



Digitalisation - European Single Access Point (ESAP)

■ Why does it matter to intermediaries?

The ESAP aims at contributing to the achievement of the CMU objectives by providing an EU-wide and easy access to public financial and non-financial information published by financial entities, including 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. Marketing information is excluded. The ESAP is directed primarily to users such as investors, financial analysts and market participants, for example, asset managers, advisors or data aggregators.

■ State of play

On 20 December 2023, the Regulation creating the European Single Access Point (ESAP) was published in the Official Journal of the EU (together with an "Omnibus" Regulation and an "Omnibus" Directive that amend existing EU texts such as the IDD and MiFID II).

The ESAP Regulation mandates ESMA to establish and operate in 3 and a half years an ESAP, i.e. a platform that will provide centralised electronic access:

- to the information that entities, including intermediaries, must already disclose to the public pursuant to the existing European legislation listed in the Annex of the ESAP Regulation (Article 1.1a) (ex: IDD, MiFID II, PRIIPs, SFDR ...) (or to any future legally binding EU acts providing for centralised electronic access on ESAP) and
- (once the operational soundness and efficiency of the ESAP is ensured) to additional categories of information that entities, including intermediaries, decide to include on a voluntary basis on ESAP (Article 1.1b) (this information can be either referred to in the above-mentioned list of EU texts or in any future legally binding EU acts providing for centralised electronic access on ESAP)

As explained in Recital 7 of the ESAP regulation, the ESAP will not impose any new disclosure requirements in term of content on the concerned entities. It will build upon existing requirements laid down in EU Directives and Regulations. It adds "it is important to avoid double reporting, in order to prevent the imposition of any additional administrative and financial burden on entities", especially SMEs".

The information that will be made 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 a cornerstone of the EU Digital Finance Strategy that would enable a planned transition to data-driven finance.

As mentioned above, the ESAP Regulation was adopted together with two other EU texts (an Omnibus Directive and an Omnibus Regulation) that **will amend 16 existing EU Directives and 19 Regulations**. This is to ensure consistency

in publicly available information on the ESAP platform. These texts are listed in the Annex to the ESAP Regulation. **For our sector, the key EU texts of interest are the following EU Directives:** IDD, UCITS, Solvency II, MiFID II, IFD 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 that will be made public on the ESAP 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 10 January 2030, Member States shall ensure that the information referred to in Article 32(1) and (2) of this Directive is made accessible on the European single access point (ESAP) established under Regulation (EU) 2023/2859 of the European Parliament and of the Council. For that purpose, the collection body as defined in Article 2, point (2), of Regulation (EU) 2023/2859 shall be the competent authority.

Members States shall ensure that the information complies with the following requirements:

(a) be submitted in a data extractable format as defined in Article 2, point (3), of Regulation (EU) 2023/2859;

(b) be accompanied by the following metadata:

(i) all the names of the entity to which the information relates;

(ii) where available, the legal entity identifier of the entity, as specified pursuant to Article 7(4), point (b), of Regulation (EU) 2023/2859;

(iii) the type of information, as classified pursuant to Article 7(4), point (c), of that Regulation;

(iv) an indication of whether the information contains personal data".

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 will be therefore no direct obligation 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 NCAs.



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The amendment to the SFDR will create a direct reporting obligation for intermediaries. For instance, 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.

How is the ESAP going to be set up?

The ESAP has three main components:

- 1) **Access to data:** Determining how the information will be collected from private entities, such as issuers of securities, funds, auditors, banks, insurance companies or intermediaries.
- 2) **Data infrastructure:** The European Securities and Markets Authority (ESMA) will build, operate and govern the ESAP.
- 3) **Data availability:** barriers to the use and re-use of data will be removed. The information will be available for free for investors, including downloads. Open formats will be used which will enable data extraction, with an increasing amount of information made machine-readable in the long run.

Impact on intermediaries?

As mentioned above, the amendment to the SFDR would create – in 4 years- a **direct reporting obligation for intermediaries**. For instance, 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.

The above-mentioned information will have to be accompanied by different metadata, including the legal entity identifier. Under the current EU text, intermediaries are not required to have a LEI (since 1 July 2022 only insurance, reinsurance and ancillary insurance intermediaries which carry out cross-border business in accordance with the IDD, insofar as they fall under the supervisory remit of the competent authority, will need a LEI). The costs of such an obligation will need to be assessed.

The amendments to the IDD, the MiFID II, the PRIIPs, the PEPP do not create a direct reporting obligation for intermediaries to a collection body/the ESAP.

However, insurance and financial intermediaries wishing to publish and include additional categories of information in the ESAP, could decide to do so on a **voluntary** basis. The Commission explains that "*Small and medium-sized enterprises may want to make more information publicly accessible in order to become more visible to potential*

investors and thereby increase funding and diversify funding opportunities. (...) Any entity should therefore be allowed to make financial, sustainability-related and other relevant information accessible on ESAP".

Benefits and drawbacks of such a decision for intermediaries will need to be properly assessed (costs, which information, visibility etc.)

■ BIPAR's position/key messages during the regulatory process of the ESAP Regulation

As far as the IDD is concerned, BIPAR did 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 made public in some Member States. BIPAR contacted the EP and Council accordingly during the adoption process of the ESAP texts.

In its position on the ESAP, the Council deleted the IDD from the scope of the ESAP while the EP left it in as proposed by the Commission. During the Trilogue, it was decided to leave the IDD in the scope of the final ESAP Regulation.

■ Next steps

The ESAP Regulation and its Omnibus Regulation and Directive **entered into force on 9th January 2024**. The ESAP Regulation is binding in its entirety and is directly applicable in all Member States.

According to Recital 9, the development of the ESAP will have an initial phase of 12 months to grant sufficient time to Member States and ESMA to establish the IT infrastructure and test it on the basis of the collection of a limited number of information flows.

The ESAP platform is expected to be **available from summer 2027 and gradually phased in** to allow for its implementation. This phasing-in will ensure that European Regulations and Directives will enter into the scope of ESAP within four years, in order of priority (for example, in January 2030 for the IDD). During this time, there will also be a **regular assessment of ESAP's functioning and a review** that should guarantee the adequacy of the platform to the needs of its users and its technical efficiency.

■ Links

- [Regulation creating the European Single Access Point](#)
- [Omnibus Regulation](#)
- [Omnibus Directive](#)
- [EU Digital Finance Strategy](#)