

Targeted consultation on the establishment of a European single access point (ESAP) for financial and non-financial information publicly disclosed by companies

First action of the capital markets union action plan

Fields marked with * are mandatory.

Introduction

Background of this targeted consultation

The purpose of this targeted questionnaire is to seek general and technical views on the way to establish a European single access point (ESAP) for companies' financial and sustainable investment-related information made public pursuant to EU legislation. The establishment of the ESAP is the first action in the [Commission's new action plan on the capital markets union \(CMU\)](#). The EU legislation in the financial services area (in relation to inter alia capital markets, credit rating, investment, lending, insurance, asset management, funds (including UCITs), sustainable finance) requires companies to disclose a wide range of documents, particulars and datasets in order to increase the transparency and reduce asymmetry of information between company insiders and external investors.

The collection and dissemination of data is however fragmented. The EU law rarely prescribes specific dissemination channels. A few datasets such as an issuer's annual financial report must be published via a register. Registers are most of the time scattered along the national and / or sectoral dimensions. At the EU level, the [European Securities and Markets Authority \(ESMA\)](#) maintains a number of public registers.

Stakeholders encounter significant difficulties in accessing, comparing and using the companies' financial and sustainability-related information published pursuant to the relevant EU legislation. Based on responses received from stakeholders on previous consultation activities, it appears that:

1. Stakeholders find it difficult to access specific companies' information because the information itself is scattered geographically (generally by Member State), functionally and thematically. Information is also often searchable or available in local languages only, and not always freely accessible or bulk downloadable
2. Investors and users find publicly disclosed financial and non-financial information difficult to compare and analyse. This is mainly due to the lack of common standards for such disclosure, use of different identifiers for a

same entity, lack of interoperable formats and lack of harmonised implementation of reporting obligations at national level. The introduction of the ESEF format for financial reports by listed companies in 2021 or 2022 will to some extent remedy the situation but applies to only a small fraction of the regulated information disclosed by companies

3. Stakeholders find the electronic usability of the data suboptimal. Data is hardly ever disclosed in a machine readable structured format. Notwithstanding some progress in the field of natural language processing, this undermines algorithmic processing of such data

The lack of an integrated data management at the EU level is detrimental in many ways. Firstly, it is particularly detrimental to SMEs and to companies incorporated in Member States with less-developed capital markets. These companies lack cross-border visibility and struggle to find investors, thus reducing the liquidity of their securities. Secondly, it stifles market integration and innovation in the EU (such as pan-EU added value services and Fintech), and constitutes a competitive disadvantage for the EU capital markets in terms of attractiveness, compared to capital markets in other jurisdictions, such as the US. Lastly, the lack of integrated data management and access act as an important impediment to a fully-fledged [capital markets union \(CMU\)](#).

An EU-wide mechanism offering easily accessible, comparable and digitally usable information such as the ESAP can remedy the situation. The EU can add value by establishing an EU platform offering an EU single access point as well as an EU harmonised approach for the IT format for companies' information published pursuant to EU law.

Context and link with other initiatives

The Commission aims to foster policies that are fit for the digital age. Industrial and commercial data are key drivers of the digital economy. In its European Data Strategy of February 2020, the Commission declared its intention to make more data available for use in the economy and society. The strategy suggests the roll out of common European data spaces in crucial sectors such as the green deal and the financial sector. The Commission is preparing a legislative proposal to establish such spaces.

The [High Level Forum on the Capital Markets Union \(HLF\)](#), set up by the European Commission in November 2019, recommended in its final report adopted on 10 June 2020 to set up the ESAP as an EU-wide platform in order to facilitate investors' access to company data, including that of SMEs. The HLF considered that standardised data reporting standards and formats should make data more easily accessible and comparable for investors. The need to improve accessibility, comparability and usability of information is also mentioned in the [digital finance strategy](#) (in order to facilitate real-time digital access to all regulated financial information, the strategy suggests that by 2024, information to be publically released under EU financial services legislation should be disclosed in standardised and machine-readable formats). Similarly, the forthcoming renewed sustainable finance strategy (planned for Q1 2021) is likely to deliver similar messages as regards public data in its remit.

The development of the ESAP will seek to encompass a wide scope of public information. The scope of the information covered by the platform will focus on the needs of users, in particular investors, while also taking into account the needs of a broader range of users such as civil society in particular as regards sustainability-related disclosures. It will also examine whether and how to embed information beyond the financial services area, such as entities with no access to capital markets and SMEs in order to expand their funding opportunities.

It will entail streamlining disclosure mechanisms set-out in EU legislation. The platform should build to the greatest extent possible on existing EU and national IT infrastructure (databases, registers, in order to avoid adding to companies reporting burden). The Commission invites input from stakeholders to define the precise information coverage, governance and features of the ESAP.

The development of ESAP will build on existing EU initiatives, such as the findings of the [European financial transparency gateway \(EFTG\) pilot project](#), and will complement existing initiatives such as the [business registers interconnection system \(BRIS\)](#).

The Commission has recently undertaken a range of public and other consultations – [Capital Markets Union High Level Forum final report](#), [a new digital finance strategy for Europe/FinTech action plan](#), [non-financial reporting by large companies](#), [fitness check on the EU framework for public reporting by companies](#), [European strategy for data](#), [renewed sustainable finance strategy](#) –, relevant for the development of the ESAP. The responses to these consultations indicate a strong and widespread support for an ESAP as regards public financial as well as non-financial information from both listed and non-listed companies, e.g. entities with no access to capital markets such as SMEs.

The development and deployment of the ESAP will have to take account of the many ongoing initiatives addressing supervisory or high value datasets at Commission level or in collaboration with the [European supervisory authorities](#).

Targeted consultation

This targeted consultation on the ESAP initiative takes account of already undertaken consultations and aims at gathering further evidence and views on the best way to establish an ESAP, including the scope of data (and whether it could be broadened to non-mandatory information), cost-benefits, how to address SMEs, etc.

Note that you are not required to answer every questions and you may respond to only those questions that you deem the most relevant.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-esap-project@ec.europa.eu.

