

**CIRCULAR RELATING TO A LEGAL ENTITY UNDER MIFID II AND MIFIR
AS APPLICABLE TO RETIREMENT SCHEMES LICENSED
UNDER THE RETIREMENT PENSION ACT (CAP. 514)**

1. Background

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 alphanumeric 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 the Markets in Financial Instruments Regulation Regulation (EU) No 600/2014 (“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 Approved Reporting Mechanisms 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

In terms of article 26(6) of “MiFIR”, “*investment firms shall use a legal entity identifier established to identify clients that are legal persons*”. In the [briefing note](#) issued by the European Securities and Markets Authority (“ESMA”) on the 9th October 2017, it was clarified that the MiFIR introduces the requirement for a number of various entities to be identified through the LEI. One of the entities to be identified through the LEI, refers to “*the clients (buyer, seller) on whose behalf the investment firm executes transactions when the client is a legal entity*”.

In the said paper, ESMA clarifies which legal entities can apply for a LEI. “*The term ‘legal entity’ 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 individuals acting in a business capacity. It also includes governmental organizations and supranationals.*”

The Authority would like to draw the attention to Retirement Schemes Administrators that retirement schemes licensed under the Retirement Pensions Act (Cap. 514) are considered to be clients (legal entities) on whose behalf the investment firm executes transactions.

Therefore, Retirement Schemes Administrators licensed under Retirement Pensions Act (Cap. 514) administering retirement schemes which are also licensed under the said Act, dealing in financial instruments as defined under MiFID II, are required to obtain a LEI for every retirement scheme administered by them.

In so far as occupational retirement schemes are concerned, these are already required to obtain a LEI as specified in the [Circular issued by the MFSA on 7th November 2014](#).

Retirement Schemes Administrators are referred to the abovementioned circulars for guidance on how to apply for such a LEI.

3. Contacts

Any queries or requests for clarifications in respect of the above should be sent by email on ipsu@mfsa.com.mt.

**Communications Unit
Malta Financial Services Authority
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