

In November 2021, the European Commission adopted a package of follow-up measures regarding the Capital Markets Union (CMU). The package includes a [proposal for a Regulation](#) “**establishing a European single access point (ESAP) providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability**”. It also includes two other proposals (an Omnibus Directive and an Omnibus Regulation), that will amend a number of existing EU Directives and Regulations (including, for example, the IDD, MiFID II and the SFDR) in the related fields.

■ Why an ESAP?

According to the Commission, investors in capital markets need information about the companies they are interested in, ideally in a digital format, in order to make sound investment decisions. Companies, **including insurance and financial intermediaries**, are already required to publish financial and sustainability-related information under EU law (for example, under the IDD, MiFID II, PRIIPs and SFDR). But today, according to the Commission, that access to this information is scattered across EU Member States and is not very digitally useable. The ESAP aims to improve this situation, by giving investors easy digital access to companies’ financial and sustainability-related information i.e. mainly information about their economic activities and products.

The Commission also 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*”.

■ What is ESAP?

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).

The proposal does not, therefore, create any new reporting obligation in terms of content, but rather builds on existing disclosure requirements, including under current EU Directives such as the IDD and the SFDR.

To achieve consistency in publicly available information, the Commission’s proposed to amend a number of EU Directives and Regulations in the related fields in an Omnibus Directive and an Omnibus Regulation. These texts are listed in the Annex to the proposed ESAP Regulation. For our sector, the key EU texts of interest that will be amended are the following EU Directives: the IDD, the UCITS Directive, the Solvency II, the MiFID II, the IFD and the IORPs, and the following EU Regulations: the PRIIPs, the PEPP, the IFR, the SFDR and the Taxonomy Regulation.

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) 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.”

■ Impact on intermediaries?

Only the amendment to the SFDR would 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.

The above-mentioned information shall be accompanied by different metadata, including the legal entity identifier. Under the current EU text, intermediaries are not required to have an LEI (as of 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 an LEI)². The costs of such an obligation will need to be assessed.

The amendments to the IDD, the MiFID II (unless fully fledged investment firms), the PRIIPs or for example the PEPP do not create 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. Benefit and drawbacks of such a decision for intermediaries will need to be properly assessed (costs, which information, visibility etc.)

■ EP and Council readings/ BIPAR actions

The proposal for a Regulation establishing an ESAP, as well as the Omnibus proposal for a Directive and Regulation amending existing EU texts, are being discussed by the Council and the EP.

At EP level, the EP Committee in charge of the ESAP proposals is the ECON and the EP rapporteur in charge is the Portuguese S&D Pedro Silva Pereira. The shadow rapporteurs are Frances Fitzgerald (Ireland, EPP), Billy Kelleher (Ireland, renew Europe), Kira Marie Peter-Hansen (Denmark, Greens), Gunnar Beck (Germany, IDG), Dimitrios Papadimoulis (Greece, The Left group) and Johan van Overtveldt (Belgium, ECR).

BIPAR is preparing its position on the proposals and will monitor the EP and Council readings actively, proposing amendments where necessary.

¹ 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 this Directive and against which no appeal or appeal was lodged in time, without undue delay, including information on the type and nature of the breach and the identity of persons responsible for it.

² See EIOPA Guidelines on Legal Entity Identifier of 20 December 2021 "5. These Guidelines address the need to have an LEI and identify the legal entities that should have an LEI. The Guidelines do not define when a LEI should be used. The use of an LEI in reporting and disclosure requirements will be incorporated in the future in new or amended legislative acts."