More information on

- [this consultation](#)
- [the consultation document](#)
- [the consultation strategy](#)
- [capital markets union](#)
- [the protection of personal data regime for this consultation](#)

About you

* Language of my contribution

- ☐ Bulgarian
- ☐ Croatian
- ☐ Czech
- ☐ Danish
- ☐ Dutch
- ☒ English

- ☐ Estonian
- ☐ Finnish
- ☐ French
- ☐ German
- ☐ Greek
- ☐ Hungarian
- ☐ Irish
- ☐ Italian
- ☐ Latvian
- ☐ Lithuanian
- ☐ Maltese
- ☐ Polish
- ☐ Portuguese
- ☐ Romanian
- ☐ Slovak
- ☐ Slovenian
- ☐ Spanish
- ☐ Swedish

* I am giving my contribution as

- ☐ Academic/research institution
- ☒ Business association
- ☐ Company/business organisation
- ☐ Consumer organisation
- ☐ EU citizen
- ☐ Environmental organisation
- ☐ Non-EU citizen
- ☐ Non-governmental organisation (NGO)
- ☐ Public authority
- ☐ Trade union
- ☐ Other

* First name

Ruari

* Surname

Ewing

* Email (this won't be published)

ruari.ewing@icmagroup.org

* Organisation name

255 character(s) maximum

International Capital Market Association (ICMA)

* Organisation size

- ☐ Micro (1 to 9 employees)
- ☒ Small (10 to 49 employees)
- ☐ Medium (50 to 249 employees)
- ☐ Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

0223480577-59

* Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|--------------------------------------|--|-------------------------------------|--|
| ☐ Afghanistan | ☐ Djibouti | ☐ Libya | ☐ Saint Martin |
| ☐ Åland Islands | ☐ Dominica | ☐ Liechtenstein | ☐ Saint Pierre and Miquelon |
| ☐ Albania | ☐ Dominican Republic | ☐ Lithuania | ☐ Saint Vincent and the Grenadines |
| ☐ Algeria | ☐ Ecuador | ☐ Luxembourg | ☐ Samoa |
| ☐ American Samoa | ☐ Egypt | ☐ Macau | ☐ San Marino |
| ☐ Andorra | ☐ El Salvador | ☐ Madagascar | ☐ São Tomé and Príncipe |

- | | | | |
|--|---|--|--|
| ☐ Angola | ☐ Equatorial Guinea | ☐ Malawi | ☐ Saudi Arabia |
| ☐ Anguilla | ☐ Eritrea | ☐ Malaysia | ☐ Senegal |
| ☐ Antarctica | ☐ Estonia | ☐ Maldives | ☐ Serbia |
| ☐ Antigua and Barbuda | ☐ Eswatini | ☐ Mali | ☐ Seychelles |
| ☐ Argentina | ☐ Ethiopia | ☐ Malta | ☐ Sierra Leone |
| ☐ Armenia | ☐ Falkland Islands | ☐ Marshall Islands | ☐ Singapore |
| ☐ Aruba | ☐ Faroe Islands | ☐ Martinique | ☐ Sint Maarten |
| ☐ Australia | ☐ Fiji | ☐ Mauritania | ☐ Slovakia |
| ☐ Austria | ☐ Finland | ☐ Mauritius | ☐ Slovenia |
| ☐ Azerbaijan | ☐ France | ☐ Mayotte | ☐ Solomon Islands |
| ☐ Bahamas | ☐ French Guiana | ☐ Mexico | ☐ Somalia |
| ☐ Bahrain | ☐ French Polynesia | ☐ Micronesia | ☐ South Africa |
| ☐ Bangladesh | ☐ French Southern and Antarctic Lands | ☐ Moldova | ☐ South Georgia and the South Sandwich Islands |
| ☐ Barbados | ☐ Gabon | ☐ Monaco | ☐ South Korea |
| ☐ Belarus | ☐ Georgia | ☐ Mongolia | ☐ South Sudan |
| ☐ Belgium | ☐ Germany | ☐ Montenegro | ☐ Spain |
| ☐ Belize | ☐ Ghana | ☐ Montserrat | ☐ Sri Lanka |
| ☐ Benin | ☐ Gibraltar | ☐ Morocco | ☐ Sudan |
| ☐ Bermuda | ☐ Greece | ☐ Mozambique | ☐ Suriname |
| ☐ Bhutan | ☐ Greenland | ☐ Myanmar /Burma | ☐ Svalbard and Jan Mayen |
| ☐ Bolivia | ☐ Grenada | ☐ Namibia | ☐ Sweden |
| ☐ Bonaire Saint Eustatius and Saba | ☐ Guadeloupe | ☐ Nauru | ☒ Switzerland |
| ☐ Bosnia and Herzegovina | ☐ Guam | ☐ Nepal | ☐ Syria |

☐ Botswana	☐ Guatemala	☐ Netherlands	☐ Taiwan
☐ Bouvet Island	☐ Guernsey	☐ New Caledonia	☐ Tajikistan
☐ Brazil	☐ Guinea	☐ New Zealand	☐ Tanzania
☐ British Indian Ocean Territory	☐ Guinea-Bissau	☐ Nicaragua	☐ Thailand
☐ British Virgin Islands	☐ Guyana	☐ Niger	☐ The Gambia
☐ Brunei	☐ Haiti	☐ Nigeria	☐ Timor-Leste
☐ Bulgaria	☐ Heard Island and McDonald Islands	☐ Niue	☐ Togo
☐ Burkina Faso	☐ Honduras	☐ Norfolk Island	☐ Tokelau
☐ Burundi	☐ Hong Kong	☐ Northern Mariana Islands	☐ Tonga
☐ Cambodia	☐ Hungary	☐ North Korea	☐ Trinidad and Tobago
☐ Cameroon	☐ Iceland	☐ North Macedonia	☐ Tunisia
☐ Canada	☐ India	☐ Norway	☐ Turkey
☐ Cape Verde	☐ Indonesia	☐ Oman	☐ Turkmenistan
☐ Cayman Islands	☐ Iran	☐ Pakistan	☐ Turks and Caicos Islands
☐ Central African Republic	☐ Iraq	☐ Palau	☐ Tuvalu
☐ Chad	☐ Ireland	☐ Palestine	☐ Uganda
☐ Chile	☐ Isle of Man	☐ Panama	☐ Ukraine
☐ China	☐ Israel	☐ Papua New Guinea	☐ United Arab Emirates
☐ Christmas Island	☐ Italy	☐ Paraguay	☐ United Kingdom
☐ Clipperton	☐ Jamaica	☐ Peru	☐ United States
☐ Cocos (Keeling) Islands	☐ Japan	☐ Philippines	☐ United States Minor Outlying Islands
☐ Colombia	☐ Jersey	☐ Pitcairn Islands	☐ Uruguay

