

The Legal Entity Identifier – Also Relevant to Switzerland

Your PwC contacts

Stefan Wüest

stefan.wueest@ch.pwc.com
+41 58 792 59 51

Patrick Frigo

patrick.frigo@ch.pwc.com
+41 58 792 22 76

Erol Baruh

erol.baruh@ch.pwc.com
+41 58 792 91 62

How did the LEI come about?

The Legal Entity Identifier (LEI) emerged in the wake of the Lehman Brothers bankruptcy. At the Los Cabos Summit in June 2012, the G20 members approved a system for the unique identification of financial market players (Global Legal Entity Identifier System, GLEIS) to make it easier for both the private sector and public authorities to manage and control risks in the financial market. This system allows financial institutions to identify companies that are active on the financial market by way of a globally unique identifier.

During its 4 December 2015 session, the Swiss Federal Council voted that Switzerland adopt the GLEIS. It is hoped that this internationally standardised identification number for financial market participants will improve the quality of financial data and facilitate the assessment of systemic risks.

What is an LEI?

The LEI is a unique and permanent code used to identify companies and collective investment schemes. It is based on the guidelines of ISO standard 17442. According to this standard, any parties who carry out financial transactions or conclude contracts can apply for an LEI. Such parties include companies, as well as entities that are established in other ways (e.g. by a trust, partnership or contract). While an LEI cannot be used for a natural person, it may, for example, be assigned to governmental or supranational organisations. Companies who apply for an LEI must pay a registration and annual maintenance fee.



Who needs an LEI?

As specified by ISO standard 17442, any legal entity that carries out financial transactions is entitled to an LEI. Switzerland's Financial Market Supervisory Authority and supranational authorities are authorised to make the possession of an LEI a legal requirement. At present, LEIs are mainly required in the United States as part of the Dodd-Frank Act, and in the European Union in the context of requirements imposed by the European Market Infrastructure Regulation (EMIR) or the Alternative Investment Fund Managers Directive (AIFMD).

Furthermore, on 3 January 2018 a Europe-wide financial market regulation (Markets in Financial Instruments Regulation, MiFIR) came into force. According to this regulation, financial service providers who do business with certain financial instruments must comprehensively report all the relevant details of their business to the competent authorities. In such cases, the LEI will be used to identify clients (cf. Art. 26 MiFIR). As per Art. 27 of the MiFIR, trading venues in the EU are also required to use the LEI for the reporting of reference data. Consequently, Swiss companies who issue financial instruments in the EU (or who wish to do business in the EU) must also be in possession of an LEI.

In Switzerland, the LEI has been a part of the requirements introduced by the Financial Market Infrastructure Act (FMIA) in the area of derivatives trading since 1 January 2016 (cf. Annexe 2 of the Ordinance of 25 November 2015 on Financial Market Infrastructures (FMIO))

with regard to the use of the LEI during the reporting of derivative transactions to trade repositories). Nevertheless, banks in Switzerland are currently free to use internal identifiers for derivative transactions, in particular the so-called "Business Identifier Code" (BIC), instead of the LEI.

Is an LEI the same for all asset classes (bonds, mortgages, etc.)?

The Legal Entity Identifier (LEI) is the unique identifier of a certain legal entity. It is not an identifier for instruments. A legal entity uses its LEI to report all the various financial transactions it concludes, regardless of the asset class or when the specific asset was issued.

How do I obtain an LEI?

LEI Switzerland is a service that enables Swiss companies and funds to apply for or renew an LEI (Legal Entity Identifier) code. This service is affiliated with the Swiss Federal Statistical Office. There are a number of foreign suppliers who also assign LEIs.

LEI registration takes place at www.lei.admin.ch. Companies are only assigned an LEI if they are in possession of a business identification number (UID). This number will be requested at the beginning of the registration process. Company data linked to the UID is retrieved from the UID registry automatically, and includes all the information that is necessary for the registration.

What does the LEI mean for you?

An LEI is required for certain operations performed on the financial market. You will need an LEI if you are a Swiss company that transacts business with financial instruments in the EU, and have been subject to a reporting obligation since 3 January 2018. On 20 December 2017, the European Securities and Market Authority (ESMA) granted affected companies a grace period for obtaining an LEI until the middle of 2018. The same goes for Swiss companies that issue financial instruments (such as stocks or bonds), in order to ensure all applicable reference data can be reported in the EU.

Stefan Wüest, Patrick Frigo and Erol Baruh will be happy to answer all your questions regarding LEIs.