12 January 2024
ESMA12-11834

Reply Form

to the Consultation on draft ITS specifying certain tasks of collection bodies and certain functionalities of the European Single Access Point

Responding to this Consultation Paper

ESMA invites comments on all matters in this Consultation Paper and in particular on the specific questions summarised in Annexes. Comments are most helpful if they:

- respond to the question asked;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider or comment to specific questions irrespective of the preferred option.

ESMA will consider all comments received by **8 March 2024.**

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Consultation Paper in this reply form.
- Please do not remove tags of the type < ESMA_QUESTION_ESAP_0>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
- When you have drafted your responses, save the reply form according to the following convention: ESMA_CP1_ESAP _nameofrespondent.
- For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA_CP1_ESAP _ABCD.
- Upload the Word reply form containing your responses to ESMA's website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at www.esma.europa.eu under the heading *'Your input - Consultations'*.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading 'Data protection'.

Who should read this paper?

This Consultation Paper may be of particular interest to securitisation investors/potential investors, securitisation issuers/originators, market infrastructures, securitisation repositories, credit rating agencies as well as public bodies involved in securitisations (market regulators, resolution authorities, supervisory authorities, central banks and standard setters).

1 General information about respondent

Name of the company / organisation	EFFAS - European Federation of Financial Analysts' Societies
Activity	Associations, professional bodies, industry representatives
Are you representing an association?	☒
Country / Region	Europe

2 Questions

Q1. Do you agree with the preferred approach outlined above, under which the validations will be defined on a cross-cutting basis without specifying explicitly the types of information to which a given validation should be applied (and understanding that they should be performed always when relevant for a given type of information as set out in the ITS on tasks of collection bodies or sectoral ITS)?

<ESMA_QUESTION_ESAP_1>

We do not agree with the preferred approach presented (in particular paragraph 14, chapter 4 "Background and analysis" of the Consultation paper JC 2023 78, hereinafter referred to as 4.14). We do not agree with the assessment of the alternative approach in paragraph 4.16.

The situation described in paragraphs 4.12 to 4.16 is actually a complex point in reality. We describe the situation from our point of view and suggest a possible solution:

1. We agree that a "Europe-wide uniform minimum data quality" is the central success criterion so that the EU parliament's goals, which are associated with the European Central Access Point, can be achieved at all.

2. Paragraph 4.12 gives the impression that uniform quality of information depends on two things only: firstly, the fulfillment of the requirements in ESAP regulations, and secondly on the content of the information. This impression seems to be much too simplistic and therefore to be incorrect. The quality of the information depends on, using the example of the annual financial reports, (1) the issuer/preparer, (2) secondly the auditor, (3) the collection body's (OAM) quality rules, and (4) possible quality rules of ESAP.

3. To achieve the goal of uniform minimum data quality across Europe mentioned in paragraph one, a **coordinated implementation of quality assurance measures** by the auditor as well as the **enforcement of a minimum technical quality,** enforced by the collections bodies/OAMs and ESAP, will be necessary.

4. In our opinion, there is a **lack of uniform Europe-wide regulations for the technical enforcement of a uniform minimum quality of data**. Technical filing rules are implemented inconsistently at the various OAMs in Europe. In some member states they are mandatory. In others they are voluntary for the reporting companies. In addition, they are not harmonized within Europe. There seems to be a very big gap in European legislation with very significant implications, namely that a minimum data quality cannot be ensured in this way.

5. Unfortunately, the situation described in the previous no. 4 is not improved by the EU directive number 2023/2859 of 13 December 2023 because the tasks of the collection bodies according to article 5 paragraph 1c to carry out technical automated validations are only rudimentary. These only cover three topics “extractable data format”, “metadata” and the use of a qualified electronic signature. This does not address (1) the actual topic of minimum technical data quality and (2) how to enforce this.

Against this background, **we propose the following measures to solve this “uniform minimum data quality problem”** but also to solve the validation needs described in points 4.11 to 4.16:

1. The auditor is focused on the quality assurance measures that affect the content of the information which cannot be automated.

2. **EU-wide uniform quality assurance rules** shall be developed for each reporting standard, which will be checked and enforced automatically when submitting the data (enforcement of filing rules) to the OAM:

    a. It's all about validation rules that machines can use to confidently decide whether the data meets the quality rules.

    b. Validation rules that must be adhered to must NOT contain so-called “warnings”, where it only becomes clear after manual checking that the document may be OK after all.

    c. Validation rules that must be adhered to should NOT relate to questions of “correct tagging”, which can only be assessed with the auditor’s background knowledge.

    d. Essentially, forced validation does not lead to unnecessary additional expenses or delays for the issuer.