- | | | | |
|--|----------------------------------|---|---|
| ☐ Comoros | ☐ Jordan | ☐ Poland | ☐ US Virgin Islands |
| ☐ Congo | ☐ Kazakhstan | ☐ Portugal | ☐ Uzbekistan |
| ☐ Cook Islands | ☐ Kenya | ☐ Puerto Rico | ☐ Vanuatu |
| ☐ Costa Rica | ☐ Kiribati | ☐ Qatar | ☐ Vatican City |
| ☐ Côte d'Ivoire | ☐ Kosovo | ☐ Réunion | ☐ Venezuela |
| ☐ Croatia | ☐ Kuwait | ☐ Romania | ☐ Vietnam |
| ☐ Cuba | ☐ Kyrgyzstan | ☐ Russia | ☐ Wallis and Futuna |
| ☐ Curaçao | ☐ Laos | ☐ Rwanda | ☐ Western Sahara |
| ☐ Cyprus | ☐ Latvia | ☐ Saint Barthélemy | ☐ Yemen |
| ☐ Czechia | ☐ Lebanon | ☐ Saint Helena Ascension and Tristan da Cunha | ☐ Zambia |
| ☐ Democratic Republic of the Congo | ☐ Lesotho | ☐ Saint Kitts and Nevis | ☐ Zimbabwe |
| ☐ Denmark | ☐ Liberia | ☐ Saint Lucia | |

* Field of activity or sector (if applicable):

- ☐ Accounting
- ☐ Auditing
- ☒ Banking
- ☐ Credit rating agencies
- ☐ Insurance
- ☐ Pension provision
- ☐ Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- ☐ Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- ☐ Social entrepreneurship
- ☐ Other
- ☐ Not applicable

* Are you a financial market participant?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not relevant

* In terms of information published by market participants, are you a user or a preparer?

- ☐ User
- ☐ Preparer
- ☐ User and preparer
- ☒ None of these

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association', 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

☐ **Anonymous**

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

☒ **Public**

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

☒ I agree with the [personal data protection provisions](#)

General questions

In this first section of the consultation, the Commission seeks to get stakeholders' views on some general questions regarding the features of the European single access point (ESAP). The Commission seeks views on which information stakeholders generally search for, where they search for it, in which format(s) and the barriers stakeholders might encounter. This will also help the Commission to prioritise which aspects should be considered immediately when developing ESAP, and which could be implemented at a later stage.

Question 1. Please rate the following characteristics of ESAP based on how relevant they are according to you:

	1 (fully disagree)	2 (somewhat disagree)	3 (neutral)	4 (somewhat agree)	5 (fully agree)	Don't know - No opinion - Not applicable
The information quality (accuracy and completeness) is most important	☐	☐	☐	☒	☐	☐
The widest possible scope of the information is most important	☐	☒	☐	☐	☐	☐
The timeliness of the information is most important	☐	☐	☐	☒	☐	☐
The source of the information is a key element to know	☐	☒	☐	☐	☐	☐
The immutability of the information is a key element	☐	☐	☐	☒	☐	☐
ESAP should include information made public on a voluntary basis by non-listed companies of any size, including SMEs	☐	☐	☐	☐	☐	☒
ESAP should include information made public on a voluntary basis by financial market actors	☐	☐	☐	☐	☐	☒
Other aspects	☐	☐	☐	☐	☐	☒

Question 1.1 Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

A – This response, unless otherwise stated, relates primarily to the context of new bond issuance information, notably in the form of approved prospectuses/supplements and filed final terms under the Prospectus Regulation (though some of the underlying concepts may have relevance elsewhere).

B - Accuracy and completeness are important - In terms of the ESAP's inclusion of the relevant regulated documents submitted (notably approved prospectuses/supplements and filed final terms), that these should be neither missed out nor duplicated. However, the sufficiency of the content of such documents is, and should continue to be, subject to distinct controls (approval and/or regulatory or civil liability) away from the ESAP architecture itself.

C – The widest possible scope is not so important - The inclusion of EU regulated documents (or other information) should be (i) subject to compatibility with the ESAP concept and architecture (with thought needing to be given to any regulated information that may not be in a documentary format) but (ii) also justified in terms of need (i.e. inadequacy of existing information sources) to the extent it creates an additional administrative burden for contributors.

D – Timeliness is important - In terms of their not being undue ESAP availability delay after, notably, publication (itself following regulatory approval of prospectuses/supplements and regulatory filing of final terms).

E – Knowing the information source is less important – As there will be a general expectation of 'official' sourcing (notably either from the regulator approving a prospectus/supplement or with whom final terms are filed or on behalf of the relevant issuer).

F – Immutability is important - However prospectuses/supplements and final terms can be superseded by subsequent prospectuses/supplements and final terms.

Question 2. Which channels do you use when searching for, retrieving or using companies' public information?

Please select as many answers as you like

- ☒ Company's website
- ☒ Data aggregation service providers
- ☒ Stock Exchanges
- ☒ Public repositories or databases (OAMs, NCAs, ESAs)
- ☐ Other

Question 3. Would you say that the cost for retrieving and using companies' public information is:

- ☒ Immaterial

- ☐ Average
- ☐ High
- ☐ Don't know / no opinion / not relevant

Question 3.1 Please provide more information on your answer to question 3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

PR prospectuses, supplements and final terms are generally available free on company (issuer) websites, stock exchange websites and public repositories/databases - and any costs of data aggregation by service providers are commercial considerations in terms of added-value regarding frictions in accessing the underlying primary sources.

Question 4. In which electronic format is companies' public information provided by these channels?

Please select as many answers as you like

- ☐ XBRL
- ☒ PDF
- ☐ XML
- ☐ HTML
- ☐ CSV, TXT
- ☐ Excel
- ☐ Formats enabling natural language processing
- ☐ Other
- ☐ Don't know / no opinion / not relevant

Question 5. Do you encounter barriers or difficulties when accessing the information?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 5.1 Please describe the barriers or difficulties you encountered when accessing the information:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Differing and complex (so confusing) search mechanisms and result presentations (often involving a confusingly large number of initial results).

Question 6. Do you encounter barriers or difficulties when using the information?

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not relevant

The scope of ESAP

Question 7. Should ESAP include information from the hereunder provided list of EU legislations in the financial area?

And if so, please specify whether the ESAP should embed this information immediately (as soon as the ESAP starts) or at a later stage (phasing in).

1) The Transparency Directive (2004/109/EC) (e.g. annual/half yearly financial reports, acquisition or disposal of major holdings)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☒ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

Please specify whether the information should be included immediately or at a later stage:

- ☐ Immediately
- ☒ At a later stage
- ☐ Don't know / no opinion / not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 1):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

If submitting annual/semi-annual reports and ad-hoc notices to the ESAP constitutes timely initial and ongoing public availability for the purposes of Articles 4.1/5.1 and 18 (respectively) of the Transparency Directive, then inclusion in scope could simplify both submission and visibility of such information (bearing in mind that individual securities may be admitted to trading to one or more of a number of regulated markets across the EEA).

