

Annex I: Impact Assessment

Section 1 – Procedural issues and consultation of interested parties

1. In accordance with Article 16 of EIOPA Regulation, EIOPA conducts analyses of costs and benefits in the policy development process. The analysis of costs and benefits is undertaken according to an Impact Assessment (IA) methodology.

Section 2 – Problem definition

2. As part of its work on data standardisation and in the context of i.a. ESRB recommendations and COM initiatives on data, EIOPA identified the need to review and subsequently revise its current Guidelines on the use of the Legal Entity Identifier (LEI).
3. In order to facilitate the review process, ideas for potential Guidelines' improvements (to improve the efficiency of LEI use and identify gaps) were discussed with national competent authorities (NCAs). Mainly qualitative type of feedback was gathered via a survey addressed to supervisors in EEA Member States.
4. While the existing LEI Guidelines and reporting under Solvency II Directive promoted the use of LEI, it turned out during the Guidelines review that there are still some issues requiring clarification and amendments of the scope of the supervised entities that should have a LEI and are or should be impacted by EIOPA's Guidelines. Those issues related to i.a.:
 - scope and proportionality within the Guidelines;
 - considering reference to insurance intermediaries, branches as well as nonregulated and third country entities;
 - identification of entities within the group.

As such the existing Guidelines were considered as requiring revision in particular regarding:

- their scope – in terms of affected entities and insufficient clarity regarding the scope of Guidelines in terms of supervised entities and applicable proportionality aspects;
- their accurateness – to update the references to currently outdated instructions and deadlines.

Consideration was also given in relation to the ESRB recommendations and actions to be taken by EIOPA as a result.

5. As a result, EIOPA prepared draft LEI Guidelines, accompanied by a draft Impact Assessment, and carried out a public consultation seeking feedback on key aspects of the revised Guidelines, particularly regarding proportionality aspects. The responses received from stakeholders were carefully considered and, where feasible, improvements were made to the Guidelines and the accompanying Impact Assessment.

Section 3 – Objectives pursued

6. The objectives of the revision of the Guidelines are to act in terms of supervisory convergence and standardisation of the data on entities to improve data handling by both national competent authorities and EIOPA.
7. Since issuing the initial Guidelines on LEI, the ESRB issued recommendations on the use of LEI and instructions as well as deadlines have been adjusted.
8. Therefore, the key consideration to amend the Guidelines were to provide necessary clarifications, to consider proportional approaches and to update the references:
 - a) amend and provide clarity to the national competent authorities in relation to the scope of the entities that should be required to have a LEI and how the proportionality principle could be applied;
 - b) consider ESRB recommendations addressed to relevant authorities and authorities;¹
 - c) while completing a) and b), simplify the text and remove the references to outdated instructions and deadlines.

The above mentioned specific objectives will continue to establish and maintain consistent, efficient and effective supervisory practices by harmonising the identification of legal entities in order to ensure high quality, reliable and comparable data.

Section 4 – Policy Issues and Policy Options

9. With the aim to meet the objectives set out in the previous section, EIOPA has determined two policy issues and analysed policy options to address the policy issues. The section below reflects the most relevant policy options that have been considered in relation to different aspects associated with the LEI Guidelines' amendments and in terms of proportionality.

Policy issue 1

10. To ensure a high level of standardisation and increased data quality, the clear identification of entities and financial actors is important. The initial Guidelines were not fully clear in terms of affected entities and led to an inconsistent application of LEI. These policy options were considered:
 - Policy option 1.1: Keeping the status quo and not revising the LEI Guidelines.
 - Policy option 1.2: Revise EIOPA's Guidelines on LEI to review the scope and provide clarity, simplify and update the existing text.

Policy issue 2

11. The use of (new) standardised formats bring additional costs to the affected entities and financial actors, in particular if other identification codes have been used so far. On the other hand, the consistent use of standards brings efficiency gains for data handling and the use of supervisory information. The most relevant policy options considered in terms of **proportionality** were:

¹ The definitions of 'authorities' and 'relevant authorities' are included in the ESRB recommendation on LEI.

- Policy option 2.1: No proportionality, all entities should have an LEI
- Policy option 2.2: Choices on proportionality (IORP, IDD)

Section 5 – Analysis of the impacts

Policy issue 1

Policy option 1.1. Keeping the status quo and not revising the LEI Guidelines.

