

EBA/Rep/2022/07

25/02/2022

Follow-up to the Recommendation ESRB/2020/12 on identifying legal entities – Recommendation B

The purpose of this report is to provide a follow-up on the assessment of the implementation of Recommendation B of the Recommendation ESRB/2020/12 on identifying legal entities (hereinafter the 'Recommendation').

The report provides relevant information and documentation related to the implementation of Recommendation B including information on the substance (such as on the legal form of the measure and on the type of financial institutions covered) and timing of the actions taken.

Legal instrument	Recommendation ESRB/2020/12 on identifying legal entities
Reporting institution	European Banking Authority
Date of reporting	08 February 2022
Confidentiality regime*	
Name and contact details of the respondent	

Content of the Recommendation	Recommendation B		
	Use of the legal entity identifier until the possible introduction of Union legislation Pending any action taken by the Commission to comply with Recommendation A and the possible introduction of corresponding Union legislation, it is recommended that to the extent permitted by law and subject to the principle of proportionality: 1. the relevant authorities require or, where applicable, continue to require, all legal entities involved in financial transactions under their supervisory remit to have an LEI; 2. the authorities, when drafting, imposing, or amending financial reporting obligations include or, where applicable, continue to include, in such obligations an obligation to identify by way of an LEI: (a) the legal entity subject to the reporting obligation; and (b) any other legal entity about which information must be reported and which has an LEI; 3. the authorities identify or, where applicable, continue to identify, by way of its LEI, any legal entity about which they publicly disclose information and which has an LEI.		
Addressees	Relevant Authorities and Authorities as defined under Article 1 of Section 2 of the Recommendation ¹		
Reporting deadline	31 December 2021		
Recommendation B	Sub-Recommendation B(1)	Sub-Recommendation B(2)	Sub-Recommendation B(3)
1. Capacity Please indicate in what capacity you respond and to which sector (i.e. banking, insurance) you refer,		EBA – prior to the publication of the recommendation ESRB/2020/12 in September 2020 and independently to it – recommended the use of the LEI for all credit and financial institution in the European Union under competent authorities’ supervisory remit which are subject to reporting obligations under Regulation (EU) No 575/2013 (EBA/REC/2014/01 of 24/01/14).	EBA is using the LEI, where it exists, as the identifier for entities when collecting data under its remit. Where the EBA has been informed no LEI existed, the EBA requested details on why that was the case and what actions were relevant authorities and reporting institutions involved taking to overcome the situation.

with reference to the applicable sub-recommendation(s).		The EBA recommendation, and more information on secondary reporting to EBA can be found here: https://www.eba.europa.eu/risk-analysis-and-data/reporting-by-authorities	The reporting framework (see more below) includes prudential and resolution data of credit institutions. Additionally, the EBA reporting framework contains also prudential data for Investment firms following the Investment firm regulation (EU) 2019/2033.
2. Actions taken Please describe the essence of the actions taken to comply with the relevant sub-recommendation(s), where applicable. For instance, please describe specifically how: (i) relevant authorities require (or continue to require) legal entities involved in financial transactions to have an LEI; (ii) authorities include (or continue) to include in financial reporting obligations, an obligation to identify the legal entities specified under sub-recommendation B(2) with specific use of LEI; (iii) authorities identify (or continue to identify) legal entities in the context of public disclosures using LEI.		1. Decision of the European Banking Authority EBA/DC/403 on European Centralised Infrastructure of Data (EUCLID): EBA collects supervisory data for all credit institutions in the European Economic Area (EEA) and for all banking groups in the EEA, via EUCLID. For banking groups consolidated data are collected for a) the entity which is the highest level in EEA, and b) the entity which is the highest level within each EEA country. For this, each entity is required to use the LEI. For knowing what banking group an entity belongs to, EBA requires that each entity in an EEA banking group reports to the EBA the LEI of the ultimate parent in EEA. Where an entity does not have an LEI, the EBA requests details on why that was the case and what actions were relevant authorities and reporting institutions involved taking to overcome the situation. As a last resort option, the EBA considers using other identifiers, particularly when it becomes evident from contacts with relevant authorities and reporting institutions involved that an LEI will not be provided in a timely and appropriate manner. 2. The EBA reporting framework provided under the Commission Implementing Regulation (EU) 2021/451 of 17 December 2020 laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to supervisory reporting of institutions and repealing Implementing Regulation (EU) No 680/2014, includes	1. Credit institutions register: To increase transparency within the European single market, EBA publishes on a regular basis a list of credit institutions to which authorisation has been granted to operate within the European Union and European Economic Area countries (EEA). The list published by the EBA is set up solely on the basis of information provided by competent authorities, as foreseen in the EBA Decision establishing the Credit Institution Register. The LEI, even though not being mandatory, is one of the identification elements included in the Register. 2. List of Institutions for the purpose of remuneration benchmarking: The EBA publishes and regularly updates the list of Institutions for the purpose of remuneration benchmarking. For transparency and to facilitate the identification of the Entities, the EBA uniquely identifies reporting institutions included in the list using the Legal Entity Identifier (LEI). 3. List of Largest Reporting Institutions: The EBA publishes and regularly updates the list of Largest Reporting Institutions. For transparency and to facilitate the identification of the Entities, the EBA uniquely identifies reporting institutions included in the list using the Legal Entity Identifier (LEI).