2) The Accounting Directive (2013/34/EU) (e.g. financial statements, management report, audit report)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

3) The Audit Directive (2014/56/EU) and Audit Regulation (537/2014/EU) (e.g. auditor transparency reports)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

4) The Non-Financial Reporting Directive (NFRD) (2014/95/EU) (e.g. non-financial statement)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☒ Fully agree
- ☐ Don't know / no opinion / not relevant

Please specify whether the information should be included immediately or at a later stage:

- ☐ Immediately
- ☐ At a later stage
- ☐ Don't know / no opinion / not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 4):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See from 15 July 2020 ICMA response* to EC consultation on the Renewed Sustainable Finance Strategy:

<< Question 14: In your opinion, should the EU take action to support the development of a common, publicly accessible, free-of-cost environmental data space for companies' ESG information, including data reported under the NFRD and other relevant ESG data? >>

<< Yes // In the medium/long term, we would be in favour of a single data access point. ICMA's Corporate Issuer Forum has also previously highlighted the importance of considering carefully the consequences of where NFRD disclosure is located: firstly to ensure that the disclosure does not become inappropriately subject to any liability regime that applies to the document within which the disclosure is made; secondly to ensure that disclosure is made in a way which is meaningful to investors; and thirdly to ensure that certain unnecessary consequences such as increased costs of capital, or a possible move by issuers away from regulated markets (if applicable) due to overly onerous disclosure requirements or increases in liability, are avoided. Therefore the provision of a central, "one-stop shop" common, publicly accessible, ESG repository for all ESG-related content, including that required under NFRD which might not have a natural "home" elsewhere, would be a sensible and worthwhile ambition which would be of benefit to issuers and investors. It would avoid subjecting an issuer to additional liability and other unnecessary consequences, as described above, and would greatly contribute to increased transparency, data comparability and usability for investors. The design and structure would be subject to the build of the data space, but from a practical point of view, a common structure with standardised reporting templates which can be uploaded systematically could make it easier for companies to fulfil their disclosure obligations. Apportionment of costs would need to be considered as between providers and users of the data. But from a practical point of view, a common structure with standardised reporting templates which can be uploaded systematically could make it easier for companies to fulfil their disclosure obligations. >>

(*: <https://www.icmagroup.org/assets/documents/Regulatory/Green-Bonds/ICMA-Responses-to-the-Renewed-Sustainable-Finance-Strategy-Consultation15-July-2020FINAL-160720.pdf>)

5) The Prospectus Regulation (2017/1129/EU) (e.g. Prospectus, Universal Registration Document, SME Growth Markets-information)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral

- ☐ Somewhat agree
- ☒ Fully agree
- ☐ Don't know / no opinion / not relevant

Please specify whether the information should be included immediately or at a later stage:

- ☒ Immediately
- ☐ At a later stage
- ☐ Don't know / no opinion / not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 5):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See responses to Questions 1.1, 3.1 and 5.1.

6) The Shareholders Rights Directive (2007/36/EC) and (2017/828/EU) (e.g. Remuneration Report)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

7) The Market Abuse Regulation (596/2014/EU) and Market Abuse Directive (2014/57/EU) (e.g. inside information)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☒ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

Please specify whether the information should be included immediately or at a later stage:

- ☐ Immediately
- ☒ At a later stage
- ☐ Don't know / no opinion / not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 7):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

If submitting stabilisation announcements into the ESAP constitutes timely “adequate public disclosure” for the purposes of Article 6 of Commission DR EU/2016/1052, then inclusion in scope could simplify both submission and visibility of such information (bearing in mind that securities may be traded across platforms in multiple jurisdictions).

8) The Resolution and Recovery of Credit institutions and Investment firms Directive (BRRD) (2014/59/EU) (e.g. information on the group financial support agreement)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

9) The Covered Bonds Directive (2019/2162) (e.g. information on the cover pool)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

10) The Capital Requirements Directive (CRD) (2013/36/EU) and Capital Requirements Regulation (CRR) (575/2013/EU) (e.g. prudential information, stress test results)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

11) The Credit Ratings Regulation (1060/2009/EU) (e.g. transparency report)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

12) The Central Securities Depositories Regulation (909/2014/EU) (e.g. governance arrangements)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

13) The Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation (1286/2014/EU) (e.g. key information document)

- ☐ Fully disagree
- ☒ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 13):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It may be prudent to await the outcome of the pending PRIIPs review that is due, given the extensive public comment on the risk of such documents being intrinsically misleading.

14) The Regulation on European Long-term Investment Funds (ELTIF) (2015/760/EU) (e.g. fund-related information)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

15) The European Market Infrastructure Regulation (EMIR) (648/2012/EU) (e.g. prices and fees of services provided, risk management model)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

16) The Financial Conglomerates Directive (FICOD) (2011/89/EU) (e.g. corporate structure of the conglomerate)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

17) The Directive of Prudential Supervision of Investment Firms (IFD) (2019/2034/EU) and the Regulation of Prudential Requirements of Investment Firms (IFR) (2019/2033/EU) (e.g. aggregated information on high-earners, remuneration arrangements)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

18) The Directive on the Activities and Supervision of Institutions for Occupational Retirement Provision (IORP) (2016/2341/EU) (e.g. remuneration policy)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

19) The Pan-European Personal Pension Products Regulation (PEPP) (2019/1238/EU) (e.g. key information document)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

20) The Regulation on Wholesale Energy Market Integrity and Transparency (REMIT) (1348/2014/EU) (e.g. inside information)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐

- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

**21) The Securities Financing Transactions Regulation (SFTR) (2015/2365/EU)
(e.g. aggregate positions)**

- ☐ Fully disagree
- ☒ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 21):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Public data is already made available in a standardised and centralised way by the trade repositories.

22) The Solvency II Directive (2009/138/EC) (e.g. solvency and financial condition report)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

23) The Short Selling Regulation (236/2012/EU) (e.g. net short position)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree

- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

24) The Take-Over Bid Directive (2004/25/EC) (e.g. Information in the management report on companies' capital and shareholders, voting rights, governance...)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

25) The Directive of Markets in Financial Instruments (MIFID) (2014/65/EU) and Regulation of Markets in Financial Instruments (MIFIR) (600/2014/EU) (e.g. volume and price of certain transactions)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

26) The Regulation on European Venture Capital Funds (EuVECA) (345/2013/EU) (e.g. fund-related information)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

27) The Regulation on European social entrepreneurship funds (EuSEF) (346/2013/EU) (e.g. fund-related information)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐

Neutral

- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

28) The Regulation on Money Market Funds (2017/1131/EU) (e.g. prospectus)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

29) The Directive on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (2009/65/EC) (e.g. key investor information)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

30) The Directive on Alternative Investment Fund Managers (AIFM) (2011/61/EU) (e.g. investment strategy and objectives of the fund)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

31) The Regulation on EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks (EU 2019/2089) (e.g. information on measurable carbon emission reduction)

- ☐ Fully disagree
- ☐

Somewhat disagree

- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

32) Information on sustainability risks and impacts disclosed pursuant to the Regulation (EU) 2019/2088 on sustainability-related disclosure and The Taxonomy Regulation (2020/852/EU) (e.g. sustainability risks integration policies)

- ☐ Fully disagree
- ☒ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 32)

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

SFDR disclosures should not be a priority for the ESAP. The performance of financial market participants against the KPIs are not relevant to investors as they invest via financial products and not directly in financial market participants (if and when they do, NFRD is there to provide the necessary information). Furthermore, the KPIs are backward looking and give no sense of direction of travel to investors.

