

# LEIs will hit hurdles

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The global legal entity identifier (LEI) system, spearheaded by a group of global financial trade associations, will launch by March 2013. But much must be resolved before regulators worldwide can issue LEIs.

The need for corporate IDs was born out of the financial institution collapses during the global crisis, when regulators were unable to determine which other institutions had transacted with, and be impacted by, the failed bank.

"The LEI is a single tool that shines some light where things have been very opaque in the past," says Rebecca Turner, executive director of policy and regulatory affairs at the Asia Securities & Financial Markets Association (Asifma). "While it's not the panacea that's going to save the world, it does play an integral role in a broader regulatory effort to mitigate global risk."

But there are uncertainties regarding the LEI initiative. In the Financial Stability Board's (FSB's) fourth progress note on the Global LEI Initiative, it said that a charter for the Regulatory Oversight Committee (ROC) is still required and there is no location and legal form of the global LEI foundation.

The legal form of the global LEI foundation is especially important because it must be delivered as a public good for the public benefit, and therefore must be structured to prevent the use of the LEI system in any way other than for the public good.

The ROC is the permanent governance body of the global LEI foundation, while local operating units (LOUs) are the direct interface with end users in various countries or across regions and will issue LEIs.

But there are disagreements over designating LOUs. The FSB has said that anybody with a regulatory sponsor can be the LOU in a given jurisdiction, says Turner. But she adds that the industry believes that LOUs must meet a higher standard to ensure data quality and integrity.

Duplication is the most pressing concern regarding LEI implementation. "We view this interim stage as one of the most critical periods for the future of the LEI system," Turner says. She explains that if a lot of LOUs start populating and registering LEIs without interfacing with the existing system in the interim period, duplications can easily happen.

The only way to ensure that a LEI does not already exist for a legal entity is to check the public database of pre-LEIs prior to registering that entity. "All LOUs should take this responsibility seriously to protect the integrity of the global system," she adds.

But even after basic issues regarding LOUs and CFTC Interim Compliant Identifier (CICIs) are sorted out, legal questions about global LEIs remain. Cross-jurisdictional matters, for example, such as whether certain counterparties are entities for LEI purposes, also raise questions.

"For example, in some jurisdictions a trust is an entity under local law, but it isn't in some other jurisdictions," says Davis Polk & Wardwell's Tokyo head Theodore Paradise. "The LEI will need to consider whether trusts should be registered with LEIs in all jurisdictions or the entity determination should follow local law."

Data protection laws are a further concern. But despite these issues, Paradise and Turner are optimistic about the future of LEIs. "The big story is that LEIs are only the first step in a broader movement," says Paradise.

The Dodd-Frank Act created the Office of Financial Research, which is a US initiative. Paradise expects that similar research offices will be created in other jurisdictions, and their job will be to create better databases of information about financial institutions, markets and products, which will require standardised inputs.

"Global compatibility is the objective," he says. "Lessons learned during the LEI's implementation will inevitably be put to use in the future in developing product and transaction identifiers."