

THE EUROPEAN SINGLE ACCESS POINT: A GAME-CHANGER FOR ESG DATA?

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The European Commission published its proposal for the creation of the European Single Access Point (ESAP) on 25 November 2021, following a consultation which took place between January and March 2021. The ESAP will be an EU-wide platform aimed at providing investors with seamless access to financial and sustainability-related information disclosed to the public by companies, including financial firms.

This project had already been proposed by a number of representatives from the financial sector in consultations on a Capital Market Union (CMU) in 2020 (notably by all the European banking associations) and by the High-Level Forum on CMU in July 2020.

This widespread support is linked to the project's objectives, which are fully aligned with the development of the CMU aims and respond to the needs for increased efforts on transparency for ESG (Environmental, Social and Governance) data.

However, the creation of the ESAP will not be an easy task, as shown by the modalities of the project released last November.

1. PROJECT FULLY IN LINE WITH THE DEVELOPMENT OF A CMU AND WITH THE INCREASED EFFORTS ON TRANSPARENCY FOR ESG DATA

Some background elements are required to understand the objectives behind the creation of the ESAP.

1. Firstly, this measure is included in the scope of the European Commission's agenda to **foster a digital and ecological transition**. In its *European Green Deal Investment Plan* from January 2020¹, the Commission presented sustainable finance, the efficiency of which very much requires effective transparency, as a precondition to foster sustainable growth. Alongside this, the *European Data Strategy* launched in February 2020² set out the Commission's intention to increase data availability for use in the economy, notably through the creation of a common financial data space.
2. Secondly, the European **capital markets have a crucial role to play in the post-Covid economy**. The crisis has indebted the corporate sector. To ensure a dynamic recovery, companies will depend on sufficient access to funding and to equity in particular. However, the latter remains limited. Thus, transparency on financial and sustainable data will also facilitate equity financing.

In this context, accelerating the creation of the CMU, which can bring more investments and savings flowing across the EU, appears necessary to sustain the green and digital economic recovery. In particular, **investors' access to comparable and easily available data on companies has been identified by the Commission as a key factor to increase financing**.

Nonetheless, today, the data market has two main structural weaknesses:

1. Firstly, **although financial data should already be available to users, they remain — for now — fragmented**. Among the many causes for this are the lack of a specific dissemination channel other than the companies' own websites; the lack of a single digital format for the public disclosure of data; the lack of machine readability, complex data retrieval; etc. The absence of integrated data management at EU level is damaging, as it increases search costs for users and undermines their ability to scale their investment strategies on an EU-wide basis. This is particularly detrimental to SMEs (3) and to companies with less-developed capital markets, as they lack visibility and struggle to find investors. Moreover, the lack of a homogeneous framework hinders market integration and innovation in the EU and constitutes a competitive disadvantage for the EU capital markets in terms of attractiveness, compared with foreign capital markets, such as the US.
2. Secondly, **ESG (Environmental, Social and Governance) data or sustainability-linked data are not yet sufficiently available despite growing demand for the disclosure of such data**. The resulting "data gap" impedes the financing of ESG activities, notably for climate-related actions. This data gap is particularly challenging for SMEs (3). In a context where the Sustainable Finance Disclosure Regulation (SFDR), published in March 2021, requires investors to ensure transparency in order to incentivise them to make greener investment decisions, it has become necessary to have complete access to companies' ESG information. The Corporate Sustainability Reporting Directive (CSRD), tabled by the Commission in April 2021, will also improve and expand the information published by entities regarding ESG matters.

According to the Commission's orientations, the ESAP should be implemented by 2024 and will consist of an EU-wide platform that will bring the following benefits:

- **Improve access to financial data**. This will reduce

1. European Commission (2020), European Green Deal Investment Plan. Link: EUR-Lex - 52020DC0021 - EN - EUR-Lex (europa.eu).

2. European Commission (2020), A European Strategy for data.

Link: <https://ec.europa.eu/digital-single-market/en/policies/building-european-data-economy>

the search and processing costs for both data users and companies subject to disclosure requirements and facilitate the findability of SMEs' data and therefore their financing.

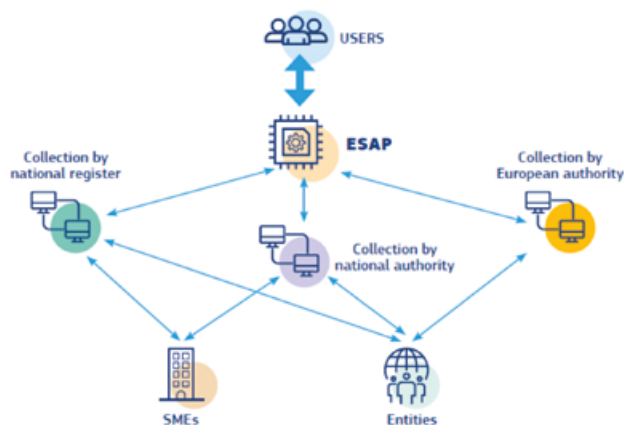
- **Disclose sustainability-linked data.**
- **Require the harmonisation and standardisation of formats of information that companies disclose to the public and increase the availability of machine-readable data.** This will ease the comparability of data by investors.
- **Enable big data and AI-based services** through increased use of structured data.
- In the longer term, this seamless access to financial and ESG data will **facilitate the integration of EU capital markets, as well as a more efficient allocation of capital across the EU.**
- Lastly, it will **indirectly strengthen the resilience of the EU's economy through broader private risk-sharing across the EU.**

2. THE CONCRETE MODALITIES AND CHALLENGES FOR THE CREATION OF THE ESAP

The ESAP's modalities for implementation were set out in the package proposal released by the European Commission on 25 November following the publication of the results of the public consultation, which took place between 20 January and 12 March 2021 (4).

