



Digitalisation - European Single Access Point (ESAP)

■ Why does it matter to intermediaries?

In November 2021, the European Commission adopted a package of measures establishing a European single access point (ESAP).

The ESAP aims at contributing to the achievement of the CMU objectives by **providing EU-wide access to information published by financial entities, including by insurance and financial intermediaries, that is relevant to capital markets, financial services and sustainable finance**, i.e. mainly information about their economic activities and products. The ESAP is directed primarily to users such as investors, financial analysts and market intermediaries, for example, asset managers, advisers or data aggregators.

The information that will be publicly accessible on the ESAP will be collected by designated collection bodies (mainly EIOPA for our sector) and will be accessible through a single application-programming interface (API). By providing data in digital format (data extractable or machine-readable format), the ESAP is intended also to be also a cornerstone of the **EU Digital Finance Strategy** that would enable a planned transition to data-driven finance.

The package includes a proposed ESAP Regulation and two other proposals (an Omnibus Directive and an Omnibus Regulation) that **will amend a number of existing EU Directives and Regulations**. These texts are listed in the Annex to the proposed ESAP Regulation. **For our sector, the key EU texts of interest are the following EU Directives: IDD, UCITS, Solvency II, MiFID II, IFR and IORPs, and the following EU Regulations: PRIIPs, PEPP, IFR, SFDR and Taxonomy.**

The amendments consist of adding to these EU texts one ESAP stand-alone provision on the format of the information and its submission to a collection body.

For example, the following article 40a will be included in the IDD:

Article 40a Accessibility of information on the European Single Access Point (ESAP)

"From 1 January 2026, for the purposes of making accessible on ESAP the information referred to in Article 32(1) and Article 32(2) on the publication of sanctions of this Directive, the collection body as defined in Article 2, point (2), of the ESAP Regulation shall be the competent authority. That information shall be prepared in a data extractable format as defined in Article 2, point (3), of the ESAP Regulation, include the name and - where available - the legal entity identifier of the entity as specified pursuant to Article 7(4) of that Regulation, and the type of information as classified pursuant to Article 7(4) of that Regulation."

Article 32 (1) and (2) of the IDD requires Member States to ensure that the competent authorities publish any administrative sanction or other measure that has been imposed for breaches of the national provisions implementing the IDD. **There would be therefore no direct obligations here for intermediaries to provide information to the collection body - competent authorities – to be published in the ESAP. The information as defined in Article 32 is collected and published by competent authorities.**

The proposed ESAP Regulation mandates ESMA to establish, by 31 December 2024, the ESAP that will provide public access:

- to the information that entities, including intermediaries, must already disclose to the public pursuant to the legislation listed in the Annex of the proposed ESAP (Article 1.1a) and
- to additional categories of information, including financial or sustainability-related information, that entities, including intermediaries, decide to include on a **voluntary basis** in ESAP (Article 1.1b).

Only the amendment to the SFDR will create a **direct reporting obligation for intermediaries** (for MiFID, the rules will apply to fully-fledged investment firms, not to opt out firms). For instance, from 1 January 2025, when making public any information related to sustainability risks and principal adverse impacts of investment decisions on sustainability factors, **all intermediaries providing advice for IBIPs and investment advice will have to submit that information to the relevant collection body at the same time for accessibility on ESAP.**



■ State of play

On 23 May the negotiators from the Council and the European Parliament reached a provisional agreement on the three proposals creating the ESAP. The agreement is provisional as it still needs to be confirmed by the Council and the Parliament before it can be formally adopted. The text of the agreement is not yet available.

According to the Council's press release, "*Under the provisional agreement, the ESAP platform is expected to be **available from summer 2027 and gradually phased in** to allow for a robust implementation. Based on coherent phases this phasing-in will ensure that European regulations and directives will in accordance with their priority enter into the scope of ESAP within four years. This ensures that sufficient time is available to define and implement the required technical aspects of the project. During this time, there will also be a regular assessment of ESAP's functioning and a review clause that should guarantee the **adequacy of the platform to the needs of its users and its technical efficiency.***

From the start (phase 1), co-legislators agreed that the scope should include information according to the short selling regulation (EU) No 236/2012, the prospectus regulation (EU) 2017/1129 and the transparency directive 2004/109/EC.

Six months after ESAP has been made public (48 months after entry into force), phase 2 will begin. The **scope of phase 2** will be quite large and include, among others, information according to sustainability-related disclosures in the financial services sector (SFDR) regulation, the credit rating agencies (CRA) regulation and the benchmark regulation.

During the **third and last phase** relevant information stemming from around 20 additional pieces of legislation are added to the scope, including the capital requirements regulation (CRR), the markets in financial instruments regulation (MiFIR) and the EU green bonds regulation (EUGBR)."

It is interesting to note that **the Council's position on the ESAP deleted the IDD from the scope of the ESAP while the EP left it in as proposed by the Commission.**

■ BIPAR's position / key messages

BIPAR does not believe that the information regarding administrative sanctions or other measures that have been imposed for breaches of the national provisions implementing the IDD (Article 32 (1) and (2)) should be published in the ESAP. This information is not even public in some Member States. BIPAR contacted the EP and Council accordingly.

■ Next steps

The 23 May provisional trilogue agreement will need to be confirmed by the Council and the Parliament before it can be formally adopted and published in the OJ of the EU.

■ Links

- Text of the proposal for an ESAP Regulation
- Text of the proposal for a Directive amending certain Directives as regards the establishment and functioning of the ESAP
- Text of the proposal for a Regulation amending certain Regulations as regards the establishment and functioning of the ESAP
- Council's and EP's provisional agreement on the 3 proposals creating the ESAP
- Draft EP legislative resolution on the proposal for a Directive amending certain Directives as regards the establishment and functioning of the ESAP
- Draft EP legislative resolution on the proposal for a directive amending Directive (EU) 2019/1153 as regards access of competent authorities to centralised bank account registries through the ESAP
- Draft EP legislative resolution on the proposal for a regulation establishing an ESAP providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability
- Draft EP legislative resolution on the proposal for a regulation amending certain Regulations as regards the establishment and functioning of the ESAP