33) The EU Emissions Trading System (EU ETS)

- ☐ Fully disagree
- ☐ Somewhat disagree
- ☐ Neutral
- ☐ Somewhat agree
- ☐ Fully agree
- ☐ Don't know / no opinion / not relevant

34) Other

- ☐ Yes

☐ No

The usability and accessibility

Investors and users find publicly disclosed financial and sustainability-related information difficult to compare and analyse. This is mainly due to the lack of structured data, of common frameworks and/or interoperable formats for such disclosures, the use of different identifiers for the same entity and the lack of harmonised implementation of reporting obligations at national level. This section of the questionnaire seeks stakeholders' views on format(s) in which the information in ESAP should be made available, in order to make it more usable digitally, and how stakeholders would prefer to have access to and retrieve this information from ESAP.

Question 8. In order to improve the digital use and searchability of the information, for which of the hereunder information would you support the use of structured data formats, such as ESEF (XHTML and iXBRL), XML, etc., allowing for machine readability?

Please select as many answers as you like

- ☐ Listed companies' half yearly financial reports
- ☐ Financial statements
- ☐ Management report
- ☐ Payments to governments
- ☐ Audit report
- ☐ Total number of voting rights and capital
- ☐ Acquisition or disposal of issuer's own shares
- ☐ Home Member State
- ☐ Acquisition or disposal of major holdings
- ☐ Inside information
- ☒ Prospectuses
- ☐ Net short position details
- ☐ Fund-related information
- ☐ Key Information Document
- ☐ Public disclosure resulting from prudential requirements
- ☐ Remuneration policies
- ☐ Corporate structure of the conglomerate
- ☐ Governance arrangements
- ☐ Covered bonds - related information
- ☐ Solvency and financial condition report

- ☐ Sustainability - related information
- ☐ Other

Question 9. Which of the following machine-readable formats would you find suitable?

	1 (not at all suitable)	2 (rather not suitable)	3 (neutral)	4 (somewhat suitable)	5 (highly suitable)	Don't know - No opinion - Not applicable
ESEF (XHTML files + inline XBRL tagging requirements)	☐	☐	☐	☐	☐	☐
XML files	☐	☐	☐	☐	☐	☐
CSV files	☐	☐	☐	☐	☐	☐
Excel	☐	☐	☐	☐	☐	☐
Formats enabling natural language processing	☐	☐	☐	☐	☐	☐
Other	☐	☐	☒	☐	☐	☐

Please explain to what other machine-readable formats you refer in your answer to question 9:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See response to Q.9.1

Question 9.1 Please explain your position providing your arguments, and where appropriate, concrete examples and evidence to support your answers:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Machine readability should be encouraged/facilitated (3rd party search engines should be able to search across document contents), but any specific machine readability requirements (in terms of coding/formatting standards whether generally or in respect of discrete data points) should be considered in the context of each type of regulated information/document – in terms of (i) proportionality, (ii) being flexible to a range of current (and on a timely basis, future) coding/formatting solutions rather than ‘fossilising’ just one of today’s solutions.

In particular, one should be careful that any ESAP requirements for machine readability (and/or accompanying data), which relate to form, do not impact aspects of substance/content - notably (i) forcing the standardisation of financial instrument terms and/or (ii) forcing subjective/simplistic (and so potentially misleading) summarising/labelling of complex financial instrument terms (and potentially provoking civil litigation). Either could adversely impact the ability of European companies to access necessary financing (flexibly or at all).

In this respect, the ESEF (inline XBRL tagging) is a burdensome format requiring both (i) standardisation / simple labelling (that is unsuitable as noted above) and (ii) complex coding implementation (that is particularly unsuitable for time-sensitive transactional documentation such as prospectuses, supplements and final terms). Furthermore, data quality errors that seem to occur in the XBRL context are an unacceptable risk in the context of prospectus information for new securities issuance given the acute civil liability risks involved.

Question 10. How should the information be accessible in ESAP?

Please select as many answers as you like

- ☒ Through Application Programming Interfaces (APIs)
- ☒ Bulk download
- ☒ Web portals
- ☐ Other
- ☐ Don’t know / no opinion / not relevant

Question 11. To what extent should the language barrier be tackled?

For the following features of the ESAP (web portal, metadata, taxonomy/labels, and content/data), which of the following language arrangements would you favour?

a) Portals / search tools:

- ☒ in a language that is customary in the sphere of international finance
- ☐ in multiple or all EU languages
- ☐ Don't know / no opinion / not relevant

b) Metadata (where variable text):

- ☒ in original language
- ☐ in a language that is customary in the sphere of international finance
- ☐ in multiple or all EU languages
- ☐ Don't know / no opinion / not relevant

c) Taxonomy / labels (if any):

- ☐ in original language
- ☐ in a language that is customary in the sphere of international finance
- ☐ in multiple or all EU languages
- ☐ Don't know / no opinion / not relevant

d) Content / data:

- ☒ in original language
- ☐ in a language that is customary in the sphere of international finance
- ☐ in multiple or all EU languages
- ☐ Don't know / no opinion / not relevant

Infrastructure and data governance (collection of data + validation of data)

The Commission seeks stakeholders' views on the preferred technical solution(s) to establish the architecture of ESAP, and how to ensure the quality and integrity of the information within ESAP. A body in charge of ESAP, which should be non-for-profit, would be responsible for coordinating IT systems, maintenance and budgetary aspects.

Question 12. Should specific categories of stakeholders be involved in the governance of ESAP?

Please select as many answers as you like

- ☒ EU authority (ESMA, European Commission etc.) or a consortium of EU authorities?
- ☒ National competent authorities
- ☒ Investors
- ☒ Reporting companies
- ☐ Other

Please specify which EU authority should be involved in the governance of ESAP:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As an official utility platform, the ESAP should ultimately be the responsibility of the European authorities, but should involve stakeholder steering groups (NCAs, investors and reporting companies), as well as periodic public calls for input to ensure the ESAP remains current.

