

MiFID II: LEI obligation

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The obligation for EU investment firms to identify their clients (which are legal persons) with the Legal Entity Identifier ("**LEI**") is required by MiFIR ¹. This "LEI" obligation is already provided for in other EU legislation (e.g. EMIR). However, MiFID II framework extends the scope of entities covered by this requirement. For example, it will now include clients (buyer, seller) on whose behalf an investment firm executes transactions (when the client is a legal entity) and the issuers of financial instrument listed and/or traded on a trading venue.

In October 2017, the CSSF published a Press Release to remind the industry that under MiFID II, the LEI will be mandatory as of 3 January 2018.

However, in the last weeks, ESMA and the national competent authorities (NCAs) were informed that not all investment firms may succeed in obtaining LEI codes from all their clients that are legal persons ahead of the 3 January 2018 deadline.

In this context and in order to avoid any market disruption, ESMA opted for a smooth introduction of the LEI requirement. On 20 December 2017, it published a Statement whereby during a transitional period of six months:

- Investment firms are allowed to provide a service triggering the obligation to submit a transaction report to the client, from which it did not previously obtain an LEI code, under the condition that before providing such service the investment firm obtains the necessary documentation from this client to apply for an LEI code on its behalf; and
- Trading venues are authorised to report their own LEI codes instead of LEI codes of non-EU issuers currently not having their own LEI codes.

1 Art. 26.6 of Regulation (EU) 600/2014 on markets in financial instruments ("**MiFIR**").

For any further information please contact us or visit our website at www.elvingerhoss.lu.

The information contained herein is not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific legal advice concerning particular situations.

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