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	**German Banking Industry Committee**
Activity	Associations, professional bodies, industry representatives
Are you representing an association?	☒
Country / Region	Germany

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>

Preliminary remarks

In principle, the creation of the ESAP is welcomed by the **German Banking Industry Committee**[1].

As several metadata information have been already submitted to national competent approving authority in the function as collection body, these information should not be required to be submitted to other collection bodies. Suggested approach: The collection body for the submission of information to ESAP shall be the same national competent approving authority.

Data that already has to be provided by market participants to national supervisory authorities should not have to be provided again by the market participants. Mandatory double reporting must be avoided.

In addition, the publication of documents in the ESAP also causes consequential problems that have obviously not yet been considered. Particularly in the area of issuing securities (Prospectus Regulation), for example, it is necessary for issuers to ensure that only certain groups of people have access to the documents. Securities issuers always have the option of restricting access to certain groups of people on their own website. However, access on the ESAP website is presumably not limited or restrictable. Consequently, documents are also made available in the ESAP to persons for whom they are not intended (e.g. in the case of securities that are restricted to certain countries of distribution). Setting up the possibility of an access restriction or similar is therefore highly recommended.

Regarding Q1:

[1] The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks.

In our opinion, a standardized validation method for all types of information is not objectionable in principle. However, this method should be disclosed and described. Furthermore, the failure or delay of the validation process should not lead to transmission restrictions. Manual validation should be provided as a back-up solution.

Content validations should be rejected in principle.

<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>

Prospectuses, final terms and other mandatory disclosure documents (such as KIDs) are usually PDF files, which in our opinion generally fulfil the requirements for the "data-extractable" format. Instead, it should be made clear that PDF formats are consistent with the specified "data extractable" format. This view should be confirmed accordingly by the EBA/ESMA. In our opinion, any additional format requirements should be rejected.

It should also be noted that existing information documents are already created automatically in certain formats and made available to customers. This has proven itself in practice. The documents created by the manufacturers are processed in the automated sales processes of the sales offices so that they can be integrated into the online brokerage or placed in the customer's mailbox, for example. When creating the technical formats for uploading documents to the ESAP, it is therefore essential to ensure that these formats are compatible with the formats currently used in the market. Otherwise there is a risk of expensive IT adaptations or even the need to create the documents twice: One format for submission to the ESAP and one format that has to be used in sales. This unnecessary effort must be avoided, as this would be an unreasonable additional burden for the creators of the documents (to illustrate the effort involved, it should be noted that there are around 2 million PRIIPs KIDs in the German market alone, some of whose content is recalculated on a daily basis). In order to avoid these problems and the additional work involved, the formats used in the market should be taken into account when defining the formats for submitting documents to the ESAP. For the German market, these would include - PDF A Level 1b.

However, it must also be taken into account that mandatory documents may contain logos or similar contents (grafics / diagrams), which cannot be extracted. However, the non-

extractability of logos etc. should not affect the basic format requirements in our opinion. This should be clarified accordingly.

Furthermore, we believe it is necessary to disclose the exact validation method in order to enable market participants to carry out their own checks.

In this context, we believe it is imperative to ensure that the requirement for "structured information" or "machine-readable format" is not extended to prospectus documents or other mandatory disclosure documents.

<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>

It has to made clear, that only in cases where Union law requires the submission of a machine-readable format a validation by the collection body that the information is machine-readable is required. The validation method should be disclosed, particularly for machine-readable information. The formats in question should be recognized standard formats.

Furthermore, this type of format is not suitable for use with prospectuses, KIDs, etc., so the machine-readable format must not be extended to this information. Machine readability must not lead to a reduction in legibility for the customer.

Information already reported (e.g. final terms are filed with the supervisory authority for each issue) should be used by the national supervisory authorities and reported in the ESAP. This avoids double reporting, reduces the susceptibility to errors and means that no new interfaces need to be created.

<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>

The review of the metadata by the collection centres appears to us to be very extensive and in some cases too broad. Firstly, the scope of the metadata to be supplied in each case has not yet been finalized and should remain strictly limited. In addition, a range of acceptable values would have to be defined for all metadata. Logically, a standardization for metadata would have to be created. In our opinion, this is extremely time-consuming, potentially error-prone and impractical. In the example mentioned for the LEI and the described comparison with the GLEIF database, for example, it was not taken into account that delays and/or display errors can occur there. Successful validation of the metadata would therefore be dependent on a third-party provider.

This unfortunate constellation would also be conceivable for other metadata. In our opinion, the added value of metadata "checked" in this way is low for the investor.

