machines. This has improved their ability to monitor the integrity of markets. Misconducts in financial markets can be carried out by financial and non-financial entities. While financial entities act as intermediaries and facilitate access to the markets to the non-financial entities, non-financial entities are the ones who would typically engage in financial transactions to invest, issue financial instruments to raise funds or support financial institutions with ICT services.

The use of a standard, universal, alphanumeric reference code to identify any of these entities is essential for supervisors to be able to bring together all pieces of market activities and thus effectively supervise them with data. Indeed, a single firm can be identified by names or codes having variations which an

automated system may interpret as references to different firms. For example, if the firm J.P. Morgan is variously identified in data as “Morgan”, “JP Morgan”, “J.P.Morgan”, “JPM” or “J.P. Morgan”, an automated system may not interpret all such data as being attributed to the same legal entity and aggregation of data concerning the firm may thus be difficult or impossible. The potential for misattribution would only increase as the number of potential group members increases in a desired output (See section 4.5 of [CPMI-IOSCO report](#) on data aggregation for more details).

Who needs LEIs? Parties to financial transactions include companies, associations, foundations, partnerships, and individuals acting as sole proprietors. Notably, the [existing reporting requirements](#) extend beyond financial entities to encompass non-financial entities such as issuers and buyers or sellers of financial instruments. It required considerable time and effort for financial institutions to integrate the proactive acquisition of LEIs into their clients onboarding processes.

What are the obligations for financial entities when collecting identifiers? In order to achieve meaningful data driven supervision, financial supervisors expect to receive a correct and valid identifier code that pertains to the entity concerned. This means that reporting entities should be in a position to validate the format of the code as well as its assignment to the entity concerned against the official source of information. The LEI can be easily validated against a central database of standardized information that is maintained in accordance with strict data quality protocols by the [Global Entity Identifier Foundation](#).

The approach taken for the identification of clients eligible for LEIs under the [Markets in Financial Instruments Directive II \(MiFID II\)](#) goes even further due to the more robust level 1 legal basis in the [Markets in Financial Instruments Regulation \(MiFIR\)](#) Article 26. The reporting rules under RTS 22 include the obligation for all clients of EU investment firms to have an LEI. This has become known as the “no-LEI-no-TRADE” rule which prohibits EU firms to act on the instructions of a client who does not have an LEI. This means that the LEI code becomes a precondition for clients wishing to access the EU markets. The approach adopted by ESMA for clients of investment firms under MiFIR is fully supported by the [ESRB Recommendation \(ESRB/2020/12\)](#) which recommends EU regulators to adopt it also in other regulatory areas to further increase the use of LEI.

ESMA mandates in DORA and MiCA

ESMA, through Joint Committee with the other ESAs, is mandated by Article 28(9) of the [Digital Resilience Operational Act \(DORA\)](#) to develop draft Implementing Technical Standards to establish the standard templates for the purposes of the register of information in relation to all contractual arrangements on the use of information and communication technology (ICT) services provided by ICT third-party service providers referred to in Article 28(3) of DORA.

Part of the information to be defined through this draft implementing technical standard includes the identification of financial entities' ICT third-party service providers and the identification of subcontractors that effectively underpin ICT services supporting critical or important functions or material part thereof of financial entities.

ESMA is mandated by Article 68(10) of the [Markets in Crypto Assets Regulation \(MiCA\)](#) to develop draft Regulatory Technical Standards to further specify the records to be kept of all crypto-asset services, activities, orders and transactions undertaken referred to in Article 68(9) of MiCA.

Part of the information to be defined through this draft Regulatory Technical Standard includes the

identification of clients that are legal entities and of crypto-asset service providers undertaking orders and transactions.

LEI in DORA and MiCA

In line with the [G20/FSB](#) and [ESRB](#) recommendations, which advocate for the use of the LEI to identify all parties involved in financial transactions, ESMA has proposed to mandate the LEI in the following Technical Standards:

- The DORA [Draft Implementing Technical Standards to establish the templates for the register of information](#) mandates the use of Legal Entity Identifiers (LEIs) to identify ICT Third Party Providers (TPPs).
- The MiCA [Draft Regulatory Technical Standards on record keeping](#) mandates the use of LEIs to identify buyers/sellers engaging in transactions in crypto assets. These could be client of Crypto Assets Service Providers (CASPs), or members of trading platforms operated by CASPs.

While for DORA the data must be submitted to a central register maintained by the ESAs, for MiCA, the data will be requested by NCAs as part of their supervisory activities.

Both proposals were consulted with the industry. As a large majority of the respondents supported ESMA's proposal for MiCA (including sectoral associations commenting on the clear necessity of solid Know Your Client processes for CASPs and the importance of leveraging on existing regulatory frameworks) and no alternative was suggested during the consultation, the proposals were retained. For further details please refer to the [Final Report on Draft Technical Standards specifying certain requirements of the Markets in Crypto Assets Regulation \(MiCA\) – second package](#).

When conducting its review of the above-mentioned draft Technical Standards, EC have raised concerns on mandating the use of the LEI for non-financial entities and requested, for EU entities that are not financial entities, to introduce optionality, i.e., giving non-financial companies the choice of using either LEI or the European Union Identifier (EUID).

Alternative Legal Identifiers

To incorporate the concerns of the European Commission highlighted above, optionality has been introduced with regards to the legal identifiers to be used to identify buyers/sellers engaging in transactions in crypto assets in the MiCA Draft Regulatory Technical Standards on record keeping.

Concretely, ESMA replaced the initial approach with a 'waterfall' approach to identification of the parties involved in transactions. This approach sets the LEI as the default identifier for legal persons, but also allows for the use of alternative identifiers where an entity does not have an LEI.

Alternative identifiers will have to be defined at Union level and meet all of the following criteria, which are explained in details in the [ESAs opinion on DORA register](#):

1. unique;
2. is neutral;
3. is reliable;
4. is open source;

5. is scalable;
6. is accessible;
7. is available for free or at a reasonable cost;
8. is subject to governance framework

As a potential alternative identifier for non-financial legal entities, in the context of DORA, [the European Commission](#) advocated for the use of the EUID. Please note that the EUID has not been assessed by ESMA members as an alternative identifier per the above criteria.

The EUID, or 'European Unique Identifier', is a code valid throughout the European Union, which allows for the identification of companies operating in the Member States.

The EUID has been developed according to ISO 6523 to identify companies and branches for the purpose of exchanging information between national registers via the [Business Register Interconnection System \(BRIS\)](#) established under Article 22 of the Codified Company Law Directive (EU) 2017/1132 and managed by the European Commission itself (DG JUST).

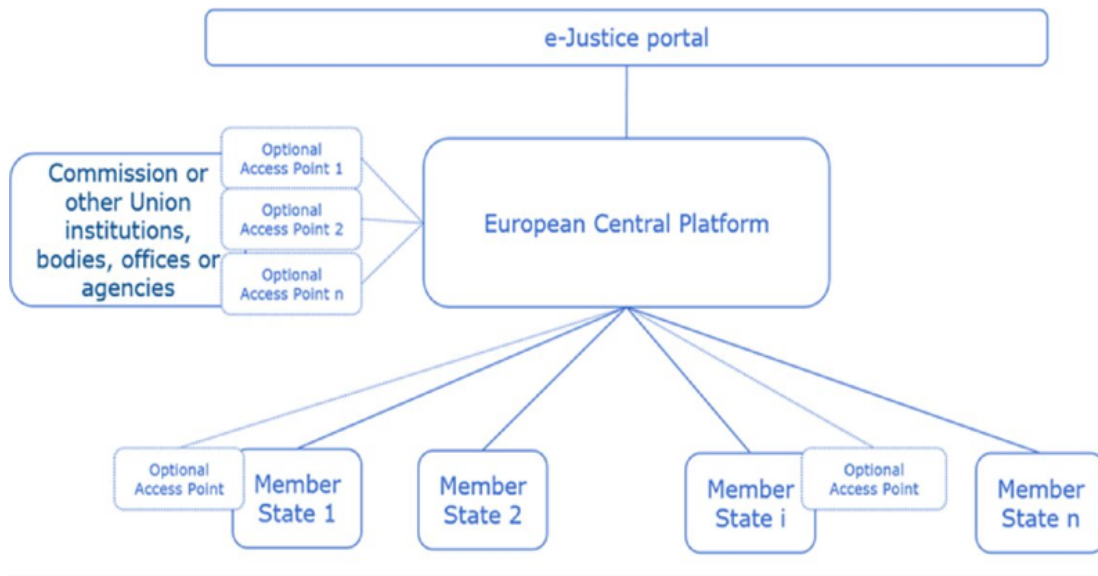
The EUID is not part of the data typically handled by financial entities, it does not contain the same level of information as the LEI (e.g. on the group structure), and it does not allow the same data validation possibilities as the LEI for all actors in the reporting chain.

