

BVI's position on the LEI ROC Consultation Document on Funds Relationship in the Global LEI System

BVI¹ welcomes the opportunity to respond to the Legal Entity Identifier Regulatory Oversight Committee's (ROC) consultation on Funds Relationship in the Global LEI System.

Q 1: Do you have comments on the definition of a "Fund Management Entity" relationship?

We agree, however, there need to be guidance how to fill the field. We suggest to state primarily the entity which is charged by applicable law as the entity which needs to carry out the important functions (portfolio management, risk management) of one or more investment funds. The ("Main) Fund Management Entity" (MFME) can be distinguished from by the capacity to delegate/outsource functions to "Other Fund Management Entity" (OFME). In Europe the regulated UCITS fund management company (ManCo) and the AIFM ManCo should be considered as the ("Main) Fund Management Entity".

Q 2: In the case of multiple "Fund Management Entities" for a single investment fund, should the reporting be limited to the "main" or "principal" managing entity or should there be a distinction between "(Main) fund management entity" and "Other fund management entity" e.g. sub-adviser?

In order to reduce administrative burden and maintain data quality the LEI system should start with collecting MFME (?) as a required item only. This will provide the necessary and already very useful information on the entity which is legally responsible for the management of an investment fund. The additional information on "Other Fund Management Entity"s should be optional at this stage. The collection of OFME information should not be an unstructured listing of entities providing any kind of (delegated) services to the LEI carrying fund. The OFME information request needs to be standardized and guided, including the use of flags to describe the nature of the relationship between the fund, the MFME and the OFME(s). Only with such an approach a meaningful analysis of the information provided is possible thereafter. In a distant future, for example, in case of delegated portfolio management to more than one OFME not only the information on the OFMEs would be necessary but also some form of description or identification of the different (non legal entity) separately managed asset pools within the LEI-carrying fund.

Q 3: Do you have comments on the definition of an "Umbrella Fund" relationship between the Umbrella funds and its sub-funds and compartments? Should the definition of umbrella funds cover series funds (such as US series funds)? Should it include turnkey funds? Should it include the relationship between an insurance company and its separate accounts or should a specific relationship (such as sponsor) be created?

¹ BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Fund companies act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's over 100 members manage assets of nearly 3 trillion euros for private investors, insurance companies, pension and retirement schemes, banks, churches and foundations. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.



We agree with the proposed definition and rule that where the first compartment or sub-fund of an “Umbrella Fund” or similar structure (UF), such as US series funds, obtains a LEI the relevant umbrella fund should also be required to obtain a LEI. The UF determination should be based on the legal documents/prospectus of the fund which should name the applicable compartment or sub-funds. However, the portfolio management by a single entity, e.g. an insurance company, of several (non legal entity) contractual mandates and segregated accounts should not be labelled “UF” as these portfolios are not recognized in applicable law as investment funds. Also to identify in a meaningful way, e.g. the joint fund accounting/administration of several funds within a so-called pooling structure as permitted in Luxembourg or Switzerland a data structure and guidance is necessary to be able to report such pooling structures as necessary within “Other Fund Management Entity”, “Umbrella Fund” or “Other Fund Family” (OFF).

Q 4: *Do you have comments on the definition of a “Master-Feeder” relationship? Do you have views or additional examples of concrete cases that would be covered by the proposed definition?*

We agree with the definition. However, the special relationship between master and feeder fund needs to be clearly spelled out in the funds legal documents. The GLEIS cannot check in practice whether the feeder fund(s) are exclusively invested in the master fund.

Q 5: *Do you have comments on the creation of a category “other fund family relationship”, to ensure a better transition with the current concept of “fund family”, in case the two definitions above would not cover all “family” situations in domestic regulations? Could you provide examples of situations that would be reported under this category (please quote the relevant laws and regulations, as applicable).*

A relationship should only be included in GLEIS, if this provides higher added value than the related costs and efforts. This seems not to be the case, if heterogenic, domestic-oriented relationships which are of less informative value for international recipients of the corresponding information are required to be registered. An in-depth analysis and public consultation should therefore take place before any addition of new required reporting of data into “Other Fund Relationship” fields. If this approach is implemented there needs to be a structured approach and user guidance with a concrete listing of the requested fund types and relationships spelled out in sufficient detail to avoid inclusion of meaningless data into the GLEIS.

Q 6: *Do you have comments on the proposal to discontinue the “Fund family” associated entity as currently defined and recorded in Level 1 reference data (although historical files would keep the information). What would be the appropriate way to migrate the information for lapsed records and records of inactive entities? (for instance into the “other fund family relationship”?)*

Fund Family (FF) data (including lapsed records or records of inactive fund LEIs) should only be migrated to the new categories after verification and otherwise be archived.