<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>

Any type of mandatory electronic seal must be expressly rejected. In our opinion, a mandatory electronic seal involves a great deal of effort without any benefit for market participants. A third party has to be involved as an external partner would be required as a service provider for the seal certificate. This would result in additional costs and effort for mapping in IT and, in all likelihood, additional time for each notification if the seal has to be issued by that external provider. One example of this are the PRIIPs-KIDs, which would have to be reported in large numbers and would also be subject to updates during the term and would have to be sealed again. Providing each of these with an additional electronic seal would require an automated "sealing solution", which would likely result in high costs and effort. One argument against such a seal is that the documents provided in the ESAP are already made available to investors in a legally secure manner. Such a seal has not been necessary to date.

Rather, it should be ensured that the communication channel for the delivery of the information itself is verified as secure and trustworthy and that the information in the ESAP is made available in a non-editable form. Validation by an electronic seal on an individual document or individual information basis is therefore unnecessary.

Furthermore, in our opinion, not all common standard seal formats are listed. The provider used in Germany (e.g. by "Bundesdruckerei" – federal printing office of Germany) uses the "eIDAS" format, for example. See also below.

<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>

This requirement should only apply to information that is not already required to be made available to national supervisory authorities. For such information, a feedback system is obsolete as this has already been validated by the NCAs. If the feedback is broken down into comprehensible presentations or the error codes are made available with an agenda and, in case of doubt, there is a contact option that responds promptly, we consider the proposed procedure to be justifiable. It is questionable whether the planned procedure will work because new feedback systems will be set up again.

The standards for this feedback must be communicated in advance and made transparent. With regard to market participants operating at pan-European level, it is imperative that uniformity is established across the various collection bodies.

In our opinion, validation by the collection bodies must be automated. In this respect, we consider a time limit of 60 minutes to be too long. An automated check of the format, the metadata and the mandatory QES should be possible within a few seconds. Care must be taken to ensure that these notifications and validations do not hinder or unnecessarily prolong the emissions processes.

<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>

The use of existing formats for feedback would be considered a great advantage. There are no objections to the planned data format.

<ESMA_QUESTION_ESAP_7>

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

<ESMA_QUESTION_ESAP_8>

Feedback should be provided immediately. However, the question here is whether there are obligations to publish promptly on this platform, analogous to the Prospectus Regulation. The time frame in which errors must be responded to depends on this. The time periods seem too long for automated technical validations. In the case of manual validation, the period would of course be even longer.

<ESMA_QUESTION_ESAP_8>

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

<ESMA_QUESTION_ESAP_9>

As expressed under Q5 we cannot see any advantage in the use of the QES. In all likelihood, however, a high implementation effort is to be expected, see also our response to Q6. In any case, we do not agree that QES under ESAP should only be in XAdES, CAdES or PAdES. Other approved electronic seals at national level or from national bodies have to be taken into account. The "Bundesdruckerei" (federal printing office of Germany) offers the "eIDAS" seal with "dTrust", for example. This would make it even more challenging for ESAP.

<ESMA_QUESTION_ESAP_9>

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

<ESMA_QUESTION_ESAP_10>

We also see no need to use ASiC format. Please see also our responses to Q5 and Q9.

<ESMA_QUESTION_ESAP_10>

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

<ESMA_QUESTION_ESAP_11>

We are of the view, that any type of mandatory electronic seal must be expressly rejected. However, we assume that the LT-Level QES allows a check at a later date independently of a (third) directory service. If this is the case (we ask you to confirm this), a corresponding conformity would make sense in our opinion.

As we understand it, the PadES format for PDF files proposed above already fulfils this requirement (we would also ask for final confirmation of this).

<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>

As expressed under Q5, any mandatory electronic seal must be expressly rejected. It is unclear whether the providers of the seal can integrate the LEI into the certificate.

If not, it would make sense to integrate the LEI - if technically possible - instead of personal data from individual transmitters.

We assume that any submission an authorized representative is sufficient. This requires clarification that no double reporting is required here.

<ESMA_QUESTION_ESAP_12>

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

<ESMA_QUESTION_ESAP_13>

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<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>

The information should only be accessible to authorized persons. The problem is that the data is made available to all Internet users who access the ESAP website. For example, the issuer no longer has the option of restricting access to certain documents to specific investors, as he can do on its own website (e.g. in prospectus law: offer only to persons from countries in which the security has been notified). There may be further regulations to be observed in the case of personal data.