3. The technical implementation of such qualitative assurance rules in the EU should take place centrally. An “**EU uniform quality assurance rules engine**” should be developed by ESMA. ESMA could evaluate if existing open-source tools could be used and adjusted.

4. The national collection bodies/**OAMs are obliged to incorporate this “EU uniform quality assurance rules engine” into their national submission interface**.

5. The “EU quality assurance rules engine” should be based on a technical standard so that the national collection bodies are easily able to incorporate specific additional

national quality rules into the engine for them. We kindly propose to evaluate how the US SEC handles validation rules.

6. The ESAP uses “EU uniform quality assurance rules engine” too. However, ESAP will not throw any errors, because the data have already passed the engine at OAM level.

7. ESMA may evaluate whether to simply provide the source code of the same “EU uniform quality assurance rules engine” to reporting software vendors (but no support). This would be extremely efficient to communicate the validation in technical detail to software manufacturers. Vendors would be free to implement the engine in their software. This measure would further increase data quality. This also makes sense from an economic and cost perspective. However, this no 7 is not a “must” from our point of view.

In summary, based on the measures suggested, a minimum data quality in the EU could be enforced cost-effectively and the national collection bodies could be supported in a uniform manner. In addition, the national collection bodies remain free to add additional quality rules to such an engine in a cost-effective manner to the extent that this would be helpful to their national situation.

We also consider an “EU uniform quality assurance rules engine” necessary for many other reasons, such as those mentioned in our answers to questions Q3, Q8, Q17 and Q19.

In Germany a “quality assurance rules engine” has been developed by the German Tax Authority, for companies filing their annual reports (E-Bilanz/XBRL, more than 1 million companies affected). This engine is implemented in financial accounting software. The process is very successful, although there are certainly opportunities for improvement. However, it shows that the obstacles highlighted by ESMA in the public hearing on February 16th (verbal discussion/Q&A related to slide no 13 “automated validations”) can be eliminated through an appropriate implementation of the quality assurance engine.

<ESMA_QUESTION_ESAP_1>

Q2. Do you agree with the above proposal how the collection bodies shall verify that the information is data-extractable? In case of any challenges foreseen, please propose alternatives.

<ESMA_QUESTION_ESAP_2>

We support checking that the information is data-extractable and agree with the proposal.

Two additional comments on the topic:

1. For reasons of uniformity of implementation as well as to reduce overall costs at the European level, we propose to develop the functionality centrally in Europe and make it available to the collection bodies for local implementation.

2. In the medium term, the use of data formats that are intended for visualization with the human eye should be limited to application cases that are absolutely necessary. It is not cost efficient to convert former paper-based reporting to PDF, and then to check data-extractability. As a general rule, we suggest changing to machine readable data formats.

<ESMA_QUESTION_ESAP_2>

Q3. Do you agree with the above proposal how the collection bodies shall verify that the information is machine-readable? In case of any challenges foreseen, please propose alternatives.

<ESMA_QUESTION_ESAP_3>

We do not agree with the proposal how collection bodies shall verify the information. We refer to our answer to question Q1.

In addition, below we would like to demonstrate two arguments: firstly, the fundamental importance of the proposed test for machine readability and secondly, we would like to show that further tests for data validity are also absolutely necessary in so far as the above proposal needs to be expanded.

1. We very much welcome the fact that this issue has been explicitly regulated. The following sentence in paragraph 21 is particularly important: "...*the collection bodies should verify the validity of the submitted information against the expected XML schema*". This example of XML applies to XBRL data too. Therefore, we assume that XBRL data submitted **will be verified against the expected XBRL schema (XBRL taxonomy) too. This also means that the XBRL-relationships contained in the schema, such as the computational connections, are verified electronically. This is essential**. We would like to explain this using the following example. There are member states in which balance sheets could previously be disclosed in which the total assets did not correspond to the total liabilities, so the balance sheet did not add up. The OAM was not allowed to refuse such a balance sheet. In the event that the same balance sheet is reported today in XBRL format, this will mean that the XBRL data are

not valid and, as a result, cannot be technically processed. Therefore, it is imperative that such a validation check is carried out and that the collection body rejects invalid data. This approach avoids queries and supports an automated and cost-efficient flow of information.

