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BVI's position on LEI Eligibility for General Government Entities

We¹ support the LEI ROC initiative to create the new item "General Government Entities" which should be identified according to the System of National Accounts (SNA 2008 definition). We strongly share the view that government entities such as a Ministry, Agency and Republic should obtain an LEI as long as the entities can acquire legal rights and obligations under the national law to which it is subject.

The introduction of such a new entity category allows for the classification within the LEI entity level data record. The usage of the SNA classification scheme could also allow for links between government entities to be made in the LEI relationship record if the next level up government entity has an LEI (example: if State government subsector entity has an LEI, one or more Local government subsector entities could be linked to the State level entity).

Furthermore, it is of utmost importance to the financial sector that government entities obtain an LEI if they are involved in issuing, buying and selling financial assets or being a counterparty to a financial transaction. As a case at point, the upcoming EU reporting obligation for securities financing transaction (SFTR) in 2020 requires more than 10 fields to be populated with an LEI including not only the trading counterparties but also the reporting party and the collateral asset issuer (fields 54 & 93). As the SFTR reporting validation rules call for a mandatory population of the issuer LEI, multiple debates have been triggered within the EU around the perceived lack of coverage of the LEI issuers including government entities.²

In this context we observed that some government and subsector entities (e.g. France, Spain and Switzerland) do not have valid LEIs. If valid LEIs do not exist, the data would be rejected when they are submitted to the Trade Repository. Consequently, a trading counterpart with the regulatory reporting obligation will have failed in that reporting obligation. This example illustrates well that all government entities should obtain a valid LEI as they otherwise risk that there bonds are not used anymore in the SFT market as collateral.

We would like to make the following specific comments:

1. Do you see some need for identifying general government entities within the GLEIS? If yes, for what purposes? Please provide details. If no, skip to Question 2.

Yes, we strongly support the LEI ROC initiative to create the new item "General Government Entities" which should be identified according to the SNA 2008 definition. In the context of the upcoming SFTR reporting obligation in 2020 we have observed that some government and subsector entities (e.g. France, Spain and Switzerland) do not have valid LEIs. It is therefore required such government entities

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. Asset Managers 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 111 members manage assets more than 3 trillion euros for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 22%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.

² Please see ISLA paper: https://www.isla.co.uk/wp-content/uploads/2019/09/ISLA_Legal_Identity_Identifier_LEI_and_the_Securities_Finance_Reporting_Regulation_SFTR..pdf



and all subsectors should request a valid LEI especially if they are involved in issuing, buying and selling financial assets or being a counterparty to a financial transaction.

2. Are you aware of any specific difficulties general government entities may have in obtaining an LEI and completing all the data elements? If no, please skip to Question 3. If yes, have you observed any such cases? If no, please skip to Question 3. If yes, please specify the jurisdiction, the name and function of the entity, its national code and LEI if any. Please also indicate if the entity is incorporated or other legal form, its type of relationship with or within the government sector.

Yes, as explained above, in the context of the upcoming SFTR reporting obligation we have witnessed some government entities which do not have valid LEIs:

France, Republic
Spain, Republic
Wallonne, Region
Genf, Kanton
Zürich, Kanton
Basel-Stadt, Kanton
Basel-Landschaft, Kanton
Tessin, Kanton
St. Gallen, Kanton
Aargau, Kanton
Luzern, Kanton

We do not know the reasons why these entities which are major issuers of collateral used in securities financing transactions did not obtain a LEI in the past.

3. Is the identification of the 'ultimate parent' a relevant concept for general government entities within the GLEIS system?

This concept is not applicable to general government entities.

4. What kind of relationship could be described according to legal provisions that apply to general government entities?

We propose to add an additional category for international, multinational and supranational government entities such as the UN, the EU, the World Bank, IMF, as well as international development banks which should also obtain an LEI.

5. What organisation is a government entity that does not have legal personality but has a kind of autonomy or responsibility? What reasons are there for and against such organisations obtaining an LEI?

In practice, the situation will rarely occur as most government entities at all levels are constituted by statute. However, in Germany, some natural persons so called "Beliehene" are directly tasked with



governmental functions. There may be reasons that such person should obtain an LEI. Valid examples are notary public who certifies real estate transactions and formation of corporations.

6. Do you think it is appropriate to separately identify general government entities and create a new item in a different section within the GLEIS in order for general government entities to declare their affiliation?

Yes, we strongly support the idea especially if such entities are involved in issuing, buying and selling financial assets or being counterparty to a financial transaction.

7. Should the general government entity registrant provide some reference to any official document?

Yes, these entities have to provide reference to the law and regulation to which they are subject as this will delineate their rights and obligations.

8. Do you think the SNA 2008 definition of general government entities (see Section 3 of the consultative document) is appropriate for the GLEIS?

Yes, we think that the SNA 2008 definition is sufficient for the GLEIS.

9. Do you identify any government entity not included in the SNA definitions? Please specify.

Yes, international, multinational and supranational institutions and their subsectors (e.g. international or EU development banks and funds) are not mentioned in the definition. In practice all subsections of general government such as ministries and departments need to be able to get an LEI. One LEI for the whole administration for the general or the state government may be possible too. However, it should be legally made clear which governmental unit is responsible for requesting the LEI. The FSB LEI ROC should act as contact point for reports on missing LEIs on government entities. It should engage with its members in view of getting their offices so that the government entities in their jurisdictions apply for an LEI, especially when they are issuers of securities or counterparty to a financial transaction.

10. Do you have disagreements on any of the current SNA definitions? Please specify.

The SNA 2008 definition deals with economic and legal entities. However almost all governments are legal entities and can be required to identify their organisational statute.

11. Would you support splitting general government into the different types of government entities according to SNA: central government, state government, local government, social security fund? If yes, should the split be compulsory or optional?

Yes, absolutely, the split should be made compulsory. For example, a local government issuing a security maybe under its constitution in fully responsible for the payment of dividends and capital of the issuance in question, e.g. municipal bonds. The local government will therefore not be supported by the general government in case of insolvency. In this case it would be highly misleading if the general government would be identified with the same LEI as the issuing local government. Government entities are usually established by specific law and regulation and are vested with specific rights and obligation under such laws. In most cases legal government entities therefore can be treated like other legal entities, perhaps excluding the reference to the direct and ultimate parent.