		reporting obligations for which it is needed to identify entities by using the LEI. In addition to the LEI, these templates also provide some flexibility in the use of other type of codes. Although EBA intention has been to try to promote the use of LEI for harmonization purposes.	4. EBA list of institutions for supervisory benchmarking: The EBA publishes and regularly updates the list of Institutions for supervisory benchmarking. For transparency and to facilitate the identification of the Entities, the EBA uniquely identifies reporting institutions included in the list using the Legal Entity Identifier (LEI). 5. EBA list of institutions participating in the mandatory Basel III monitoring exercise: The EBA publishes and will regularly update the list of Institutions contributing to the mandatory Basel III monitoring exercise of the EBA. For transparency and to facilitate the identification of the Entities, the LEI is included.
3. Timeline Please indicate the time period when the actions required under the relevant sub-recommendation(s) were taken.		1. European Centralised Infrastructure of Data (EUCLID): EUCLID came into force with EBA/DC/2020/335 of 05/06/2020. But even before EUCLID, the EBA has used the LEI as the identifier, when available, following the 2014 EBA recommendation of using an LEI (see above).	1. Credit institutions register: The LEI is used as identifier, when available, since 2014 (following EBA/REC/2014/01 of 24/01/14). 2. List of Institutions for the purpose of remuneration benchmarking: The LEI is used as identifier since 2014 (following EBA/REC/2014/01 of 24/01/14). 3. List of Largest Reporting Institutions: The LEI is used as identifier since 2014 (following EBA/REC/2014/01 of 24/01/14). 4. EBA list of institutions for supervisory benchmarking: The LEI is used as identifier since 2014 (following EBA Decision on reporting by competent authorities to the EBA EBA/DC/2015/130).

			5. EBA list of institutions participating in the mandatory Basel III monitoring exercise: The LEI is included since the entry into force in 2021 of EBA/DC/2021/373.
Implementation criteria	Sub-Recommendation B(1)	Sub-Recommendation B(2)	Sub-Recommendation B(3)
1. Proportionality Please describe how you applied the principle of proportionality, taking into account the objective and content of these sub-recommendations. <i>[Article 2 of Section 2 of the Recommendation]</i>		Wherever an entity did not have and/or could not obtain an LEI, the EBA requested details on why that was the case and what actions were relevant authorities and reporting institutions involved taking to overcome the situation. As a last resort option, the EBA allowed using other identifiers, particularly when it becomes evident from contacts with relevant authorities and reporting institutions involved that a LEI will not be provided in a timely and appropriate manner..	
2. Self-assessment In case of action, please provide a self-assessment on whether the actions undertaken are fully compliant, largely compliant, partially compliant, materially non-compliant or non-compliant		The EBA is fully compliant with the ESRB recommendations, and is very supportive of its purpose. However, since these are recommendations EBA cannot go further and require a wider usage of LEIs.	

with these sub-recommendations, where applicable.			
Justifications: Please provide, as appropriate, justifications for (i) inaction, (ii) delays in action, or (iii) departure from these sub-recommendations, as may be relevant. Please provide a self-assessment on whether the inaction is sufficiently or insufficiently explained. <i>[Article 3(2) of Section 2 of the Recommendation]</i>		EBA would be able to enforce an LEI only if it was made mandatory. The EBA supports the introduction of an EU-level legally binding requirement for the use of the LEI.	
Additional information: Please provide other information that is not otherwise covered in the present document and that is relevant for the purposes of the		EBA very much supports any effort in an extensive use of the LEI and expects an enhancement in the use of the LEI in areas such as Payment related reporting.	

follow-up assessment of the Recommendation. Please also attach any relevant documents (if applicable).			
--	--	--	--