

January 29, 2014

## New Year, Renewed CICI – How and When to Maintain Your CICI/GMEI

Since the effectiveness of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the “**Dodd-Frank Act**”), the Commodity Futures Trading Commission (the “**CFTC**”) has finalized many of the rules that implement the regulatory regime outlined by the Dodd-Frank Act. As part of enhanced transparency requirements, all swap counterparties subject to the CFTC’s jurisdiction are required to obtain legal entity identifiers issued by an approved provider (“**LEIs**”). LEIs issued by DTCC-SWIFT, originally known as CFTC Interim Compliant Identifiers (“**CICIs**”), and now known as Global Market Entity Identifiers (“**GMEIs**”), must be recertified on an annual basis. This client alert explains how to determine when a GMEI is due for recertification and outlines the recertification process.

### I. Do I have a GMEI?

All swap counterparties subject to the CFTC’s jurisdiction were required to obtain a LEI by April 10, 2013 at the latest (the “**Deadline**”).<sup>1</sup> As of the Deadline, DTCC-SWIFT was the only provider of LEIs approved by the CFTC.<sup>2</sup> Accordingly, most if not all swap counterparties subject to the CFTC’s jurisdiction currently satisfy their obligation to hold an LEI by holding a GMEI. Since the Deadline, however, there has been global progress in establishing an international LEI compliance system. As a result, there are now multiple LEI providers approved by the CFTC, and swap counterparties technically have the flexibility to choose.<sup>3</sup> Swap counterparties can determine whether or not they hold a GMEI at [www.gmeiutility.org](http://www.gmeiutility.org) (the “**GMEI Site**”) by using the Search tab<sup>4</sup>.

<sup>1</sup> See *Division of Market Oversight and Office of Data and Technology Advisory Regarding Upcoming Legal Entity Identifier Deadline*, available at [http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/dmo\\_odtadvisory.pdf](http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/dmo_odtadvisory.pdf), dated as of March 10, 2013.

<sup>2</sup> See *Order Determining the Availability of a Legal Entity Identifier Meeting the Requirements of Commission Regulations, and Designating the Provider of Legal Entity Identifiers to Be Used in Recordkeeping and Swap Data Reporting Pursuant to the Commission’s Regulations*, available at <http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/ciciorder.pdf>, dated as of July 23, 2012.

<sup>3</sup> See *Amended Order Designating the Provider of Legal Entity Identifiers to be Used in Recordkeeping and Swap Data Reporting Pursuant to the Commission’s Regulations*, available at <http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/leiamendedorder.pdf>, dated as of June 7, 2013;

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## II. When do I need to recertify my GMEI?

The terms of recertification are governed by DTCC-SWIFT. A GMEI must be recertified every 12 months, starting with the date it was initially registered.

## III. How can I determine my recertification deadline?

Swap counterparties uncertain as to when their next recertification deadline approaches can determine this at the GMEI Site by using the Search tab. The next recertification deadline will be listed in the Next Maintenance Date field, and the current compliance state will be listed in the Maintenance State field. Entities listed as “NOT\_CURRENT” are overdue for recertification.

## IV. Will I be notified of my recertification status?

Swap counterparties will not receive a notice from the GMEI Site until they have lapsed into the “NOT\_CURRENT” state. Notifications will be sent to the email address associated with the counterparty’s initial registration or most recent recertification. Accordingly, swap counterparties are advised to be aware of their recertification date and not rely on automated notifications.

## V. How do I recertify my GMEI?

In order to recertify a GMEI, swap counterparties must log into their account at the GMEI Site, check the listed information for accuracy (and update it if necessary) and pay the required \$100 fee. Payment can be made either by wire transfer or credit card.

## VI. What are the consequences of failure to timely recertify?

GMEIs in need of recertification will not be immediately removed from the GMEI Site and, as of the date of this writing, can be renewed at any time after lapsing into a “NOT\_CURRENT” state. However, swap counterparties must maintain their GMEIs to remain in compliance with CFTC regulations. Additionally, GMEIs must be provided when reporting swaps, adhering to many industry protocols and, generally, when engaging in derivatives trading in the United States. Prolonged failure to recertify may result in removal of a lapsed GMEI from the GMEI database and jeopardize a swap counterparty’s ability to trade.

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see also <http://www.leiroc.org/> and *Notice Regarding LEIs that May Be Used to Comply with CFTC LEI Requirements*, available at <http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/noticerocamendedorder.pdf>, dated as of October 30, 2013.

<sup>4</sup> Counterparties who held a CICI prior to January 21 now hold GMEIs.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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