Please specify which national competent authorities should be involved in the governance of ESAP:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 13. Considering the point in time at which a company makes public some information that is legally required, what would be the ideal timing for the information to be available on the ESAP?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As soon as possible. Accredited regulatory information services and regulators should have direct STP connectivity to the ESAP regarding the documents that are (respectively) published through, or approved by / filed with, them.

Question 14. Should the integrity of the information and the credibility of the source of data used be ensured, when it is made accessible in ESAP?

- ☐ By electronic seals or electronic signature embedded at data emitter level
- ☐ By the ESAP platform
- ☒ By other means / trust services
- ☐ Don't know / no opinion / not relevant

Please explain what you mean by 'by other means / trust services' in your answer to question 14:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The 'integrity' of ESAP documents, in terms of not having been subject to manipulation after receipt, whether from a regulatory information service (in the context of publication) or NCA (in the context of approval/filing) or otherwise, should be the responsibility of the ESAP itself. Upstream integrity should continue to be the responsibility of the actors concerned at each stage under existing responsibility mechanisms away from the ESAP architecture.

Question 15. Should the information in ESAP be subject to quality checks?

- ☐ Yes
- ☐ No
- ☒ Other
- ☐ Don't know / no opinion / not relevant

Please explain what you mean by 'other' in your answer to question 15:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Responsibility for ESAP erroneous or missing content should be the responsibility of the actors concerned at each stage: ESAP itself after receipt, and otherwise under existing responsibility mechanisms away from the ESAP architecture itself.

Question 16. Should a quality check be needed, what would need to be checked?

Please select as many answers as you like

- ☐ Compliance with IT formats
- ☐ Certain key tests (matching figures, units, ...)

- ☐ Use of a correct taxonomy
- ☐ Completeness
- ☐ Availability of metadata
- ☒ Other
- ☐ Don't know / no opinion / not relevant

Please explain what you mean by 'other' in your answer to question 16:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Only consistency with any ESAP technical requirements should be checked - and these should be minimal, as outlined in the response to Q.9. There should be no checks of content, as this should continue to be the responsibility of the actors concerned at each stage away from the ESAP architecture itself - as noted in the responses to Qs.1.1/14/15.

Targeted questions regarding entities with no access to capital markets (non-listed entities), including SMEs

The lack of an integrated data management at the EU level is detrimental to entities with no access to capital markets notably to SMEs that struggle to find investors beyond national borders. Companies of all sizes – and in particular SMEs – need solid market-based funding sources. This was already the case before COVID-19, but will be even more important for the recovery if bank lending might not be sufficient. Therefore, this section of the consultation sets out questions on how ESAP specifically can help ensure that SMEs receive the funding they need.

SMEs, often do not have the technical expertise nor resources necessary to prepare reports in accordance with state-of-the-art, sophisticated standards. At the same time, many SMEs are under increasing pressure to provide financial information as well as certain sustainability related information in order to access market-based funding and for their usual conduct of business. In this respect, entities which cannot provide this information may experience a negative impact on their commercial and/or investment opportunities.

Question 17. Should it be possible for companies other than those with securities listed on EU regulated markets to disclose information on ESAP on a voluntary basis?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 18. What type of information should be disclosed on a voluntary basis in the ESAP?

Please select as many answers as you like

☐

- A set of predefined key financial information, allowing to compare data
- ☐ Any financial information that the issuer would be willing to render public via ESAP
 - ☐ A set of predefined key sustainable related information, allowing to compare the data
 - ☐ Any sustainability related information that the issuer would be willing to render public via ESAP
 - ☐ Other

Question 19. As regards frequency of the submission of the voluntary information to ESAP, when should it occur?

- ☐ Following predefined periodic submission dates
- ☐ On an ongoing basis as soon as available
- ☐ Don't know / no opinion / not relevant

Question 20. In which language should entities with no access to capital markets be able to encode the voluntary information?

- ☐ National language
- ☐ A language that is customary in the sphere of international finance
- ☐ Any language
- ☐ Other

Question 21. Should filings done on a voluntary basis by SMEs and non-listed companies follow all the rules of the ESAP as regards for instance identification, data structuring and formats, quality checks, etc.?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Please explain your answer to question 21:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Costs and benefits

The Commission anticipates that ESAP will lead to multiple benefits. It can, however, also, imply additional costs for

- i. preparers, in terms of compliance requirements on machine-readability, standards, as well as training of staff, etc.
- ii. users, in terms of search, collection and processing of the information they need
- iii. the development of the ESAP architecture. In some areas ESAP should also lead to cost savings, notably related to fil

Question 22. Do you expect that costs of introducing ESAP be proportionate to its overall benefits?

- ☐ Not at all
- ☐ To some extent
- ☐ To a reasonable extent
- ☐ To a very great extent
- ☒ Don't know / no opinion / not relevant

Question 23. As a user, can you give an estimation of your yearly cost for retrieving and using companies' public information?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As noted in the responses to Qs.3.1/5.1, the current challenge is not monetary cost per se but frictional access - which is difficult to quantify.

Question 24. As a user, how large share of these costs do you expect to save through the use of ESAP?

- ☐ 10%
- ☐ 20%
- ☐ 30%
- ☐ 40%
- ☐ More than 50%

- ☒ Other
- ☐ Don't know / no opinion / not relevant

Please specify what other proportion of share of these costs you expect to save through the use of ESAP:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Given the response to Q.23 and since it is uncertain what usage frictions the ESAP architecture may involve, it is consequently impossible to quantify an expected frictional differential between current circumstances and a future ESAP context.

Question 25. Should the user have access for free to all data in the ESAP (based e.g. on an open data policy approach)?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 26. Assuming that development and maintenance costs will arise, how do you think the ESAP should be funded?

Please select as many answers as you like

- ☐ By EU funds
- ☐ By national funds
- ☐ By users (i.e. usage fees)
- ☐ By preparers (i.e. uploading fee)
- ☒ Other

Please explain what you mean by 'other' in your answer to question 26:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Whilst official financial support for the transparency of regulatory information would be greatly appreciated, any funding of ESAP costs by preparers (i.e. via an uploading fee) should be carefully controlled bearing in mind the ESAP's mandatory, monopoly-like, nature - to ensure such burdens remain proportionate and do not disincentivise bond issuers from issuing/listing in the EU.

Question 27. What would be the main benefits for entities with no access to capital markets to disclose this information publicly in ESAP?