2. In order to be able to use the data, for example for data analytics, it is not enough that it can only be read by machine (machine-readable). Data must also have a minimum data quality in terms of content. Many of these quality checks, but not all, can be checked by a machine. In this regard, we refer to our answer to question Q1, no 4. The test for machine readability should be part of the "EU Uniform Quality Assurance Rules Engine" which also carries out further tests. For example, considering the ESEF filings, the collection bodies/OAMs should mandatorily electronically validate the filing according to the ESMA ESEF filer manual and RTS (for restrictions see our answer to question Q1, measures 2. a, b, c, and d). Such validations must be carried out uniformly in every detail in Europe. This is the only way to ensure a uniform minimum data quality EU wide.

In addition, we would like to share the following observation with you:

In the USA, electronic reporting in a structured data format (XBRL) was made mandatory for the listed companies financial reporting around 2009. The data validation, which could be called "first level validation", was to electronically validate the filing data. It was later recognized that the first level (essentially simple XBRL validation) was not sufficient and the validation rules were extensively expanded (2nd level). It was only with the second stage that the US data became usable in an automated manner.

In the present, with the **proposed ITS, the quality measures fall far short of the quality measures taken in the USA for years**. The draft ITS now only contains the (comparatively) first level of electronic validation. And even in this regard we are not sure whether the requirements are going to become mandatory with the ESAP ITS (simple XBRL validation, see no1 above). Currently there isn't even one uniform Europe-wide regulation to enforce "first level validation" for today's ESEF filings! Something that was mandatory in the US from the beginning... and yet wasn't enough in the US.

Worse still, while in the USA there is only one central submission point (US SEC filing at EDGAR), we have at least 27 of them in Europe. The risk of completely different and inadequate data quality across the EU is therefore higher than in the USA. Only if these needs are targeted will it be possible to achieve the goals that the European Parliament has associated with the introduction of ESEF/ESRS and ESAP.

With this in mind, we propose the "EU uniform quality assurance rules engine" and refer to our answer to question Q1 where it is explained in detail. The essence is that data standards that

are complex in terms of content (ESRS, ESEF etc.) and have many dependencies must have the appropriate quality technically enforced so that such data can be used.

This absolutely necessary assurance of data quality must be carried out uniformly in Europe. It is unacceptable that this is left to the 27 member states individually or to some thousands of individual auditors. This is neither cost-efficient nor is it practically possible to actually ensure an “EU uniform minimum data quality” without a rules engine like mentioned above. We therefore suggest that ESMA will make available the necessary means and resources to develop and maintain an “EU uniform quality assurance rules engine”. This engine should be made available to the collection buddies for national use and for national individual adaptation.

<ESMA_QUESTION_ESAP_3>

Q4. Do you agree with the above proposal for the validation of the metadata? In case of any challenges foreseen, please propose alternatives.

<ESMA_QUESTION_ESAP_4>

Yes, we agree with the proposal for the validation of the metadata.

<ESMA_QUESTION_ESAP_4>

Q5. Do you agree with the proposed approach to the validation of the electronic seal? In case of any challenges foreseen, please propose alternatives.

<ESMA_QUESTION_ESAP_5>

Yes, we agree with the proposal for the validation of the electronic seal.

<ESMA_QUESTION_ESAP_5>

Q6. Do you agree that the format of rejection feedback to the submitting entities should be standardised?

<ESMA_QUESTION_ESAP_6>

Yes, we agree with the proposal.

<ESMA_QUESTION_ESAP_6>

Q7. Do you agree that the rejection feedback should be provided in a common format in accordance with ISO 20022 methodology?

<ESMA_QUESTION_ESAP_7>

Yes, we agree with the proposal.

<ESMA_QUESTION_ESAP_7>

Q8. Do you agree that the rejection feedback should be provided within sixty minutes?

<ESMA_QUESTION_ESAP_8>

No, we cannot agree to this proposal. There should be no time gap between the national publication and the publication on the ESAP. The effects of a time gap depend on the information to be published individually and **can lead to significant distortions and disadvantages for stakeholders**.

In addition, against the background of the increasing automation in the procurement and evaluation of capital market data as well as in the subsequent automated triggering of capital market transactions, there should not be a time difference in the publication of capital market data at two official sources.

We therefore recommend taking appropriate organizational measures to minimize the possible time gap as well as the frequency of occurrence.

Examples of such organizational measures are that the validation rules and the validation engines are identical at the national level (collection bodies) as at the ESAP level. Another possibility is to outsource the ESAP validation rules towards the collection bodies.

The problem described here is another important reason for an “EU uniform quality assurance rules engine”, which we suggested in our answer for question 1.

<ESMA_QUESTION_ESAP_8>

Q9. Do you agree that QES under ESAP should be in XAdES, CAdES or PAdES format?