12. EIOPA believes that without revising the Guidelines, there will be insufficient clarity in terms of the scope of the impacted entities where NCAs should be asking for and requiring having a LEI.
13. Whereas, there is already high coverage (around above 90%) of the insurance undertakings who have LEI codes, there is still a LEI information gap when it comes to IORPs. It also happens that while many pension funds may actually have LEIs, those are not being reported to EIOPA.²
14. Also, back in 2014, there was no IDD Directive in force which i.a. instructs EIOPA to establish and keep up to date single electronic register containing records of insurance, reinsurance insurance intermediaries which carry out cross-border business. In EIOPA's view such a register should contain LEI information to ensure the unique identification of a single entity across countries.
15. In addition, keeping the status quo and not revising LEI Guidelines would mean that the ongoing questions, issues about branches, third country entities, entities included in groups remain unresolved. And this would in turn contribute to lesser efficiency and effectiveness of the LEI Guidelines implementation.
16. Lastly, the presence of outdated deadlines, terminology (e.g. pre-LOU) can make the existing Guidelines partially redundant or obsolete.

Policy option 1.2. Revise EIOPA Guidelines on LEI to review their scope and provide clarity as well as to simplify and update the existing text.

17. Considering the number of triggers that indicate necessary changes to the LEI Guidelines (ESRB recommendation, the IDD and the need to update deadlines and references), it is not surprising that this option is the one to be considered further. Revising EIOPA Guidelines, as suggested in this document, facilitates meeting the indicated objectives in a more efficient and effective manner than the option 1.
18. Providing more clarity will be useful for NCAs in terms of scope (which entities should be asked to have LEI).
19. Option 2 could result in a wider adoption of the LEI code to identify reporting institutions in different countries, which would be beneficial for classifying and aggregating data from institutions with cross-border operations, with branches established in different Member States or through freedom of providing services.

The LEI rules allow for unambiguous identification of the legal entities mentioned above, avoiding inconsistency and ambiguity of identification by national codes or by their name. This categorisation improves the quality and timeliness of aggregated data at EU level and eventually reduces the reporting burden for reporting entities operating cross-border. Using shared codes to collect and disseminate data by individual institutions will also facilitate linking to different databases and other sources of information available at the national and international level.

² It needs to be noted that EIOPA also started producing an LEI data quality indicator which measures the usage of LEI in the Solvency II (SII) quantitative reporting templates. For the time being the focus of this indicator is on the key SII tables: S0102, S0602, S0801, S1001, S3002, S3004 and S310102.

20. One should also take into account the high-level benefits of this Option (which promotes wider LEI adoption). It could contribute to:
- enhanced supervision and oversight of financial institutions as well as improved regulatory policies and decision making process
 - identifying, assessing, monitoring and reporting risks to the financial stability of the European insurance and pensions sectors
 - supporting overall EIOPA's work on crisis prevention, financial stability, oversight, policy and consumer protection.
21. After analysing the feedback received from the stakeholders during the public consultation, EIOPA has further specified the text of the Guideline 1 in terms of its scope:
- a clearer distinction was made between 'the group under ultimate parent undertaking' and different types of undertakings covered by 'all undertakings in the scope of a group';
 - an additional clarification on the holdings was included on the mixed activity insurance holding companies;
 - the exemption for certain IORPs was streamlined while keeping the link to EIOPA's Decision on IORPs reporting;
 - the addition of the ancillary insurance intermediaries to the intermediaries paragraph. Naturally, the LEI is considered for only those intermediaries who actively carry out, exercise cross-border business in accordance with Directive (EU) 2016/97 (IDD Directive) and have to be registered. I.e. travel agents and car rental companies which meet the IDD Directive exemption are not included.

Policy issue 2

22. Regarding policy issue 2, EIOPA analysed how to apply the proportionality principle when revising its LEI Guidelines. As intended, this part of the impact assessment was finalised after the public consultation. Stakeholders' feedback was of key importance for this assessment. As stated before the following options were considered:

Policy option 2.1: No proportionality, all entities should have a LEI

This policy option would mean that any entity reporting to national competent authority would need to be required to register for LEI, without regard to the costs for the entity stemming from that registration as well as to the significance of that entity related to the supervisory information reported by the entity.

Policy option 2.2: Choices on proportionality (IORP, IDD)

23. When analysing the benefits of the wider LEI adoption, one needs to also consider the issue of LEI related costs of registration and renewal (depending on the LOU ca. €60-€100 on average on annual basis; some charge €120 first certification, €50 renewal) especially in the context of entities previously not covered by the existing Guidelines (e.g. intermediaries) and who do not have LEI. For some of them this cost might be substantial.

