European Securities and Markets Authority

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ESMA statement on LEI requirements under MiFIR

ESMA statement of 20th December 2017

While underlining the importance of the LEI requirements, to support the smooth introduction of the MiFID II rules, the ESMA statement of 20th December 2017[1] provided for trading venues to report their own LEI codes instead of LEI codes of non-EU issuers that do not have their own LEI codes. In addition, the statement envisaged a possibility for investment firms to provide a service triggering the obligation to submit a transaction report to the client, from which it did not previously obtain an LEI code, under the condition that before providing such service the investment firm obtains the necessary documentation from this client to apply for an LEI code on his behalf. This also required National Competent Authorities (NCAs) to temporarily amend a validation rule in their transaction reporting systems to allow for the acceptance of transaction reports where the LEI issuance date is after the transaction execution date.

Confirmation of the end of the six month period

Since the publication of the statement on 20th December, ESMA and NCAs have been closely monitoring the use of LEIs and have observed a significant increase in the LEI coverage for both issuers and clients. Based on these observations, ESMA and NCAs have concluded that there is no need to extend the initial six month period granted to support the smooth introduction of the LEI requirements under MiFIR. The period will last until the 2nd July 2018, inclusive.

As the application of the statement also required NCAs to temporarily amend a validation rule in their transaction reporting systems, this amendment will be reversed for transactions executed after the six month period. However, reports for transactions executed between 3rd January and 2nd July 2018 will still be accepted even if the LEI issuance date is after the execution date[2]. Investment firms are invited to contact their NCA directly for the specific details regarding this adjustment.

Next steps

The end of the six month period means that NCAs' activities with respect to the LEI requirements are shifting from monitoring to ongoing supervisory actions. To ensure a high degree of supervisory convergence and the full application of MIFIR, ESMA and NCAs are coordinating the development of an appropriate and proportionate common supervisory action plan focused on compliance with the LEI reporting requirements under the respective MiFIR

[1] https://www.esma.europa.eu/press-news/esma-news/esma-issues-statement-lei-implementation-under-mifid-ii
[2] The updated validation rules are available on ESMA website. The validation rules document contains both the LEI changes that are the subject of the statement (effective from July 2018) and other validation rule changes, which will not be effective until later.

provisions. When applying this approach in practice, NCAs will need to consider the severity and the particular circumstances of individual infringements. In doing so, NCAs should respect the proportionality principle and also consider the impact on investors, market functioning and integrity.

LEI is an internationally recognised public good

Following the 2008 financial crisis, the G20, the Financial Stability Board (FSB)[3] and many regulators around the world have emphasised the need to make the Legal Entity Identifier (LEI) a global public good. The LEI provides a unique identifier for all entities participating in financial transactions which can be used cross-border, through a free and open database updated on a daily basis[4]. This common framework is crucial for regulators across the globe to clearly identify each exposure for the risk management of financial transactions, to create transparency, and to conduct market surveillance. The use of the LEI is required by or in the process of being implemented by other regulators with 90 pieces of future legislation envisaged across the globe, 75 of these outside the EU[5]. Finally, the LEI also generates important benefits for businesses in terms of cost reduction, improved risk management and increased operational efficiencies.

Accordingly, the LEI plays an important role under the new Markets in Financial Instruments Regulation (MiFIR) data-reporting regime. The code is essential for supporting regulators' work on transparency and market surveillance, including the detection of market abuse. The LEI is also key for matching and aggregating market data for both MiFIR transparency and regulatory reporting.

For all the above reasons, MiFIR introduces extensive LEI requirements. In particular, the rules, which became applicable in January 2018, cover all clients of EU investment firms and any entity that has issued financial instruments traded on European trading venues. EU investment firms and trading venues are obliged to report the LEI of these entities regardless of where they are based and regardless of whether the entity is subject to LEI requirements in its own jurisdiction. It is vital that investment firms and trading venues make the necessary efforts to ensure full compliance with these requirements.

[3] http://www.fsb.org/2012/06/fsb-report-global-legal-entity-identifier-for-financial-markets/
[4] Link to centralised database of LEIs: https://www.gleif.org/en/services/gleif-services/access-lei-data
[5] An overview of all regulatory requirements concerning the LEI is available on the LEI Regulatory Oversight Committee website: https://www.leiroc.org/lei/uses.htm.