Please select as many answers as you like

- ☐ Get more visibility and attract a broader range of investors
- ☐ Get more transparency on ESG data (easily retrievable)
- ☐ Other
- ☐ Don't know / no opinion / not relevant

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

a07ba041-bada-48bf-bf52-e3e1bf141e18/EC_ESAP_CP_-_ICMA_additonal_remarks_v4.pdf

Useful links

[More on this consultation \(https://ec.europa.eu/info/publications/finance-consultations-2021-european-single-access-point_en\)](https://ec.europa.eu/info/publications/finance-consultations-2021-european-single-access-point_en)

[Consultation document \(https://ec.europa.eu/info/files/2021-european-single-access-point-consultation-document_en\)](https://ec.europa.eu/info/files/2021-european-single-access-point-consultation-document_en)

[Consultation strategy \(https://ec.europa.eu/info/files/2021-european-single-access-point-consultation-strategy_en\)](https://ec.europa.eu/info/files/2021-european-single-access-point-consultation-strategy_en)

[More on capital markets union \(https://ec.europa.eu/info/business-economy-euro/growth-and-investment/capital-markets-union_en\)](https://ec.europa.eu/info/business-economy-euro/growth-and-investment/capital-markets-union_en)

[Specific privacy statement \(https://ec.europa.eu/info/files/2021-european-single-access-point-specific-privacy-statement_en\)](https://ec.europa.eu/info/files/2021-european-single-access-point-specific-privacy-statement_en)

[More on the Transparency register \(http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en\)](http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

Contact

fisma-esap-project@ec.europa.eu

2 March 2021

Establishment of a European single access point (ESAP) for financial and non-financial information publicly disclosed by companies - European Commission consultation 2021

Additional remarks to ICMA's response

Introduction / background

1. **ICMA** –Representing a broad range of capital market interests including banks, asset managers, exchanges, central banks, law firms and other professional advisers, ICMA's market conventions and standards have been the pillars of the international debt market for almost 50 years. See: www.icmagroup.org. ICMA's European Transparency Register number is 0223480577-59.
2. **ICMA underwriter community** – ICMA's consultation response is primarily drafted on behalf of ICMA's primary market constituency comprised of underwriters that lead-manage cross-border syndicated bond issuance transactions throughout Europe and beyond. This constituency deliberates principally through:
 - the [ICMA Primary Market Practices Committee](#), which gathers the heads /senior members of such lead-managers' syndicate desks; and
 - the [ICMA Legal and Documentation Committee](#), which gathers the heads / senior members of such lead-managers' legal documentation / transaction management teams.
3. **Other ICMA constituencies** – Other ICMA constituencies have provided input on specific issues including (the [ICMA Asset Management and Investors Council / AMIC](#) re. Q.7.4 on NFRD and Q.7.32 on SFDR and the [ICMA European Repo and Collateral Council / ERCC](#) re. Q.7.21 on SFTR).
4. **Queries** – In case of any queries regarding ICMA's response, please contact Ruari Ewing (+44 20 7213 0316 / ruari.ewing@icmagroup.org).
5. **Prior feedback** – ICMA has previously provided feedback on the ESAP topic in:
 - [30 June 2020 High-Level Forum Report on the Capital Markets Union: ICMA Feedback](#) (re. Recommendation 1); and
 - [25 June 2020 ICMA Response to European Commission Consultation on a new digital finance strategy for Europe / FinTech Action Plan](#) (at questions 27/28).

General aspects / scope

6. **General support in principle** – ICMA is supportive in principle of an ESAP as a European version of the long-standing US EDGAR central repository for regulated information/documents (notably regarding PR prospectuses, supplements and final terms), subject to the implementation aspects below.
7. **Scope of information (documents) in the ESAP** – Whilst all or most EU regulated public information (which may not always take documentary form) might ultimately be included, this should be subject to any specific concerns / incompatibilities (whether substantive or logistical) but also subject to need (to the extent it creates an additional administrative burden for contributors). (See response E to Q.1.1.) Some regulatory regimes might be included sooner (such as the Prospectus Regulation / **PR**) and some later (see response to Q.7.13 regarding PRIIPs). Though may be many commonalities, individual EU regulations may involve different dynamics in terms of form, content, timing and legal/logistical responsibility for such information – these should not be impacted by the ESAP without careful consideration in each case.
8. **Main ICMA focus on bond prospectus information under the PR** – Except as otherwise stated, ICMA's response focuses mainly on approved prospectuses / supplements and filed final terms under the PR as being most relevant in the context of international syndicated bond issuance. (And see response A to Q.1.1.) In this respect, the response also considers how some of the PR dynamics might be impacted by the ESAP (notably in terms of ESAP inclusion formally equating to public availability).
9. **TD / NFRD / MAR / PRIIPs / SFTR / SFDR** – The response also includes references to (i) the Transparency Directive (see response to Q.7.1), (ii) the Non-Financial Reporting Directive (see response to Q.7.4), (iii) stabilisation announcements under the Market Abuse Regulation (see response to Q.7.7), (iv) PRIIPs (see response to Q.7.13), (v) the Securities Financing Transactions Regulation (see response to Q.7.21) and (vi) the Sustainable Finance Disclosure Regulation (see response to Q.7.32).
10. **Non-PR submissions / exchange-regulated markets** – The PR is applicable to non-exempt public offers in the EEA and also to admissions to trading on regulated markets in the EEA. The PR notably does not apply in the case of exempt public offers in the EEA or to admissions to EEA exchange-regulated markets (which are also MTFs). (Non-exempt public offers under the PR tend to be combined with a regulated market admission also under the PR, whilst exempt public offers may be combined with exchange-regulated market admission outside the scope of the PR.) Therefore, individual exchange-regulated markets in the EEA should be free to elect that, notably, offer documentation (equivalent to prospectuses / supplements and final terms under the PR) be included within ESAP scope.

Submissions into the ESAP

11. **Who responsible for submissions into the ESAP** – As a general point, it would seem logical for reporting companies (so issuers in a PR context), as producers of documents (prospectuses / supplements / final terms), to be prima facie responsible for their submission into the ESAP (whether directly or via intermediary mechanisms). However:

- (a) in a PR context, NCAs are strategically well placed to be able to include ESAP straight through processing (**STP**) submission into existing workflows: prospectuses / supplements are approved by them and final terms filed with them;
- (b) prospectuses / supplements / final terms (or their non-PR equivalents) are submitted on behalf of issuers to stock exchanges in the context of admissions to trading (whether as regulated markets in a PR context or otherwise as exchange-regulated markets) and so stock exchanges are also strategically placed to be able to include ESAP STP submission into their existing workflows;
- (c) in some cases, such submissions to stock exchanges occur via official regulatory information services (**RISs**), which are then also arguably strategically placed to be able to include ESAP STP submission into their existing workflows.

See also response E to Q.1.1 and response to Q.13.

