

BPFI VIEWS ON THE EUROPEAN SINGLE ACCESS POINT

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INTRODUCTION

BPFI welcomes the European Commission (EC) proposal to establish a European Single Access Point (ESAP), which our members believe can help develop EU capital markets by providing investors, analysts and market participants with access to standardized and machine-readable public data.

In particular, we are of the opinion that by publishing/standardizing publicly available information, EU companies will get substantially more visibility from potential investors, supporting the wider EU economy. In this respect, we share the European Commission's expectations that ESAP will not only directly benefit users but will substantially contribute to the achievement of the Capital Markets Union (CMU) objective of improving companies' direct and indirect access to capital markets by giving them greater visibility and increasing business comparability.

From our perspective it is key that for the project to be successful, it should "start small" and become operational before expanding. Against this backdrop, we support the voluntary contribution elements of the package but do note that the current timeline is rather ambitious and could be challenging to operationalise. To ensure that the proposal supports the development of EU capital markets in the most effective and efficient manner, we believe some adjustments can be made, which are laid out below.

MAIN COMMENTS

Overall, the proposed structure for the delivery of reporting framework seems sensible, even though significant level of detail is left to the design choices of ESMA and the national authorities who will define more detailed aspects of the system within the Level 2 measures. **BPFI fully supports the possibility for firms to report/disclose information voluntarily into ESAP**, subject to all such reports being made using the same formats and standards and validated in the same way as mandatory reports. While this looks to be what is envisaged by the European Commission proposal, **it is crucial that such a system is retained in the text and any moves to remove the voluntary nature are rejected.**

However, we have concerns that the current proposal, as tabled, is too broad. It includes 37 different regulations and directives, with well over 100 different forms of reporting and disclosures included. Given the scale of this, there is a risk that such a broad initial reach, including many data points of narrower public interest, could undermine the effectiveness of ESAP by dispersing focus too broadly in the short term. We acknowledge that no new disclosures or reporting requirements are being introduced through the ESAP proposal, but this does not mean that no new implementation costs are being introduced or that ongoing running costs will not be increased – in fact in most cases we expect there will be incremental upfront and ongoing costs well in excess of European Commission estimates.

These costs will arise where firms are required both to disclose information as at present and, in future, additionally report through the new ESAP mechanism. The specifics of additional reporting attributes (metadata) have been left open for nominated collection bodies to define, which could lead to yet further additional data points being added. **We would therefore urge that the proposals be**

amended to place an obligation on collection bodies to ensure additional metadata is kept to an absolute minimum.

In addition, the proposals do not appear to remove or replace any existing reporting or disclosure obligations, and where they do not, they will be additive in terms of both cost and complexity for reporting firms. For some more complex or frequent reports, we would anticipate that design and build may require extensive engagements with regulators to prepare systems. **It is vital that all relevant technical standards and guidelines have been finalized well in advance of any go-live date, and as such, we would urge the removal of fixed implementation dates in the Level 1 text**, with these to be set instead as relative dates, for instance applying go lives 6-12 months after all relevant secondary and tertiary rules have been finalized.

At the same time, data quality and integrity are essential to the success of ESAP, and as such the role of collection bodies in validating reports before publication to ESAP is to be welcomed. However, it should be acknowledged that this new step also implies further additional cost and complexity for reporting firms who will need to have additional processes to review and manage data exceptions and rejections that they do not today. As such, we are disappointed to see no detailed cost-benefit-analysis from the European Commission on individual disclosures/reports that have been included, and the full list appears to be broader than was consulted upon by the EC in 2021.

We also note that the proposal does not account for the concurrent and cumulative impact of the requirements on both firms and collection bodies, as well as ESMA. Larger firms, including Banks, will be captured by many of the in-scope reports, and hence required to establish and maintain multiple simultaneous build projects across a wide range of diverse data sources. Similarly, certain regulators will be nominated as collection bodies for multiple reports, straining existing resources.

