

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

CIRCULAR

REQUIREMENTS RELATING TO A LEGAL ENTITY IDENTIFIER UNDER MIFID II AND MIFIR AS APPLICABLE TO PERSONS AUTHORISED UNDER THE TRUSTS AND TRUSTEES ACT

1. Introduction

On 9th August 2016, the MFSA issued a [Circular to the Financial Services Industry on the Legal Entity Identifier](#) (“LEI”). The LEI is a unique identifier consisting of a 20-character alpha-numeric code, which allows for the identification of legally independent entities across global financial markets. This LEI is required in order to comply with the requirements applicable to market participants under MiFIR relating to report transactions. Transaction Reports are required to be made available to the Authority either by the reporting entity itself, or by making use of an ARM acting on their behalf or the trading venue through which systems the transaction was completed, as per Article 26(7) of MiFIR. Further information about these requirements can be obtained from the [Circular issued by the MFSA on 3rd November 2017](#) as well as the follow up [Circular issued on 17th November 2017](#).

2. Legal Entities requiring an LEI

As clarified by ESMA in its briefing of 9 October 2017, “*The term ‘legal entities’ includes, but is not limited to, unique parties that are legally or financially responsible for the performance of financial transactions or have the legal right in their jurisdiction to enter independently into legal contracts, regardless of whether they are incorporated or constituted in some other way (e.g. trust, partnership, contractual). It excludes natural persons, but includes governmental organizations and supranationals.*”

By virtue of this Circular, the Authority would therefore like to draw the attention of persons authorised under the Trusts and Trustees Act (Cap. 331, Laws of Malta) that, where they are

administering trusts or private foundations **which deal in financial instruments as defined under MiFID II, or hold investment portfolios dealing in such financial instruments as part of the assets held under administration**, such trusts and/or foundations are required to obtain an LEI for every such trust or foundation. Authorised persons are referred to the above-mentioned circulars for guidance on how to apply for such an LEI. In addition, authorised persons are also encouraged to liaise with the investment manager/investment advisor appointed with respect to the relative investment portfolios in relation to the requirements relating to Transaction Reporting as outlined above.

3. Contacts

Any queries regarding the subject matter of this circular are to be directed to:

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