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Creating a Culture of Compliance

LEGAL ENTITY IDENTIFIERS AND HMDA 2018

QUESTIONS AND ANSWERS

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The Legal Entity Identifier ("LEI") is a unique 20-character code that identifies distinct legal entities which engage in financial transactions. The LEI is a global standard, designed to be non-proprietary data that is freely accessible to all. Many financial institutions have not obtained a Legal Entity Identifier (LEI).

A financial institution must provide with the following information in its HMDA submission on or after January 1, 2018:

i. Its name;
ii. The calendar year the data submission covers pursuant to paragraph (a)(1)(i) of this section or calendar quarter and year the data submission covers pursuant to paragraph (a)(1)(ii) of this section;
iii. The name and contact information of a person who may be contacted with questions about the institution's submission;
iv. Its appropriate Federal agency;
v. The total number of entries contained in the submission;
vi. Its Federal Taxpayer Identification number; and
vii. Its Legal Entity Identifier (LEI) as described in § 1003.4(a)(1)(i)(A)

[Emphasis added. See 5(a)(3)(vii)—Legal Entity Identifier (LEI)]

For purposes of the submission requirement, "appropriate Federal agency" means the appropriate agency for the financial institution as determined pursuant to § 304(h)(2) of the Home Mortgage Disclosure Act [12 U.S.C. 2803(h)(2)] or a financial institution subject to the Consumer Financial Protection Bureau's ("Bureau") supervisory authority under § 1025(a) of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5515(a)].

If your financial institution needs an LEI, the GMEI Utility is endorsed by the Global LEI Foundation and also has a search function. There are some frequently asked questions on their website and we provide below a few highlights derived from that resource.

- Who can register the financial institution? You must currently be an employee of the financial institution you are registering and also authorized by the financial institution to register for an LEI. Alternatively, financial institutions may use a third party through an assisted registration process. The person registering the financial institution will need a user account, which may be created here.

- What information is needed to register? The basic information listed in the ISO 17422, such as the financial institution's legal name, registered address, headquarters address, legal form, and so forth.
- What is the cost? The GMEI Utility charges $200 for each registration request plus a $19 surcharge. To maintain and keep the LEI registration active, the fee for each registration is $100 plus a $19 surcharge. For more information, visit the FAQs specific to payment.

Once payment is processed, the GMEI will validate the financial institution using public sources. Once this process is complete, it takes about three business days for an LEI to be issued in the GMEI database. Overall, the GMEI Utility's FAQs state that most requests are "cleared" within three to five business days.

It is advisable to review the CFPB's HMDA implementation webpage for more information.

FREQUENTLY ASKED QUESTIONS

Q: Why do we need an LEI?

A: The Bureau has taken the position that an LEI could improve the ability to identify a financial institution reporting data and correlate it to its corporate configuration. In addition, the Bureau has stated that "facilitating identification of a financial institution's corporate family could help data users identify possible discriminatory lending patterns and assist in identifying market activity and risks by related companies." By facilitating identification, this requirement apparently is also meant to help data users identify whether financial institutions are serving the housing needs of their communities. [§ 1003.5(a)(3)]

Q: Should we be getting our LEI as soon as possible? Can we get an LEI before we have to start using it, or do we have to use it as soon as we obtain it?

A: We recommend that you obtain your LEI by the first or second quarter of 2017. There is no reason to delay. We don't anticipate the price to change. However, you must have an LEI for all loans submitted for HMDA on or after January 1, 2018.

Q: Do you anticipate the Uniform Loan Identifier (ULI) to be calculated by Loan Origination Systems?

A: We do anticipate that many LOSs will offer to provide this number. However, it is very possible that they may leave this to the vendor collecting your HMDA data. Some concern has been raised about commercial or consumer systems needing such a programming solution. It is our understanding that the Bureau is evaluating this requirement with respect to a compliance effective date for calculating and verifying the ULI and ensuring it has not been previously used.

Q: Where would we find the LEI and ULI numbers you spoke of? Do we get it from the Nationwide Mortgage Licensing System & Registry or some other website?

A: As indicated above, the LEI is available at https://www.gmeiutility.org/ and the ULI may be determined by you, possibly in conjunction with your loan origination system.

The Bureau considered the Nationwide Mortgage Licensing System & Registry identifier to be an appropriate alternative to the LEI. In the proposal stage of the rule, there were some concerns voiced about the cost to obtain an LEI, mostly citing the cost associated with obtaining an LEI and the availability of alternative identifiers. But, because the LEI system is predicated on a "cost recovery model," it was believed that the cost associated with obtaining an LEI could decrease as the LEI identifier is used more widely. So, despite the cost, the Bureau concluded that the benefit of all HMDA reporters using an LEI would justify the associated cost.