12. **Timing of submissions into the ESAP** – On the basis the ESAP is to be a repository for public information, documents should be included in the ESAP as soon as possible following publication (and see #17 below as to ESAP inclusion eventually constituting publication). Absent ESAP submission being embedded in existing workflows as above, there should be no ambiguity as to by when submission is required and as to any consequences stemming from any delays. See response D to Q.1.1 and response to Q.13.
13. **Content of submissions into the ESAP** – This should not be an ESAP concern / see response B to Q.1.1 and responses to Qs.14/15/16. See also response F to Q.1.1.
14. **Format of submissions into the ESAP** – See responses to Q.9.1 and Q16. Furthermore, it is important that submissions are not required to be accompanied by disproportionate accompanying data (in amount or form), as providing such data can be a material burden (especially in high turnover / commoditised contexts). In the PR context, accompanying data (to the extent not machine-readable) might be just (i) document type ('prospectus' or 'base prospectus' or 'supplement' or 'final terms'), (ii) issuer name, (iii) issuer LEI, (iii) ISIN (except for base prospectuses and related supplements) and (iv) document date. In this respect, see extract in the box below from p.44 the [Fourth Quarter 2021 edition](#) of the ICMA Quarterly Report.

Also as reported in the [last edition](#) of this Quarterly Report, ICMA understands that NCAs began to introduce new data requirements for issuers on 30 November pursuant to the provisions of Commission Delegated Regulation (EU) 2019/979 that oblige NCAs to provide certain prospectus-related data to ESMA in XML format.

It is understood that different NCAs are taking different approaches to the form in which they require the relevant data to be submitted to them, meaning that the precise impact of this change for issuers and their advisors depends on the approach of the relevant NCA.

The rationale for this change seems to be to allow ESMA to update its [Prospectus Register](#) and gather increased data on the Prospectus Regulation-related activity, which could inform EU authorities' work on a further review of the EEA Prospectus Regulation in due course.

From a market perspective, it will be interesting to see whether any improvements to the ESMA Prospectus Register could help to address some of the concerns that have been raised previously by ICMA's buy-side members that finding published prospectuses online is not as straightforward as it could be. For further information on this issue, see the article *[cited under #18 below]*.

15. **Language of submissions into the ESAP** – Regarding the responses to Q.11, ESAP language considerations should not create additional administrative burdens, bearing in mind that raw

regulatory information is mostly searched for by professionals and that language constraints already apply under the various EU regulatory regimes (including under the PR).

16. Responsibility for errors in ESAP material – See responses to Q.14 and Q.15.

17. ESAP inclusion equating to availability to the public – The issuer is required under the PR to make prospectuses / supplements / final terms available to the public by publishing them on certain websites before any non-exempt public offer or regulated market admission. In practice these tend to be the regulated market website or the issuer website. In due course, if initial ESAP operation is concluded to be successful (including in terms of timeliness), one might consider whether ESAP inclusion might formally constitute such availability to the public under the PR. See also responses to Q.7.1 regarding the Transparency Directive and Q.7.7 regarding the Market Abuse Regulation.

Access to ESAP content

18. Searching mechanics – It is crucial that the ESAP enable adequate direct searching (including presentation/refinement of results), but that it also enables 3rd party search engine access. See response to Q.5.1. In terms of search mechanics, see extract in the box below from p.40-41 of the [Third Quarter 2020 edition](#) of the ICMA Quarterly Report.

Finding prospectus information online

Introduction: It has been suggested in ICMA group discussions that finding published prospectuses online is not as straightforward as it could be.

Publication requirements: Existing legislation usually requires regulator-approved prospectuses to be published prior to stock exchange admissions or non-exempt public offerings, for example under the EU's Prospectus Regulation. This may typically relate to either (i) a "standalone" prospectus (and any subsequent supplement) relating to specific, and usually imminent, bond issuance or (ii) a "base" prospectus (and any subsequent supplement) relating to general issuance under an issuance "programme" over a period stretching up to a year and completed by a "final terms" document relating to specific issuance. In the prevailing institutional (rather than retail) dynamic of the international bond markets, the standalone prospectus tends to be available to potential investors during an exempt offering in draft (notably excluding commercial terms such as issuance size, price and closing/ redemption dates). It is then completed (importing the commercial terms from the final pricing announcement) for regulatory approval and publication in time for stock exchange admission on closing of the new issue (usually five business days after pricing). Approved base prospectuses are published up to a year prior to an exempt offering, with final terms then similarly completed for regulatory filing and publication in time for stock exchange admission.

Investor use: Institutional investors may choose to seek access to prospectus information before issuance as part of their investment decision analysis on specific issuance (in the case of a standalone prospectus) or generally on a issuance programme (in the case of a base prospectus). This may include a scenario where an investor may then approach an issuer to initiate a transaction as a "reverse enquiry". However, institutional investors have access to other information sources that they may choose to make additional or alternative use of. Investors may distinctly seek access to prospectus information for administrative purposes unrelated to investment decision-making (eg compiling data for settlement or internal reporting purposes). Investors may also seek access to prospectus information after issuance, again often for administrative purposes related to portfolio management.

Ideal data platform search functionality: The most efficient and timely way to access prospectus information then depends on the specific use context. In the context of a *draft standalone prospectus pre-issuance*, this is disseminated directly (as it evolves), to the investor bases of issuers' underwriting banks. In the context of a *published base prospectus pre-issuance*, ideal search functionality on a data platform (such as those of stock exchanges, [ESMA's prospectus register](#) and any EU single access point as envisaged by the CMU High Level Forum's [June 2020 Final Report](#)) would enable a search, based on just a handful of parameters (eg issuer LEI, with a "debt programme" filter), that would return the base prospectus (or sometimes where relevant several base prospectuses) and, importantly, any and all supplements related to a base prospectus – but maintain clarity by excluding other extraneous documents (final terms related to other issuances under the base prospectus, periodic reports under the EU's Transparency Directive, *ad hoc* announcements under the EU's Market Abuse Regulation etc – that should be separately searchable). In a *post-issuance* context, ideal platform search functionality would enable a search, based just on an ISIN, that would return, as applicable (and together with any related supplements), either the standalone prospectus or the final terms and its related base prospectus – but again maintaining clarity by excluding other extraneous documents. Whether post or pre-issuance, data platforms should ideally enable searching at a European level at least.

Conclusion: ICMA will engage with ESMA, stock exchanges and any other relevant data platform providers to support efficient search functionality for prospectus information.

Responsibility for ESAP running

19. **Administrative responsibility** – Administrative responsibility should rest with the authorities but involving stakeholder input. See response to Q.12.
20. **Cost/benefit** – The cost/benefit is difficult to define as current costs are frictional rather than monetary and future ESAP costs are not yet set (but should be controlled to be proportionate for whoever ultimately bears them). See responses to Q.3.1, Q.22 to Q.26.