24. The costs at stake were confirmed by the comments received during the public consultation.

25. The LEI registration and renewal costs can be also significant in case of small IORPs.

26. Therefore, in the revised Guidelines proportionality measures were proposed to mitigate costs-related risks.
27. In case of IORPs, it was mentioned that the cost impact would depend on the explicit proportionality measure. Initially, in the public consultation the following conditions were suggested in order for IORPs to be excluded from the obligation to have an LEI:
- it operates pension schemes which together have less than 100 members in total and
 - it has a balance sheet total is of less than one thousand million Euros and
 - it is not ranked as one of the five biggest IORPs in terms of balance sheet totals in the Member State, unless the individual balance sheet total is less than one hundred million Euros.
- During the public consultation, stakeholders proposed to simplify and reduce the thresholds proposed, with one stakeholder arguing that no exemptions should exist. EIOPA simplified the text, but decided to keep the level of thresholds as it is important to keep the consistency with the requirement to report individual information under the Decision on EIOPA's regular information requests towards NCAs regarding the provision of occupational pensions information.
28. In case of intermediaries, it was already proposed that only those operating crossborder should have LEI. The requirement seems to have been misunderstood as in fact only intermediaries doing cross-border business are included in the scope of the Guidelines.
29. It is also important to consider the ESRB recommendations on identifying legal entities. EIOPA's Guidelines revision reflect those developments in an appropriate and current way.

Section 6 – Comparison of options

30. The following table summarises and compares the main costs and benefits of the analysed options for stakeholders, including consumers, policyholders, members and beneficiaries, industry and supervisors:

Policy issue 1: Keeping the status quo vs Revising the LEI Guidelines		
Option 1.1: Keeping the status quo and not revising the LEI Guidelines		
Costs	Consumers, Policyholders, Members and beneficiaries	No material impact as the status quo will be kept; however the perception of lack of transparency might be triggered. Also indirect costs related to non-optimal supervision may be identified.
	Industry (insurance, insurance distribution, occupational pensions)	No material impact as the status quo will be kept
	NCAs	Lesser quality of reported data; less feasible to connect different data sets; may impact negatively appropriate identification and supervision, oversight of some of the entities; the objective of high-quality supervision might be negatively impacted
	Other	EIOPA: receiving lesser quality of reported data including registers; less feasible to connect different data sets; may impact negatively appropriate identification and supervision,

		oversight of some of the entities; the objective of high-quality supervision might be negatively impacted
Benefits	Consumers, Policyholders, Members and beneficiaries	No material impact as the status quo will be kept
	Industry (insurance, insurance distribution, occupational pensions)	No material impact as the status quo will be kept
	NCAs	No material impact as the status quo will be kept
	Other	N/A
Option 1.2: Revise EIOPA's Guidelines on LEI to review and provide clarity on scope and simplify and update the existing text		
Costs	Consumers, Policyholders, Members and beneficiaries	Potential LEI related costs may be passed on to consumers, policyholders, Members and beneficiaries by the industry via fees. However these costs are not considered material to supervised entities, therefore, whilst costs may be passed on, they are not expected to be significant (see also costs for industry).
	Industry (insurance, insurance distribution, occupational pensions)	New LEI related costs of registration and renewal (depending on the LOU ca. €60-€100 on average p.a.) for the entities previously not covered by the existing Guidelines who do not
		have LEI e.g. insurance intermediaries performing crossborder business; for those entities there may be additional indirect costs arising from the inclusion of LEIs in its internal systems; In case of IORPs – based on the stakeholders' feedback the LEI cost is not considered as burdensome. Other costs might also include, depending on the entity itself, staff training and revision of internal processes.
	NCAs	Costs related to the implementation of the revised Guidelines (comply or explain mechanism) however those are envisaged to be negligible considering the current LEI Guidelines exist since 2014. Nevertheless, potential additional costs for NCAs to revise their registers for collecting and managing updated LEIs might occur if this had not been done in the past. Especially if collecting LEIs for intermediaries is a new task for an NCA.
	Other	EIOPA: no material costs
Benefits	Consumers, Policyholders, Members and beneficiaries	More transparency about the financial institutions and their interconnections. Increased quality of supervision leads to increased protection of Consumers, Policyholders, Members and beneficiaries.
	Industry (insurance, insurance distribution, occupational pensions)	More transparency; having LEIs more widely spread may also contribute to better operational risk management.
	NCAs	More clarity in terms of scope; harmonisation of identification codes across different EU and international jurisdictions; improved interconnectivity of the information that is available at the different supervisors, NCAs; having a wider LEI adoption could be also useful for AML/CFT initiatives

Other	EIOPA: better quality of reporting data on legal entities including registers; more reliable and comparable data; more consistent, efficient and effective supervisory practices; having a wider LEI adoption could be also useful in AML/CFT initiatives ESRB: revision of EIOPA Guidelines on LEI could be considered as one of the implementation measures of ESRB's Recommendation B.
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Policy issue 2: No proportionality vs applying proportionate measures (IORP, IDD)

