

BVI feedback on the Proposal for a Directive amending Directive 2017/1132 as regards the use of digital tools and processes in company law

The BVI¹ (German Investment Funds Association) gladly takes the opportunity to present its views on the European Commission's proposal for a Directive amending Directive (EU) 2017/1132 as regards the use of digital tools and process in company law (Proposal).

The BVI welcomes the European Commission's Proposal to foster digital processes and information access, while also pursuing the protection of employees, creditors and minority shareholders and providing authorities with all necessary safeguards to combat fraud or abuse.

With regard to the disclosure of company information in the registers as stipulated in Article 19 of the Proposal, we would suggest to include the Legal Entity Identifier (LEI) as a relevant piece of publicly available information. The European Unique Identifier (EUID) should remain for the purpose it was conceived for which is to be used for the purpose of communication between registers. Highly regulated investment funds (UCITS/AIFs) are already obliged to use the LEI for instance in the context of the regulatory reporting.

In this way the regulation would take into account that in a global digital economy local or regional standards are no longer fit for purpose. Global standards are preferred in a global digital economy.

The LEI is the global entity identification standard that the proposed Directive should be looking for because:

- The LEI is a globally unique identifier for legal entities, established by the Group of 20 (G20) and the Financial Stability Board (FSB).
- The LEI is a standard of the International Organization for Standardization (ISO 17442).
- The LEI is available as the internationally unique code and, as mentioned in Article 19 of the Proposal, is available to be published and used free of charge and would serve the purpose of the Proposal which aims to provide an easy accessible way to company information needed by third parties.
- The LEI also enables users to access information on the legal entity's direct and ultimate parents from within or outside the EU.

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 more than 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.



- Another important benefit of the LEI versus any other (commercial) identifier is that data liability is direct, e.g. entities/issuers are liable for their data input into the Global LEI System (GLEIS). This answers a long-held demand from regulators, market participants, and data vendors and is crucial for data quality. This will reduce the cost of reconciling multiple data sources within all market participants.
- The LEI is part of a global system which would help European companies to easier connect to counterparts in the global digital marketplace, especially in sectors such as supply chain and capital and money markets. Today, companies cannot rely on standardized and globally unique business partner identification which very often leads to the situation that several dozen sources of information need to be used within the various identification procedures within a corporation. Such diverse identifiers, including local business register numbers as well as commercial solutions, if not replaced by LEI, can also be easily mapped to a single corporation with the help of the LEI.

Using the global LEI is consistent with European Union (EU) single market policies. EU agencies and institutions have consistently endorsed broad adoption of the global LEI standard. The use of the LEI is mandated in a dozen EU Directives and Regulations covering a wide scope ranging from derivatives, securities, securities and financing transaction reporting, market abuse, alternative funds, rating agencies, insurance companies and banks to XBRL reporting just to mention the most important ones.² Deploying the LEI also in EU legislation designed to further the Single Digital Market would ensure a consistent policy approach relevant to entity identification in the EU.

Alignment on the LEI as the pan-European entity identifier will also significantly lower the cost and burden for EU businesses already subject to regulation mandating an entity identifier. For example, any EU business that is a client of an investment firm trading in the EU must have a LEI according to MiFID II / MiFIR. It is costly and cumbersome for this business to obtain and maintain yet another entity identifier to comply with another EU law. Having to obtain a host of different local and regional entity identifiers is particularly burdensome for small and medium-sized enterprises.

Replacing the EUID in Article 19 in the Proposal by the LEI will allow all EU stakeholders to generate the synergies arising from network effects, i.e. operational efficiencies, cost savings, reduction of time to transact and more reliable information on business partners. The resulting easier counterparty identification will open the door to further automation and digitization and make it easier and safer for all EU businesses and citizens to participate in the digital marketplace, thus providing EU businesses with an important tool to manage the new economic and social challenges of a globalised and digital world.

In order to achieve full LEI coverage in a limited amount of time, the EU could make the LEI mandatory for all companies, or even to all registered entities. This could be supported by encouraging the issue of the LEI especially by national business registers acting in this capacity only under the Global LEI System specific rules. There are already 5 European business registers and a national statistical institute that issue LEIs.

² <https://www.gleif.org/en/lei-solutions/regulatory-use-of-the-lei>