To this end, while we note that a form of 'phase in' has been proposed (with reports scheduled to go live in 2025, 2026 or 2027) **we are concerned that this does not provide sufficient time for all proposed reports to be built efficiently and effectively**, or to allow for post go-live remediation of any issues before further reports are added. It also does not allow for application of priority to certain reports. **We would recommend a staged approach where the go live date for subsequent phases of reports is only finalized when there is certainty around the success of the prior phase.**

In our view, the core purpose of ESAP should be to provide access to key financial disclosures, corporate documentation and sustainability related information either intended for, or likely to be of interest to, a broad and public user base. This data should be given priority and would include:

- **Regular financial reports and statements**
- **Sustainability risk disclosures**

ESAP should not be designed from the outset as a regulatory database, and in particular priority should not be given to adding information that is already maintained or published in a single place (such as certain ESMA registers) or be required to contain disclosures and reports which are intended for, or most relevant to, only for users or clients of specific reporting entities. **To this end, we see very limited value in including, for instance, EMIR Clearing member service offerings.**

Among the reports included we have specific concerns with the following and would suggest they are removed from the scope of the proposal:

- **MiFIR Best Execution Reports** - in the accompanying MiFIR proposals published in late 2021, the European Commission has already proposed to delete one of these reports (“RTS 27”- which deletion BPF strongly support) and the other (“RTS 28”) is subject to review (we also urge its deletion). As such these reports should not be included in ESAP, certainly until such time as they have been reformed and deemed to provide useful information.
- **PRIIPs and UCITS key information/investor documents (KIDS/KIIDs)** – there have been several reviews by EU regulators and the European Commission to explore whether there is value in a pan-EU database for investors to be able to access, compare and contrast KIDs/KIIDs. Such reviews have so far not identified a demand for such a database and as such, we do not believe it is appropriate for it to be introduced via the ESAP proposal. In any case, it is not clear that the ESAP model would provide the kinds of detailed comparative tools that would be necessary for investors in the EU to undertake comparisons across products and providers. In our view, given the high volume of disclosures that would be covered by PRIIPs/UCITs, the potential to include PRIIPs or UCITs in ESAP should be considered as part of the scheduled review of PRIIPs/UCITs itself rather through the current proposal, to ensure any pan-EU database is designed appropriately for the intended needs of investors.

Finally, although the ESAP proposal stipulates that, as a rule, information should be accessible free of charge, it also allows ESMA to impose fees for users that require very large volumes of data or frequently updated information.

We believe that, as recommended by High-Level Forum (HLF) on the CMU, **the ESAP should provide access to information “freely accessible to the public and free of fees or license use.”** We anticipate that the financial industry will be the main user of ESAP, especially with regard to sustainability information. Therefore, **access to data should be made free regardless of the volume**, even more so in the case of when information that required to fulfill regulatory obligations and would be retrievable via ESAP. Additionally, where data is provided publicly today for free – irrespective of volume or frequency of access (for instance ESMA’s MiFIR FIRDS/FITRS database) – then firms should not be charged to access it through ESAP, similar to that if regulators decide to remove their existing services once the data is available in ESAP.

At the same time, our members would be open to an appropriate and proportionate fee applying for frequent users extracting large volumes of data, subject to further assessment following the inception phase of ESAP. **The funding provided to ESMA (for both administrative and operational costs related to ESAP) should be solely co-funded by the Union and National Competent Authorities** (in accordance with ESMA’s founding Regulation 1095/2010, i.e. 40% from union funds and 60% through contributions from Member State National Competent Authorities). From our perspective, the establishment and ongoing costs of the ESAP should not be borne by the financial sector outside of any proportionate fees for the retrieval of large volumes of data.



Banking & Payments Federation Ireland,
Floor 3, One Molesworth Street, Dublin 2, D02 RF29, Ireland.

Tel: +353 1 671 53 11 Email: info@bpfi.ie
www.bpfi.ie

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