

Legal entity identifiers and charities

27 JULY 2017

CATEGORY:

ARTICLE

CLIENT TYPES:

CHARITIES AND NON-PROFIT

With the implementation of a suite of EU legislation called the Markets in Financial Instruments Directive II (known as 'MiFID II') come new transaction reporting requirements for investment firms that will compel their clients, including their charity clients, to obtain a Legal Entity Identifier or 'LEI' if they intend to transact in securities after 3 January 2018. This is because one of the (many) aims of MiFID II is to compel greater transparency in financial markets, in part through identifying the underlying investor and showing who has made the investment decision.

Financial institutions will no longer be able to place orders to buy or sell investments for entities that are eligible for LEIs after 3 January 2018 if that LEI is not in place. Eligible entities are legal entities or structures including companies and trusts (which include charitable companies or trusts). Individuals acting in an independent business capacity will also need an LEI but individuals acting in a private or non-professional capacity do not, and the relevant European authorities have said that when dealing with a deceased's estate:

...the deceased person should be reported as the seller and the deceased person is regarded as the decision maker ... Where a party is inheriting financial instruments it would be reported as the buyer and the inheriting party would be considered to be the decision maker and the decision maker fields would not be populated

which means that an executor should not have to obtain an LEI for the estate if they are simply dealing with assets in the deceased's account.

LEIs themselves are unique 20-character global identifiers that can be obtained for a fee from 'Local Operating Units' of the Global LEI system – at the moment, the UK's Local Operating Unit is the London Stock Exchange. LEIs have to be renewed annually (again for a fee). Our experience is that a number of financial institutions are offering to obtain and renew LEIs for customers and can often offer a discount, so to the extent you have not already heard from your usual contacts about their offerings, you may want to get in touch to see what is available. Although the obligation to have an LEI kicks in on 3 January 2018, it is advisable to obtain the LEI well in advance; the application itself (though overloaded with jargon) is not particularly complicated, but surges in applications can cause delays.