The package comprises:

- a regulation proposal establishing the ESAP (5);
- a proposal for a Directive amending certain Directives (6); and
- a proposal for a Regulation amending certain Regulations (7).



2.1. The ESAP will be established and designed by ESMA

ESMA's monitoring of the ESAP will be achieved in close cooperation with the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA), based on qualitative and quantitative indicators. These will comprise: the number of visitors and searches; the percentage of searches that lead to a view or download; the number and percentage of machine-readable information accessible on the ESAP and the number and percentage of machine-readable views and downloads; the proportion of notifications pursuant to the automated validations referred to in Article 10 of the regulation proposal; any significant malfunction or incident; an assessment of the accessibility, quality, usability and timeliness of the information in the ESAP; an assessment of whether the ESAP meets its objectives, taking into account the evolution of its use and the information flows within the Union; an assessment of end-user satisfaction; a comparison with similar systems in third countries. ESMA will also publish an annual report on the functioning of the ESAP.

2.2. Data collection and storage will be performed by "collection bodies"

Such bodies are Union or national level authorities or registers. A list of collection bodies will be published by ESMA on a dedicated web portal. In the absence of a collection body already established under Union law, Member States will appoint one of the Officially Appointed Mechanisms (OAMs) established under Directive 2004/109/EC³ and notify ESMA of their choice.

2.3. Disclosure of data related to financial services, capital markets, sustainability and falling under the scope of the EU regulatory framework (see Appendix) will be mandatory

It will be possible for entities, on a voluntary basis, to disclose ESAP data exceeding the scope of the data whose disclosure is compulsory. This is particularly relevant for SMEs, which have an interest in being more visible to potential investors. These data will have to be in an extractable format (*Article 2 of the Regulation proposal*) or, where required by EU law, in a machine-readable format.

Entities will be held responsible for the accuracy of the information that they send to collection bodies and will have to accompany the data submitted with a qualified electronic seal.

Data collected on the ESAP will undergo **quality checks by collection bodies**. These checks will involve automated validations to verify that data have been submitted using the appropriate format, that they are available and complete, and that they contain a qualified electronic seal. Moreover, collection bodies will have to ensure that data is not manifestly inappropriate, abusive or clearly outside the scope of the information. When data does not comply with these requirements, collection bodies will reject them.

3. Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

ESMA will implement a **cybersecurity policy** for ESAP in dialogue with collection bodies, and will ensure appropriate levels of authenticity, availability, integrity and non-repudiation for the information made accessible on ESAP. On the specific issue of personal data, ESMA will not store such information unless storage is strictly necessary for automatic, intermediate and transient processing.

2.4. Full and free access to data

Collection bodies should make data **available to all entities** without discrimination. Data publication will be achieved by collection bodies in automated ways through **single application programming interfaces (APIs)**. Access to data will be facilitated by a download service, a search engine and a notification service to inform users when new data have been published. The web portal and its search function will be in all the official EU languages and a machine translation service will be implemented for the data retrieved.

The principle is based on **free access**. However, taking into account the need to protect ESMA from an excessive financial burden in relation to the costs incurred for intensive use, **exceptional fees for searches for significant volumes of data or for frequently updated information will be charged**.

2.5. ESAP costs and financing

The Commission estimates that **the total financial resources required for the implementation of the proposal in 2022-2027 will be up to €16.5 million**. This includes: €2.3 million of administrative costs and up to €14.2 million of operational spending, with €9.6 million to be covered by the EU under the current Multiannual Financial Framework (2022-2027) and €6.9 million by national authorities. This initiative is expected to require a total of three full-time employees at ESMA to oversee and manage the ESAP's development and operations.

2.6. The creation of the ESAP is therefore a complex and challenging project

The Commission's project is largely inspired by existing data systems in large third countries:

- In the United States, the Securities and Exchange Commission implemented the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in the 1990's. EDGAR performs automated collection, validation, indexing, acceptance and forwarding of submissions by regulated entities and others who are required by law to file forms. EDGAR offers a Federal level access point to users for information that can often be machine-readable. Information is freely available on an itemised basis online.
- Japan and Canada also have electronic corporate disclosure systems.

Although the creation of the ESAP will be able to follow these examples, there are EU specificities which will be challenging:

- For ESMA, this will be a new role.
- The landscape of collecting bodies will need to be clarified.
- The publication of ESG data will be a new challenge compared with the US, Japanese and Canadian systems, which only publish financial data.
- And, as always in the EU, it is not always easy to ensure the proper funding of the project with EU and national public funding.

CONCLUSION

APPENDIX: LIST OF UNION LEGISLATION IN THE SCOPE OF THE EUROPEAN SINGLE ACCESS POINT

- Regulation (EC) No 1060/2009 on credit rating agencies
- Regulation (EU) No 236/2012 on short selling and certain aspects of credit default swaps
- Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories
- Regulation (EU) No 345/2013 on European venture capital fund
- Regulation (EU) No 346/2013 on European social entrepreneurship funds
- Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment
- Regulation (EU) No 537/2014 on specific requirements regarding statutory audit of public-interest entities
- Regulation (EU) No 596/2014 on market abuse (market abuse regulation)^{8 9}.
- Regulation (EU) No 600/2014 on markets in financial instruments
- Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories
- Regulation (EU) No 1286/2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs)
- Regulation (EU) 2015/760 on European long-term investment funds
- Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse
- Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment
- Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market
- Regulation (EU) 2017/1131 on money market funds
- Regulation (EU) 2019/1238 on a pan-European Personal Pension Product (PEPP)
- Regulation (EU) 2019/2033 on the prudential requirements of investment
- Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector
- Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment
- Regulation (EU) 2021/23 on a framework for the recovery and resolution of central counterparties
- Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate