

BY EMAIL

26 December 2017

To the Senior Executive Officers (SEOs) of DFSA Authorised Firms

RE: European Union (EU) Legal Entity Identifier Requirement

Dear SEO,

As you may be aware, the Markets in Financial Instruments Directive II (MiFID II) and Markets in Financial Instruments Regulation (MiFIR) take effect on **3 January 2018** in the European Union. These pieces of EU legislation, which cover investment firms, trading venues and intermediaries, have implications for non-EU firms trading with EU firms and clients of EU-firms. We have been asked by some of our EU counterparts to point out the implications of this legislation to DFSA-regulated firms.

From 3 January 2018, EU firms are required to have obtained Legal Entity Identifiers (LEIs) from their non-EU clients before providing services to them, if the proposed services would trigger reporting obligations in respect of transactions carried out on behalf of those clients.

However, bearing in mind the imminence of the entry into force of the LEI requirement, and some implementation delays, on 20 December, the European Securities and Markets Authority (ESMA) issued a [statement](#), in which it grants a temporary additional six-month period for obtaining the LEI, provided certain conditions are satisfied. In particular, EU investment firms may provide services to non-EU firms or clients, on condition that before they do so they obtain from the latter the documentation necessary to apply for an LEI code on their behalf. A different process is adopted for non-EU issuers (please refer to the statement for more details).

Please note that after the expiry of this period, there may be negative consequences related to your firm's ability to continue trading with an EU counterparty, or the EU firm acting on your behalf, until you take the necessary steps and obtain the LEI. In other words, the likely response thereafter from EU counterparts is "no LEI, no trade".

If in doubt as to whether the LEI obligation applies to your firm, please contact your EU counterparty or seek legal advice.

By way of background, the requirement to implement the LEI has been agreed at the G20 level. On this basis, jurisdictions other than the EU, e.g., USA, Canada, and some in Asia-Pacific, are also in the process of implementation.

The LEI provides a unique identifier for all entities participating in financial transactions that can also be used on a cross border basis, through a free and open database updated on a daily basis. The LEI is a 20-digit, alpha-numeric code linked to a set of key reference information relating to the legal entity in question, e.g., name and address. Once a legal entity obtains an LEI code, the code is assigned to that legal entity for its entire life.

For your information, any legal entity can apply for an LEI. The term *legal entity*, as per ESMA's [briefing on the LEI](#), encompasses parties that are legally or financially responsible for the performance of financial transactions, or have the legal right in their jurisdiction to enter independently into legal contracts, regardless of whether they are incorporated or constituted in some other way, e.g., trust, partnership, contractual. This includes governmental organisations, supnationals and individuals acting in a business capacity but not natural persons.

If you decide to apply for an LEI code independently of your EU counterparty, the LEI can be obtained from any LEI issuing organisation worldwide, irrespective of its geographic location. Once obtained, the LEI will be valid globally, not just with an EU counterparty. The list of LEI issuers accredited by the Global LEI Foundation (GLEIF) is available on the [GLEIF website](#). We understand that many of the issuers have been able to process applications reasonably quickly (often within 24 hours), although as the 3 January deadline approaches this may slow down if they have more applications to deal with.

A [Questions & Answers](#) document on the LEI has also been published. Moreover, assistance can also be sought from Registration Agents who can facilitate accessing the LEI issuers' network. More information on this service is available [here](#).

Just by way of clarification, I would like to remind you that the DFSA regulatory framework does not, currently, require you or your counterparts to obtain an LEI, whether for reporting or other purposes. But whether or not the DFSA requires the LEI, you might not be able to trade with some of your global counterparts without a valid LEI.

Yours faithfully,



Peter Smith
Managing Director, Policy & Strategy

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