<ESMA_QUESTION_ESAP_9>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_ESAP_9>

Q10. Do you agree that there is no need to use ASiC format under ESAP?

<ESMA_QUESTION_ESAP_10>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_ESAP_10>

Q11. Do you agree that QES under ESAP should be at least at conformance level LT?

<ESMA_QUESTION_ESAP_11>

No, we do not agree with the proposal. We suggest LTA, as quick as it is technically possible in the respective area.

LTA level has various technical advantages over LT-level. For example, the additional stamp with data would provide additional verification related information of time stamping authority.

<ESMA_QUESTION_ESAP_11>

Q12. Do you agree with the requirement to include ISO 17442 LEI code as an attribute in the digital certificates whenever the information submitted to ESAP is accompanied by a QES?

<ESMA_QUESTION_ESAP_12>

Yes, we agree with the proposal.

<ESMA_QUESTION_ESAP_12>

Q13. Are there any other characteristics of the QES that should be defined under ESAP?

<ESMA_QUESTION_ESAP_13>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_ESAP_13>

Q14. Do you agree with the proposed approach to the open standard licences which shall be applied by collection bodies to the datasets to be made available to ESAP? If not, why not and what alternative approach would you suggest?

<ESMA_QUESTION_ESAP_14>

Yes, we agree with the proposed approach. We believe that this approach is a key component in reducing the information costs of investment analysts especially for SMEs with ties to capital markets. This approach is an important component so that innovative analytical services can be offered to market participants.

Restricted usage rights or (excessively high fees) will counter the desired better transparency and information provision. High level up-to-date information at the lowest possible costs will not be achieved. The information costs for current and comprehensive SME data are currently often too high for investment professionals in relation to the possible returns.

<ESMA_QUESTION_ESAP_14>

Q15. Do you agree with the proposed characteristics of the API for data collection? If not, what alternative characteristics would you recommend?

<ESMA_QUESTION_ESAP_15>

We agree with the proposed characteristics of the API. However, it might be useful that ESAP implements the “EU uniform quality assurance rules engine” in the data collection API as well as the collections bodies (see our answer on question Q1).

<ESMA_QUESTION_ESAP_15>

Q16. Do you agree with the proposed approach to the format, list and characteristics of the metadata? If not, what alternative approach would you recommend?

<ESMA_QUESTION_ESAP_16>

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<ESMA_QUESTION_ESAP_16>

Q17. Do you agree with the proposed approach with regards to time limits? If not, what alternative approach would you suggest?

<ESMA_QUESTION_ESAP_17>

No, we do not agree with the proposed approach with regards to time limits.

Against the background of the increasing automation in the procurement and evaluation of capital market data as well as in the subsequent automated triggering of capital market transactions, there should not be a time difference in the publication of capital market data at two official sources.

We therefore recommend taking appropriate organizational measures to minimize the possible time gap as well as the frequency of occurrence.

Examples of such organizational measures are that the validation rules and the validation engines are identical at the national level (collection bodies) as at the ESAP level. Another possibility is to outsource the ESAP validation rules towards the collection bodies.

The problem described here is another important reason for “EU uniform quality assurance rules engine”, which we suggested in our answer for question 1.

<ESMA_QUESTION_ESAP_17>

Q18. [for users of information only] Do you currently access price and time-sensitive information via the Officially Appointed Mechanisms or other (private or public) databases? If so, which ones? If not, how do you access such information?

<ESMA_QUESTION_ESAP_18>

In the past we accessed price and time sensitive information mostly via private data service providers and their databases. We agree with Gary Gensler, US Securities and Exchange Commission chair, who expects a dramatic change in our [capital] markets, in the use of capital market data. He said "*the most dramatic change to our markets is the use of predictive data analytics and artificial intelligence. Predictive data analytics, including machine learning, are increasingly being adopted in finance — from trading, to asset management, to risk management. Though we're still in the early stages of these developments, I think the transformation we're living through now could be every bit as big as the internet was in the 1990s*."

Against this background, we believe it would be wrong to align the ESAP with the current information processes. It is wrong to focus on the very limited importance of the Officially Appointed Mechanisms for Investment Professionals as of today**.** That would be an inherent restriction on the future development of capital market information and the desired transformation of the markets for better data and better data services. **The EU capital market union needs better data, more data of listed SME, and more quickly, better data analytical services at lower information costs etc. These changes must have their own dynamic, which result from the fact that the individual digital transformation effects of those involved reinforce each other.**

Against this background, we believe that question Q18 is of little importance as it only focuses on the previous processes and does not focus on the success criteria for the dramatic change needed in the capital markets. **We are of the opinion that the goals set by the EU parliament for the European capital market can only be achieved if ESAP is given fundamental importance** of providing the capital markets comprehensively with all information, including price and time sensitive information.