Option 2.1: No proportionality

Costs	Consumers, Policyholders, Members and beneficiaries	Potential LEI related costs may be passed on to consumers, policyholders, Members and beneficiaries by the industry via fees. Even if the costs are not consider material to supervised entities, and therefore this possibility seems to have low probability, this probability increases for smaller entities and the impact on consumers increases in the same proportion.
	Industry (insurance, insurance distribution, occupational pensions)	Despite the low costs to register and renew a LEI code the request for a LEI code for all entities despite their size or type of business would have a cost
	NCA's	Costs for NCA's to revise their registers for collecting and managing updated LEI's might occur, and this will increase if all entities are within the scope, in particular if all intermediaries are included
	Other	Not applicable
Benefits	Consumers, Policyholders, Members and beneficiaries	More transparency about the financial institutions and their interconnections regardless of their size or type of business. Increased quality of supervision leads to increased protection of Consumers, Policyholders, Members and beneficiaries.
	Industry (insurance, insurance distribution, occupational pensions)	More transparency; having LEI's more widely spread may also contribute to better operational risk management.
	NCA's	Harmonisation of identification codes across different EU and international jurisdictions; improved interconnectivity of the information that is available at the different supervisors,
		NCA's; having a wider LEI adoption could be also useful for AML/CFT initiatives.
	Other	EIOPA: better quality of reporting data on legal entities including registers; more reliable and comparable data; more consistent, efficient and effective supervisory practices; having a wider LEI adoption could be also useful in AML/CFT initiatives.

Option 2.2: Choices on proportionality (IORP, IDD)

Costs	Consumers, Policyholders, Members and beneficiaries	No material impact as proportionality is being considered for entities not covered by the previous Guidelines (intermediaries) and for small IORPS. However the perception of lack of transparency might be triggered. Also indirect costs related to non-optimal supervision may be identified.
	Industry (insurance, insurance distribution, occupational pensions)	No costs have been identified. However, having LEI's more widely spread may also contribute to better operational risk management.
	NCA's	Considered a manageable cost. It will lead to lesser quality of reported data; less feasible to connect different data sets; may impact negatively appropriate identification and supervision, oversight of some of the entities but only in relation to entities considered small and less risky.

	Other	It may be seen as endangering the adoption of the LEI system proposed by the Financial Stability Board (FSB) and endorsed by the G20, aimed at achieving a unique, worldwide identification of parties to financial transactions.
Benefits	Consumers, Policyholders, Members and beneficiaries	As potential LEI related costs may be passed on to consumers, policyholders, Members and beneficiaries by the industry via fees and as this probability increases for smaller entities and the impact on consumers increases in the same proportion, applying proportionality can reduce future costs for consumers, policyholders, members and beneficiaries.
	Industry (insurance, insurance distribution, occupational pensions)	Requesting LEI and imposing additional costs, even if the costs are considered non-material, when the value-added is not visible is not better regulation. This option benefits the entities exempted from the scope.
	NCA's	No costs for NCA's to revise their registers for collecting and managing updated LEI's regarding entities not considered relevant.
	Other	Not applicable.

31. The following table summarises and compares the effectiveness and efficiency of the two options:

Policy issue 1: Keeping the status quo vs Revising the LEI Guidelines						
	Effectiveness (0/+ /++)			Efficiency (0/+ /++)		
Options	Review and provide clarity to the national competent authorities in relation to the scope of the entities that should be required to have a LEI and how the proportionality principle could be applied	Consider ESRB recommendations addressed to relevant authorities and authorities	While completing a) and b), simplify the text and remove the references to outdated instructions and deadlines	Review and provide clarity to the national competent authorities in relation to the scope of the entities that should be required to have a LEI and how the proportionality principle could be applied	Consider ESRB recommendations addressed to relevant authorities and authorities	While completing a) and b), simplify the text and remove the references to outdated instructions and deadlines
Option 1.1.: No change	0	0	0	0	0	0
Option 1.2: Revision of guidelines	++	++	++	++	++	++

Policy issue 2: No proportionality vs applying proportionate measures (IORP, IDD)		
	Effectiveness (0/+ /++)	Efficiency (0/+ /++)

Options	Review and provide clarity to the national competent authorities in relation to the scope of the entities that should be required to have a LEI and how the proportionality principle could be applied	Consider ESRB recommendations addressed to relevant authorities and authorities	While completing a) and b), simplify the text and remove the references to outdated instructions and deadlines	Review and provide clarity to the national competent authorities in relation to the scope of the entities that should be required to have a LEI and how the proportionality principle could be applied	Consider ESRB recommendations addressed to relevant authorities and authorities	While completing a) and b), simplify the text and remove the references to outdated instructions and deadlines
Option 2.1: No proportionality	0	++	+	0	+	+
Option 2.2: Proportionality	0	+	++	0	+	+