Q: What about assigning an LEI to commercial reportable loans that are not processed through our LOS?

A: Some commercial or consumer loan origination products may add this functionality. However, for financial institutions that may on-board certain loans with document programs and Excel spreadsheets, some HMDA collection services seem to be considering whether they can add this ability. The Bureau has indicated it will be offering an integration tool. This is not needed until January 1, 2018, so it appears to not yet be a high priority for the Bureau.

Q: If we purchase loans, which entity reports the ULI, the new entity or the one for the company we purchased the loans from?

A: The institution that is selling the loan to you has the responsibility to provide the ULI for all loans sold or purchased on or after January 1, 2018. However, that company may not have originated the loan. There may be situations in the early part of this process where your institution may have to assign a ULI to a loan funded prior to January 1, 2018. However, for loans originally funded on or after January 1, 2018 you should insist on a valid ULI from the entity selling the loan.

Q: We report HMDA quarterly. When we purchase loans from other financial institutions, do we have to put in their ULI number when doing our quarterly HMDA filing?

A: You must use the ULI assigned to the loan that the other financial institution originated. The ULI will contain the other company's LEI. In some cases, you may be buying loans from entities that did not originate the loans (i.e., you may buy a loan from an entity who bought the loan from another entity who originated it). Some loans may end up with Action Code 6 (viz., loan purchased by the institution) multiple times during the life cycle of a particular loan. Others may only be sold once. Portfolio loans may not be sold at all.

Q: We have separate business lines that use very different underwriting guidelines. Can a financial institution register for an LEI for each business unit and submit a Loan Application Register ("LAR") for each?

A: For each LAR, you will need an LEI. The LEI is issued to a financial institution and that financial institution should use its LEI for the LAR submission.

Q: Will we need to obtain an LEI for each of our DBAs or will it be the parent company's LEI that all DBAs under us will use?

A: You will need to provide one LEI for each legal entity involved in the origination of loans or that is subject to HMDA reporting (i.e., a "financial institution" as defined in the new rule). However, your question refers to

"DBAs" on the one hand and then "Parent Company" on the other. Are the DBAs part of a single company? Are there other subsidiaries that already have different Respondent IDs? The answers to these questions matter. We suggest you start your analysis with any company that today has an NMLSR ID. Then you might expand to any company that purchases loans.

That said, the Bureau has determined that requiring the parent company of a financial institution to obtain an LEI would not be appropriate. Requiring the parent company to obtain an LEI specifically for HMDA purposes, except if the parent company is also a HMDA reporter, and requiring the financial institution to submit its parent company's LEI with its HMDA data submission, would be an unnecessary additional burden because once the LEI is fully implemented, information regarding the parent company is expected to become available. Thus, the Bureau's position seems to be that the benefit of requiring parent information does not justify the burden, since information about the parent company most likely will be available through an alternative source. Accordingly, the Bureau does not require a financial institution to identify its parent company.

Q: What is the Reporter's Identification Number?

A: Regulation C currently requires financial institutions to provide a Reporter's Identification Number ("HMDA RID") in their transmittal sheet and LAR. The HMDA RID consists of an entity identifier specified by the financial institution's appropriate Federal agency combined with a code that designates the agency. Each Federal agency chooses the entity identifier that its supervised financial institutions would use in reporting their HMDA data. Currently, the Research Statistics Supervision and Discount (RSSD) number is used by institutions supervised by the Federal Reserve Board (FRB) and depository institutions supervised by the Bureau; the Federal Tax Identification number is used by non-depository institutions supervised by agencies other than the FRB; the charter number is used by depository institutions supervised by the National Credit Union Administration (NCUA) and the Office of the Comptroller of the Currency (OCC); and, the certificate number is used by depository institutions supervised by the FDIC.

Q: Where can I find more information about LEI and HMDA?

A: The Bureau moved HMDA filing instructions to 5(a)(2) in proposed Appendix A and incorporated it into § 1003.5(a)(3) because of the removal of Appendix A from the Final Rule. Pursuant to its authority under section HMDA 305(a), the Bureau also added certain information related to the data submission that is currently provided on an institution's transmittal sheet, as illustrated in Appendix A of § 1003.5(a)(3). There may be other relevant requirements set forth in certain Federal Register issuances from time to time.

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