If unrestricted access is to be maintained, it should be ensured at document level that these are only accessible to a certain group of people as specified by the issuer.

There is no definition of personal data. It must be specified what is meant by the dissemination and use of the information. Modification/editability (point 56.) must be avoided at all costs, as prospectuses, final terms or PRIIPs-KIDs are liability documents. The ESAP should be a data collection point that provides the necessary transparency for market participants. It should not be used to distribute data and release it for general use.

<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>

In our opinion, the API specifications are initially particularly relevant for the collection bodies, as they have to set up a corresponding interface to ESAP. Nevertheless, it must be ensured that the specifications are defined in such a way that they are practicable and do not lead to disruptions in reporting. Under no circumstances should the resulting erroneous reports etc. lead to disadvantages for issuers, as they are in fact unable to influence these reporting procedures.

As the data is forwarded via several bodies (issuer to authority - authority via API to ESAP), the question arises as to how it can be ensured that the forwarding does not lead to a change in the data (when summarizing/reformatting the data).

<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>

See Q2/3. As several metadata information have been already submitted to national competent approving authority in the function as collection body, these information should not be required to be submitted to other collection bodies. Suggested approach: The collection body for the submission of information to ESAP shall be the same national competent approving authority.

Data that companies are already required to send to national supervisory authorities should not have to be provided again. Double reporting must be avoided.

It must not be the case that even more information than required by the regulations themselves has to be provided to ESAP. A maximum of individual master data for registration would be acceptable. The master data should not go beyond what is already required - No. 67 sounds very broad here.

Data must be limited to what is absolutely necessary. They should be docked to the most suitable reporting stream (sector-specific). Duplicate messages must also be avoided here.

Master data (e.g. size, see no. 70) must be stored in the master data via the LEI and should not be subject to separate reporting. Only where no LEI is stored should information be provided directly. Otherwise, unnecessary verification and error correction work will be required.

It should be noted that excessive data collection does not lead to better investor protection.

<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>

See Q8.

The time limits are at the level of the reporting entities, i.e. this must be clarified there. With regard to the prospectus, in our opinion it is already as described, because only after approval is it sent to ESAP by the authority with the currently required metadata (entered by the issuer in the authority system).

<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>

We doubt that the ESAP is the right place for time-sensitive publications. This is because, as already described, there is a time delay (point 85.; 60 minutes) in publication. This means that price and time-sensitive information makes no sense there. In case of doubt, the 60 minutes for the feedback and then the new reports can lead to significant delays in publication and make the data mentioned obsolete.

In the current paper, ESAP is unsuitable for price- and time-sensitive information. It is not the source of the original documents. The data referred to is published on the issuer's website or in the German Federal Gazette ("Bundesanzeiger").

<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>

It must be clear that the original source and the "publication" there is always decisive. The ESAP is only downstream data collection. Therefore, no additional specifications can be created for data up-to-dateness.

<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>

See Q9-13. The proposed formats cause a considerable conversion effort (also for the basic documents, e.g. the Word templates).

It may no longer be possible to reproduce certain legally required presentations in the sales documents (e.g. presentation of scenarios).

It should also not be forgotten that graphics or diagrams embedded as images in documents can be easier for the reader to understand than pure text passages and, in particular, a list of figures or data. Graphs and diagrams are excellent ways of illustrating complex information at a glance. They provide a clear visual representation that makes it easier to recognize trends, patterns and correlations. The fact that images/graphics may no longer be used because they are not considered data extractable would significantly impair the comprehensibility of documents. In the face of "all this technology", it must not be forgotten that the documents must be read by people and must also be comprehensible and transparent for them in their presentation. Furthermore, logos etc., which are typically integrated as graphics, cannot be displayed either.

Currently, prospectus documents, registration forms and PRIIPs-KIDs do not have to be machine-readable.

These requirements must not be used to influence the structure of the documents in any way that goes beyond the regulations for the document itself.

<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>

API access should be based on the current standards for API interfaces. In our opinion, this is the only way to achieve a certain level of market acceptance.

<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>

We agree with the proposal.

Translation of the Summary	Art. 21(1) Art. 6(3) Art. 7	Not required as standard.

<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>

The metasearch (point 109. First coat of paint) should not be selected for the search algorithm, as this would lead to too many search results.

<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>

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<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>

The categorization into small/medium/large is very rough, and different approaches also apply (item 117.; employees/assets under management). If different approaches apply, the search is made more difficult (item 118.).

<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>

No search by size should be introduced.

<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>

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<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>

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<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>