

# **1 Consultation Document: Including data on branches in the Global LEI System**

## **1.1 Annex: Questionnaire**

Please type your answers into the attached questionnaire and send it to [leiroc@bis.org](mailto:leiroc@bis.org) by COB 16 November 2015. Where possible, please specify the reasons for the preferences expressed or the details of any trade-offs you see. (For an MSWord version: [http://www.leiroc.org/publications/LEI\\_ROC-questionnaire\\_on\\_branches.docx](http://www.leiroc.org/publications/LEI_ROC-questionnaire_on_branches.docx)).

The responses to the questionnaire will be shared within the ROC membership and with the GLEIF. Neither participants' identity nor any specifically identified reference to their opinion will be made public without their express consent. However, the responses themselves may be quoted on an anonymised basis. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.

<b>Identification of the respondent and confidentiality</b>
<b>Respondent: SWIFT</b> <b>Name and email of a contact person: Rachel Lindsay (rachel.lindsay@swift.com)</b> <b><input type="checkbox"/> Please check this box if you object to any of the responses below being quoted on an anonymised basis, and specify here any sections or questions to which this objection applies</b>
<i>Please specify here as needed which response(s) should not be quoted:</i>
<b>1      Uses of international branch information</b>
1.1 What regulatory or private sector uses could benefit from allowing international branches to obtain LEIs?  <i>The use-cases set out in this document, such as more effective micro- and macro-prudential supervision and speedier resolution of cross-border failures, are strong reasons for the issuance of LEI to international branches, and will benefit both public and private sectors.</i>

1.2 Are there complications that you envision from allowing international branches into the GLEIS, notably in view of possible breaches or risk of confusion with regard to the principle of exclusivity? If so, how would you propose to address them?

Yes, we foresee two possible complications. The first is that an identifier for a branch might be confused with the identifier for the true legal entity, which should be associated with a company's head-office. This risk can be mitigated by ensuring that a clear distinction is made between these two types of identifier by carefully expanding the reference data attributes defined in ISO 17442, and by defining a formal process for linking the identifier of each branch with the head-office legal entity identifier.

The second complication is that because LEI applies today to true legal entities only, financial services firms' back-office systems will reference the head-office LEI even for transactions where the counterparty is a branch. Modifications to back-office systems data structures will be required to allow these systems to correctly reference branches, and time for these modifications should be allowed in the implementation schedule.

The same issue also needs to be addressed in the context of rulemaking. Today the requirement to specify an LEI for a counterparty assumes that the identifier references the legal entity (head office) rather than a branch. Furthermore, rules governing the use of branch rather than head-office/legal entity identifiers should not apply retrospectively; transactions reported using existing correct LEIs should not be affected. For these reasons, we would recommend close collaboration between all stakeholders before a final recommendation is made and implemented - we suggest involving the ROC, the GLEIF, the LOUs, the ISO organisation, and other financial industry participants.

## 2 Conditions for issuing LEIs to branches

2.1 Are the conditions described in this consultation sufficiently restrictive or too restrictive? Please explain your answer and offer alternative suggestions. Be specific about what you would suggest adding or removing

We agree with the conditions set out in the document. We believe these conditions are necessary to ensure the exclusivity of the identifiers, and further recommend that they be clearly formulated to ensure they can be applied in all relevant jurisdictions. A further condition could be added: the ROC could propose that financial regulators make public the details of international branches that are licensed to operate in their jurisdiction. This would provide a reliable source for LOUs to confirm the eligibility of a branch for LEI.

2.2 Should an international branch's head office be required to authorise that an international branch can obtain an LEI, prior to issuance of an LEI to the branch? Alternatively, should the GLEIS envisage a system where the contact person(s) of the headquarter entity, as recorded by the relevant LOU, would simply be notified that a request by one of its international branches was made? Please explain the reasons for your preference.

SWIFT believes that both suggestions would ensure that head offices are aware that their international branches have registered for an identifier and could intervene in the process should that be necessary. Requiring the head office to approve registration would likely lead to capture of better quality data, albeit at the cost of a slight increase in administrative overhead. A more extreme measure to ensure the same ends, would be to allow only head offices to register their branches.

2.3 In addition to host country business registries, could the registration in a business registry held in the home country also be accepted in the GLEIS as an acceptable means to provide certainty on the existence of an international branch as a separate entity in the host country, especially where the establishment of a branch involves both home and host authorities, for instance in the banking sector?

See response to Q1.2. Based on our experience in registration of BIC (ISO 9362) for entities and branches in the financial sector, a condition for the registration of a foreign branch could be that it is supervised or licensed by the competent authority in the place it is located.

2.4 What other factors should the ROC take into consideration?

From a data standard perspective, we recommend the ROC consider not embedding any intelligence in ISO 17442 as this could cause confusion in managing the GLEIS. It would be preferable instead to allow for the proper and effective identification of foreign branches through the definition of the reference data attributes attached to the records.

### 3 Other

3.1 Do you have any comment on the definition of international branches on page 1 of this consultation document?

See response to Q2.1

**3.1** Do you think it should also be possible to assign an LEI to the “home activity excluding foreign branches,” for instance to avoid that the “headquarter-LEI” be used for two competing purposes: (i) identifying the entire legal person (home country activity plus foreign branches) and (ii) identifying only the home country activity? Please describe the uses or the risks you would see to such an LEI.

While there is potentially a use-case for assigning such an LEI, our immediate reaction is that it would potentially generate confusion and would certainly have a considerable impact on the current population of allocated LEIs. Currently active LEIs do not make this distinction and it would be necessary either to modify them or to issue new ones for impacted entities. Furthermore, there would be an impact on data systems that have adopted or introduced LEIs and cross-referenced them to legacy identities.

**3.2 a)** Because the existence of a branch is so closely linked to its head office, can it be considered that the LEI of the branch LEI would necessarily expire when the head office LEI does, or are there cases where the branch would be considered in the host jurisdiction to survive, for instance, to a dissolution of the head office entity? **b)** Similarly, in case a branch has been acquired by another legal entity, should it keep its LEI and the associated entity information be updated with the LEI of the new head office? **c)** If a branch is incorporated into a distinct legal person, should the LEI become inactive, be marked as a “CORPORATE ACTION” and a successor entity LEI mentioned, or should the entity keep its LEI with a mere update of the legal form?

- a) From a legal perspective, if the branch were to continue after the head office expired, it should be constituted as a new legal entity and obtain a new LEI;
- b) If the branch remains a branch under a new legal entity's head office, only the head office attributes of the existing LEI should be modified;
- c) In this scenario, the branch LEI should expire as it is no longer the same legal entity and a new LEI should be allocated to the new legal entity.

**3.3** Is there anything important at this stage related to branches that has been omitted from this consultation or any other comment or suggestion you would like to make?

Additional technical implementation details should be considered carefully, such as:

1. Clearly distinguishing the reference data attributes including legal name, registered address and legal form (ISO 20275) applying to the branch identifier;
2. Establishing rules for linking the branch LEI with the head office LEI;
3. Formulating strong rules and principles for ongoing data record maintenance.

**Thank you for participating in this consultation.**