

June 15, 2020

Via Electronic Submission

Christopher Kirkpatrick
Secretary of the Commission
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street N.W.
Washington, D.C. 20581

RE: Amendments to Compliance Requirements for Commodity Pool Operators on Form CPO-PQR (RIN: 3038–AE98)

The Depository Trust and Clearing Corporation (“DTCC”)¹ appreciates the opportunity to provide comments to the Commodity Futures Trading Commission (“CFTC” or the “Commission”) on its proposed regulations related to Amendments to Compliance Requirements for Commodity Pool Operators on Form CPO-PQR.²

DTCC, through its subsidiaries, provides and maintains the largest post-trade market infrastructure for the global financial services industry. It is the parent company of multiple systemically important financial market utilities (“SIFMUs”), and represents the primary financial market infrastructure serving the U.S. capital markets across multiple asset classes, including equities, corporate and municipal bonds, government and mortgage-backed securities, money market instruments, mutual funds, insurance, alternative investment products, and over-the-counter derivatives. DTCC has operating facilities and data centers around the world and, through its subsidiaries, automates, centralizes, and standardizes the post-trade processing of financial transactions enabling thousands of institutions worldwide to issue securities and raise capital to build businesses. Business Entity Data B.V. (“BED”), a wholly-owned subsidiary of DTCC, is also a provider of Legal Entity Identifier (“LEIs”) through the Global Market Entity Identifier (“GMEI”) utility.

¹ DTCC provides critical infrastructure to participants in the financial industry, including investors, commercial end-users, broker-dealers, banks, insurance carriers, and mutual funds. DTCC operates as a cooperative that is owned collectively by its users and governed by a diverse Board of Directors.

² Amendments to Compliance Requirements for Commodity Pool Operators on Form CPO–PQR, 85 FR 26378 (May 4, 2020) (hereinafter “Proposing Release”).

DTCC supports the Commission’s proposed amendments to Form CPO–PQR, which seeks to include the LEI of both Commodity Pool Operators (“CPOs”) and their operated pools, to the extent they have them. Our comments are intended to share our experience and views on the use and benefits of LEIs.

GENERAL COMMENTS

As mentioned above, DTCC’s subsidiary BED provides LEIs to market participants through the GMEI utility, which is overseen by the Global Legal Entity Identifier Foundation (“GLEIF”) and globally endorsed by the Regulatory Oversight Committee (“ROC”).³ In DTCC’s experience, regulators and private market participants use LEIs to enhance their risk management capabilities.⁴ In particular, DTCC notes that regulators typically use LEI for systemic risk analysis. LEIs are also used to streamline internal operations to, among other things, lower data reconciliation costs (e.g., using a global LEI to replace the manual matching of identical participants that supply different naming conventions).

The Proposing Release states that the Commission is not always able to obtain a complete picture of the markets it regulates because it is difficult for it to align the data it collects from Form CPO-PQR with the data it collects from exchanges, clearinghouses, swap data repositories, and futures commission merchants due to the lack of LEI information for CPOs and their operated pools.⁵ As stated above, in DTCC’s experience regulators use LEIs to enhance their risk management capabilities.⁶ Accordingly, DTCC believes that collection of LEI information for CPOs and their commodity pools will help the Commission analyze the potential risk presented by pools and pool families by, among other things, facilitating data aggregation from commodity pools under different levels of common control.

DTCC recognizes that the Proposing Release does not require all CPOs, such as those that do not trade swaps, to obtain and report LEIs. DTCC believes, however, that the Commission should consider expanding this data collection to include all CPOs and their commodity pools. In addition to the reasons stated above, DTCC believes that such an expanded collection would allow the Commission to obtain a more complete picture of pool activity across all derivatives transactions rather than just with respect to swaps transactions. DTCC does not believe that the

³ To date, the GMEI utility has issued over 413,289 LEIs to entities from more than 203 jurisdictions. *See* <https://www.gmeiutility.org/> (last visited on May 25, 2020).

⁴ Indeed, the core asset of the LEI system is its ability to validate the legitimacy of a legal entity and to ensure each legal entity is uniquely identified with an LEI code.

⁵ *See* Proposing Release at 26411.

⁶ For example, the U.S. Department of Treasury’s Office of Financial Research (“OFR”) requires the reporting of certain LEI information Rulemaking as part of its data collection of centrally cleared transactions in the U.S. repurchase agreement market. *See* https://www.financialresearch.gov/data/files/fr-notice_ofr_cleared_repo_rule.pdf. (last visited May 26, 2020)

increased cost associated with such an expansion would represent a significant burden to CPOs and their commodity pools; rather it may ease the burden on CPOs, their pools and the Commission through the standardization of a common identifier. Based on DTCC's experience, DTCC believes that the costs associated with obtaining and maintaining an LEI are minimal. Based on information from GLEIF, the average cost for an LEI is \$111.⁷ DTCC believes that there are approximately 1326 registered CPOs.⁸ Of these registered CPOs, DTCC believes that there are approximately 742 entities who already have LEIs.⁹ For the remaining 584 CPOs, implementing LEIs would lead to a combined annual one-time cost of approximately \$64,824 (584 x \$111). The average renewal charge for an LEI is \$91.¹⁰ Thus, the annual renewal fee combined for all 1326 CPOs would total approximately \$120,666 (1326 x \$91) for the industry.

Given the benefits associated with LEI, the low costs for obtaining and renewing an LEI, and in keeping with the spirit of standards harmonization, DTCC encourages the Commission to consider expanding the LEI requirement to all CPOs and their commodity pools to better align the data received from DCOs, DCMs, SDRs, and FCMs and obtain a more complete view into the operations of CPOs and pools and the various roles such entities inhabit across the commodity interest markets.

We appreciate the opportunity to provide feedback on this important topic and would welcome the opportunity for further discussions and engagement on the topics raised herein. Should you wish to discuss these matters further, please contact me at (212) 855- 5919.

Sincerely yours,



Matthew P. Stauffer
Managing Director, Head of DTCC Institutional Trade Processing

⁷ The average cost for the registration of a new LEI record is \$100.00. However, each registration is also subject to a \$11.00 per record GLEIF surcharge. See <https://www.gmeiutility.org/gmeiUtilityPricing.jsp> (last visited May 25, 2020). See also https://www.isda.org/a/jBaTE/ISDA-GFMA-LEI-General-Awareness-FAQ-2019_English_FINAL.pdf (stating that “on average, registration costs about US\$100”).

⁸ See National Futures Association, Membership and Directories, available at <https://www.nfa.futures.org/registration-membership/membership-and-directories.html> (last visited on May 25, 2020).

⁹ Please note that GMEI holds LEI information for approximately 583 CPOs.

¹⁰ The basic fee for renewing an existing LEI record is \$80.00, which is also subject to a \$11.00 per record per year GLEIF surcharge. See <https://www.gmeiutility.org/gmeiUtilityPricing.jsp> (last visited on May 25, 2020). See also https://www.isda.org/a/jBaTE/ISDA-GFMA-LEI-General-Awareness-FAQ-2019_English_FINAL.pdf (stating that “renewals average US\$65”).