Indeed, whereas LEI data can be validated against a golden copy provided by the Global Legal Entity Identifier Foundation (GLEIF) in a downloadable and machine-readable manner, with a known reference date, thus ensuring an automated access to a single source of truth for data quality checks, the EUID verification checks can only be performed through manual one-by-one checks against BRIS in order to verify the identity of clients/participants.

This is because BRIS is not a database but an interconnection system between different databases (see Image 1 below).

As a result, the EUID reference data can only be individually queried by market participants through the [BRIS search portal](#) and it is not possible to download a golden copy of the reference data pertaining to all entities with a EUID. Nevertheless, to comply with the obligation to report accurate information, the reporting entities should be in a position to validate the format of the code as well as its assignment to the entity concerned against BRIS.

Image 1: Description of the functioning of the Business Register Interconnection System (BRIS)



In the next section, you will find 9 questions (along with their respective sub-questions if relevant) regarding your preferences and your use of legal identifiers.

The estimated time to complete the survey is 5-10 minutes.

Questions

RESPONDENT INFORMATION

* Entity represented

Deutsche Börse Group

* Country of entity

Germany

* Name and surname

Dusan Ristic

* Email

dusan.ristic@deutsche-boerse.com

* 1. Is your entity subject to any European reporting regime?

- Yes
 No

1a. If yes, under which reporting regime is your entity involved ?

- EMIR Reporting

- MIFIR Reporting
- SFTR Reporting
- Other

* 2. Have you already geared your systems towards reporting specific legal identifiers ?

- Yes
- No

2a. If yes, towards reporting which legal identifiers have you geared your systems?

- LEI
- Other

2b. If yes, at which cost (EUR estimate) have you geared your systems towards reporting specific legal identifier(s)?

2c. Are your estimates based on obtaining and verifying clients'/participants' LEIs?

2d. If yes, what would be the costs of having to change these systems to also be retrieve other alternative legal identifiers from some clients/participants and verify their other alternative legal identifiers ?

* 3. Have you already considered setting up processes to obtain an ISO 17442 LEI code to identify your clients or members of your platforms?

- Yes
- No

* 4. Have you considered the validation agent options offered by GLEIF to obtain and maintain LEIs for your clients/participants ?

<https://www.gleif.org/en/lei-solutions/validation-agents>

- Yes
- No

* 5. Is your entity subject to the record keeping requirements under MICA (Articles 68 and 76) ?

- Yes
- No

5a. If yes, do you have any estimates of the number of expected clients/participants ?

- Yes
- No

5b. Do you have estimates of the number of new clients/platform participants that might need to provide an identification code ?

- Yes
- No

* 6. How would you plan to retrieve and validate the EUID code provided by your clients or other non-financial entities? For information on the functioning of the EUID, please refer to the description of the EUID and relevant explanatory website linked in background section.

This cannot be assessed yet and warrants further evaluation.

* 7. Do you believe that the EUID meets the criteria to be used in the definition of "alternative identifiers"? For information on the functioning of the EUID, please refer to the description of the EUID and relevant explanatory website linked in background section.

- Yes
- No

* 8. Given the choice, would you rather report:

- LEI
- EUID

9. Would you prefer to report another identifier other than LEI or EUID and which you deem meets the criteria detailed in the background?

- Yes
- No

10. Is there any other feedback you would like to provide on the topic of legal identifiers? Please specify which EU legal requirements is/will be your institution subject to.

Deutsche Börse Group supports the use of legal identifiers that make data quality checks and ensuing data cleaning possible, naturally having preference for those identifiers that make such quality checks and data cleaning easier. Likewise, we are of the view that streamlining and harmonizing reporting obligations between regulations reduces the overall burden and reporting complexity. To this end, use of LEI has certain advantages such as an automated validation against a "golden copy", identification of parent entities, a machine-readable format and global applicability and acceptance.

However, we acknowledge that not all third-country ICT providers may possess or provide trading venues with a LEI, requiring a strong consideration of additional or alternative identifiers, to facilitate a comprehensive and effective identification mechanism.

Contact

[Contact Form](#)