Q 7: *Should the four types of relationships described in this section apply to*
a) pension funds?
b) sovereign wealth funds?

The four types of relationship should not be applied at this stage and without further consultation with the respective industries on pension funds and sovereign wealth funds as these vehicles are usually



governed by different regulation. For example, in Germany pension funds and most similar occupational pension vehicles are regulated as insurance companies.

Q 8: *Are you aware of domestic regimes of funds regulation that would not be compatible with the definitions and proposals in this report?*

No.

Q 9: *What are your views on the costs and benefits of identifying the “Fund Management Entity”, the “Umbrella Fund”, the “Master Fund” and the “Other fund family” strictly with an LEI (as opposed for instance to using the name). Should using a name (rather than an LEI) be permissible in some cases? If you suggest using a name, or some other means or combination of means (other than the strict use of the LEI), please assess the costs and benefits of this alternative.*

“(Main) Fund Management Entity”, “Umbrella Fund” and “Master Fund” the sole use of the LEI is favored as these entities are separate legal structures, which would be clearly identifiable by the use of the LEI. “Other fund family” should only be allowed, if this creates additional benefit with respect to transparency and disclosure of the relationship, e.g. if the corresponding entity itself is a separate legal structure with material impact on another LEI entity already registered. If “Other fund family” is registered only the LEI should be used for efficiency reasons.

Q 10: *Do you have comments on the proposed standard requiring funds to report to the GLEIS a fund managing entity when they have one? Should a self-managed fund report itself as the Fund Management Entity or should the absence of a relationship with a Fund Management Entity be recorded in another way?*

We agree to require to indicate the MFME. Self-managed funds (i.e funds with board of directors) should report themselves as funds only as they usually are not able to carry out the function of a Fund Management Entity for other funds. They should indicate either the delegated fund management company – if any - as their MFME, or a flag self managed fund.

Q 11: *Should the opt-outs b) and c) from reporting the Fund Management Entity to the GLEIS be restricted to funds that are not registered or be available for registered and non- registered funds? If the former, is the scope of registered funds sufficiently well-defined? Are there any example where a Fund Management Entity’s identity would not be public for registered funds?*

Regulated investment funds do not seem to have exceptions b) and c) on p.18 of the consultation available. On unregulated funds the opt-out b) and c) should be available for registered as well as non-registered funds to create a level playing field as well as to avoid costs and efforts related to the statement regarding treatment as a non-registered fund.

Q 12: *Do you have comments on the proposed standard requiring sub-funds or compartments to report to the GLEIS their umbrella fund?*

We support the LEI on UF as well as on compartments and sub-funds which do not have a legal personality and are a ring-fenced sub-set of another legal person.



Q 13: *Is the list of opt-outs appropriate?*

We agree.

Q 14: *Do you have comments on the proposed level of verification of funds relationships? Are there appropriate sources for verifications in your jurisdiction? Should the LOU verify the statement by an entity that the entity is a fund? If so, how?*

We agree with the proposed level of verifications based on national registers regulatory filings and fund prospectuses vetted by authorities.

Q 15: *Are there any specific consideration that could impact data elements such as, the level of verification; the sources of information; the dates of the relationships?*

We agree that the relationship model developed for parent entities is reused to the extent possible also for relationships with funds, instead of recording the information as part of Level 1 address data subject to clear and strict standardization with respect to data gathering, processing, and maintaining. The Level 1 address data should be reviewed at the same time as the Level 2 relationship data of the fund in order to avoid duplication, e.g. by stating the fund and MFME ("c/o") at the same time in the address information as is currently the case.

Q 16: *Do you support excluding at this time the relationships where a fund is simply invested in another one (as this would be covered by other types of relationships, such as Master-Feeder above, and would require further work on investment relationships, beyond funds)?*

Yes. An investment in another fund either by a standalone fund (outside "Master Feeder Fund" situations) or a fund of fund is usually for a limited period of time only. This type of information can be more easily obtained from publicly available regular fund reports or regulatory filings required in Europe under UCITS and AIFMD.

Q 17: *Respondents to the public consultation are invited to give their views as to the criteria that should be taken into account when determining whether a relationship should be included in the Global LEI System.*

A relationship should only be included in GLEIS, if this provides higher added value than the related costs and efforts. This seems not to be the case, if heterogenic, domestic-oriented relationships which are of less informative value for international recipients of the corresponding information are required to be registered. An in-depth analysis and public consultation should therefore take place before any addition of new FSB required reporting into "Other Fund Relationship" fields.