<ESMA_QUESTION_ESAP_18>

Q19. Do you expect that a maximum time delay of sixty minutes between when information is available at the level of the collection body and when it is available on ESAP will diminish the usefulness of ESAP? If so, what maximum time delay would you consider acceptable?

<ESMA_QUESTION_ESAP_19>

Yes, absolutely this will be a big disadvantage. There should be no time gap between the national publication and the publication within the ESAP. The effects of a time gap depend on

the information to be published individually and **can lead to significant distortions and disadvantages for stakeholders**.

It will be a fundamental problem if capital market data is validated inconsistently by 27 different authorities in the EU and then has to be validated again at ESAP, as a central location within a very short period of time.

In our opinion, this fundamental problem can be solved by an “EU uniform quality assurance rules engine”, which we have proposed in our answer to the questions Q1, Q3, Q8, Q17 and Q19.

Not only would it be cheaper to solve the problem of data validation using this approach rather than doing it individually in the 27 Member States, but the disadvantages would also include lower data quality and higher costs. A time delay of up to an hour is not acceptable and does not fulfill the goals of an integrated capital markets union in Europe.

<ESMA_QUESTION_ESAP_19>

Q20. Do you agree with the indicative list of formats and characteristics proposed? If not, what alternative formats or characteristics would you recommend?

<ESMA_QUESTION_ESAP_20>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_ESAP_20>

Q21. Do you agree with the proposed characteristics of the API for data publication? If not, what alternative characteristics would you recommend?

<ESMA_QUESTION_ESAP_21>

Yes, we agree with the proposal provided that the API allows complete automation.

It must be ensured that extern algorithms can make ESAP requests and receive the desired data without requiring human intervention or authorization.

This characteristic or success criterion should be included in the regulations in paragraphs 93 to 98. Otherwise, there is a risk that automation of services and data provision for the capital market data will not be possible to the desired extent or may not be possible at all.

<ESMA_QUESTION_ESAP_21>

Q22. Do you agree with the proposal to specify that the legal entity identifier should be the ISO 17442 LEI code? If not, what other identifier would you suggest and why?

<ESMA_QUESTION_ESAP_22>

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<ESMA_QUESTION_ESAP_22>

Q23. Do you agree with the proposed approach with regards to types of information? If not, what additional/ alternative type of information do you recommend?

<ESMA_QUESTION_ESAP_23>

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<ESMA_QUESTION_ESAP_23>

Q24. Do you think that information required at national level pursuant to Article 3(1) of the Transparency Directive (so-called gold plating) should be captured by certain specific types of information? Or would you prefer such information be captured by one generic category, namely "Additional regulated information required to be disclosed under the laws of a Member State"?

<ESMA_QUESTION_ESAP_24>

Given the scope and complexity of such information, we propose to initially introduce a more generic category but to structure these national data requirements in the medium term. One possibility would be to introduce so-called national taxonomy extensions to the ESEF taxonomy - as an example.

<ESMA_QUESTION_ESAP_24>

Q25. Do you agree with the proposed approach with regards to the categories of the size of the entities? If not, what alternative approach would you suggest and why?

<ESMA_QUESTION_ESAP_25>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_ESAP_25>

Q26. Do you agree that it would be disproportionate to the purpose of the ESAP search function to introduce new categories by size for reporting regimes where currently no size category is foreseen in level one legislation? If not, for what additional categories of entities would you add a size category and on the basis of what thresholds?

<ESMA_QUESTION_ESAP_26>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_ESAP_26>

Q27. Do you think it would be useful to leverage on the thresholds introduced by DORA for the classification by size of at least some entities in scope of ESAP, such as IDD intermediaries and PRIIS manufacturers? If not, why not? If yes, are there other entities in scope of ESAP for which you think the thresholds defined in DORA would be applicable and/or useful?

<ESMA_QUESTION_ESAP_27>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_ESAP_27>

Q28. Do you agree with proposed approach with regards to the categorisation of industry sectors? If not, what approach would you suggest and why?

<ESMA_QUESTION_ESAP_28>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_ESAP_28>

Q29. Do you think additional or fewer sectors would be appropriate for the ESAP search function? If so, which ones would you propose to add and/or remove?

<ESMA_QUESTION_ESAP_29>

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<ESMA_QUESTION_ESAP_29>