

3 March 2020

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European Commission
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Dear Ms Pruna

Roadmap: Towards a new comprehensive approach to preventing and combating money laundering and terrorism financing

The role of the Financial Markets Law Committee (the "FMLC" or the "Committee") is to identify issues of legal uncertainty, or misunderstanding, present and future, in the framework of the wholesale financial markets which might give rise to material risks, and to consider how such issues should be addressed.

On 24 July 2019, the European Commission adopted a Communication to the European Parliament and the Council which observed that, although many risks and shortcomings in the regulatory framework for anti-money laundering and preventing terrorist financing had been addressed, structural shortcomings remained.¹ It was necessary to give consideration to further enhancing the regime. The European Commission's evidence was welcomed by the European Parliament and Council.² As a result, the European Commission has issued a roadmap to identify the areas where further action would be needed at E.U. level in order to achieve a comprehensive and effective framework.³

The FMLC welcomes this initiative. The Committee has engaged over the past year with issues of legal uncertainty arising in the context of Directive (EU) 2018/843 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (the "**Fifth Money Laundering Directive**" or "**5MLD**"). It has highlighted the ways in which 5MLD does not capture the range of virtual currencies and related activities and has liaised with HM Treasury on the transposition of 5MLD in the U.K.⁴

¹ European Commission, *Communication from the commission to the European parliament towards better implementation of the EU's anti-money laundering and countering the financing of terrorism framework* (24 July 2019), available at: https://ec.europa.eu/info/files/communication-commission-european-parliament-towards-better-implementation-eus-anti-money-laundering-and-countering-financing-terrorism-framework_en

² European Parliament, *State of implementation of anti-money laundering legislation (P9_TA(2019)0022*, (19 September 2019), available at: https://www.europarl.europa.eu/doceo/document/TA-9-2019-0022_EN.pdf

Council of the European Union, *Council Conclusions on strategic priorities on anti-money laundering and countering the financing of terrorism*, (5 December 2019), available at: <http://data.consilium.europa.eu/doc/document/ST-14823-2019-INIT/en/pdf>

³ European Commission, *Roadmap: Towards a new comprehensive approach to preventing and combating money laundering and terrorism financing*, (12 February 2020), available at: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12176-Action-Plan-on-anti-money-laundering>

⁴ FMLC, *Report: Exchange Tokens*, (23 October 2019), available at: <http://fmlc.org/report-exchange-tokens-23-october-2019/>.

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In a letter to HM Treasury, the FMLC highlighted the importance of legal entity identifiers (“LEIs”).⁵ Following the 2008 financial crisis, authorities and the private sector cooperated to develop the framework of a Global LEI System that will, through the issuance of unique LEIs, unambiguously identify legal entities engaged in financial transactions. For example, the use of LEIs as part of disclosure requirements for firms offering cryptoasset exchange services and custodian wallet service providers could contribute significantly to transparency in this unregulated capital market. This is especially true in the context of initial coin offerings which are not yet typically accompanied by standardised documentation, leading to the establishment of information intermediaries.

Organisations more involved in the creation and promulgation of LEIs have published reports which explore the ways in which the adoption of LEIs would help enhance the anti-money laundering regime.⁶ The FMLC wishes to add its voice to the support for the adoption of LEIs in any future iteration of the anti-money laundering regime.

I and Members of the Committee would be delighted to meet you to discuss the issues raised in this letter. Please do not hesitate to contact me should you wish to arrange a meeting or if you have any questions.

Yours sincerely,



Joanna Perkins
FMLC Chief Executive

⁵ FMLC, *Response to Consultation: Changes to the Trust Registration Service under the Fifth Money Laundering Directive*, (21 February 2020), available at: <http://fmlc.org/response-to-consultation-changes-to-the-trust-registration-service-under-the-fifth-money-laundering-directive-21-february-2020/>.

⁶ Global Legal Entity Identifier Foundation, *Response to HM Treasury on the Transposition of the Fifth Money Laundering Directive Consultation*, (June 2019), available at: https://www.gleif.org/content/1-about/8-consultation-responses/2019-17-06_gleif-response-hm-treasury-aml-directive-consultation-web-publication_v1.0-final.pdf.