

ISDA response to the European Commission targeted consultation on the establishment of a European Single Access point (ESAP)

The International Swaps and Derivatives Association (ISDA) welcomes the opportunity to respond to the European Commission's targeted consultation on the establishment of a European Single Access Point (ESAP) for financial and non-financial information publicly disclosed by companies.

In addition, we would like to note that for the purpose of this consultation, ISDA is endorsing AFME's guiding principles on the creation of ESAP.

General comments

In line with ISDA's response to the European Commission's (EC) consultation on the related 'Roadmap' for the establishment of ESAP, ISDA reemphasizes its strong support for the creation of ESAP, which would increase issuers' exposures to a wider set of investor, thus contributing to diversify the sources of funding for EU companies.

A better access to public information published by EU companies is essential for developing EU national capital markets and achieve better integration: ESAP should thus aim at increasing cross-border access to meaningful information contained in regulatory texts. ESAP could also contribute to reducing the gap between information credit institutions and financial market participants (FMPs) have to disclose in respect of ESG commitments and obligations and the information which is made available by borrowing companies and issuers, in particular, as highlighted by ESMA in its response to this consultation, we believe that there is a strong use case to improve on the current channels, such as annual reports under the Transparency Directive, financial statements under the Accounting Directive, auditor financial reports under the Audit Directive, non-financial statements under the NFRD, and inside information under MAR/D, prospectuses..¹ In general, the implementation of legislation resulting from the EU's previous Sustainable Finance Action plan, i.e. the EU Taxonomy Regulation, the Sustainable Finance Disclosure Regulation (SFDR) and the Low-Carbon Benchmarks Regulation (LCBR) , has been hampered by the scarcity of available, reliable, comparable and usable ESG data points. Similar challenges have been observed with respect to the integration of ESG factors into banks' risk management frameworks.

- **Current fragmentation of information and search costs:** ISDA agrees that the fragmentation of information across member states has detrimental effects on the funding of companies, in particular SMEs. Additionally, the absence of a 'golden source' also hampers the implementation of other sustainable finance related regulation (Taxonomy, SFDR, LCBR etc.) by banks and asset managers due to the associated costs related to the purchase of ESG data and processing of information from diverging data sources. Therefore, the establishment of ESAP is expected to significantly reduce search and implementation costs while enabling the marketability of ESG-linked financial products.

¹ ISDA response to 'Roadmap' consultation on ESAP: <https://www.isda.org/2021/01/19/isda-comments-on-establishment-of-a-european-single-access-point/>

- **Machine readability:** ISDA agrees with the European Commission that machine readability of data is crucial for the purpose of using financial and ESG data for a variety of financing or investing activities. Enabling the use of artificial intelligence and other data science methods to analyse and identify trends, risks and opportunities will accelerate their development. It is of crucial importance that the ESG data universe can also align to clear open standards in a similar vein to the reporting of financial information. Building the ESAP based on reliable digital standards and data models such as the Common Domain Model (CDM)² is a prerequisite for this digital opportunity to be exploited. Furthermore, building on a foundation of digital standards would help to resolve data issues in tracking and reporting of sustainability risks and factors to reduce firms' operational challenge of conforming to new reporting requirements. Therefore, available, reliable and fully usable data could encourage credit institutions and FMPs, to expand their offering of sustainable financing solutions and financial products with related risk management tools such as ESG linked derivatives³.
- **Non-financial reporting standards should be clarified prior to digitisation:** ISDA acknowledges that reporting obligations are naturally evolving over time to adapt to the changing needs of banks, investors, consumers, citizens and regulators. Whereas the scope, practice and purpose of financial reporting are well established, the characteristics of reporting of non-financial/ESG or extra-financial information are still under active discussion at the global level. ISDA believes that the review of the Non-Financial Reporting Directive (NFRD) and the European Financial Reporting Advisory Group's (EFRAG) work towards a potential non-financial reporting standard will play a prominent role to improve the quality and availability of ESG data and to establish a broad database. In this context, we would like to highlight that the necessary non-financial reporting standards should, as a priority, set the basis for possible digitalisation. Furthermore, it is important that existing standards used and considered in the design of the ESAP for financial data are considered for reuse where appropriate while being consistent with the architecture and sectoral nomenclature to be defined under the forthcoming review of the NFRD. At a minimum, the use of standards for both financial and non-financial data which have the same or similar governance frameworks or design principles will be crucial to the success of their consistent implementation. The process of identifying the data points to be reported (in order to fulfil the aims of non-financial reporting) and establishing the reporting standards themselves, would benefit most via a joint effort between regulatory bodies and market participants. Creating a public / private environment to create the foundation for non-financial reporting should lead to highly efficient and effective reporting rules. ISDA is looking forward to engaging with the relevant decision makers on the review of NFRD, the establishment of ESAP and the upcoming renewed Sustainable Finance Strategy.

² <https://www.isda.org/2019/10/14/isda-common-domain-model/>

³ ISDA Overview of ESG-related Derivatives: <https://www.isda.org/a/qRpTE/Overview-of-ESG-related-Derivatives-Products-and-Transactions.pdf>

1. General Questions:

Question 1: Please rate the following characteristics of ESAP based on how relevant they are according to you (please rate each item from 1 to 5: “1”: fully disagree, “2”: somewhat disagree, “3”: neutral, “4”: somewhat agree, “5”: fully agree and “no opinion”):

	1	2	3	4	5	No Opinion
The information quality (accuracy and completeness) is most important						
The widest possible scope of the information is most important						
The timeliness of the information is most important						
The source of the information is a key element to know						
The immutability of the information is a key element						
ESAP should include information made public on a voluntary basis by non-listed companies of any size, including SMEs						
ESAP should include information made public on a voluntary basis by financial market actors						
Other aspects, if so which ones: please indicate						

Please explain your position in the text box below providing your arguments, and where appropriate, concrete examples and data to support your answers: [textbox]

The ESAP is expected to a) increase transparency with regards to financial and non-financial information, b) to reduce compliance costs and c) facilitate the innovation and distribution of ESG products by market participants due to lower search costs, in particular smaller FMPs. In light of the above, we consider that the accuracy and completeness of information are of utmost importance.

Sustainability-related information

As outlined in the general remarks section, FMPs are increasingly subject to sustainable finance related legislation resulting from the EU’s Sustainable Finance Action Plan. The compliance with the EU Taxonomy, SFDR and LCBR requires FMPs to disclose a variety of ESG data

points which are currently in the process of being defined in related Level 2 legislation. Draft delegated acts under these Regulations as well as the upcoming revision of the Non-Financial Reporting Directive (NFRD), indicate that the required ESG data points for compliance are likely very significant.

Consequently, we support global initiatives related to the harmonisation of the non-financial disclosure framework with a view to facilitating the accessibility and comparability of non-financial information. Given the variety of ESG factors required to comply with relevant sustainable finance regulation, we believe that the required data points resulting from currently developed Level 2 legislation are already broad in scope. Hence, the ESAP administrators should aim to display complete and accurate ESG information relevant for FMPs rather than attempting to maximize the scope of information. Importantly, the scope of the ESAP should focus on information reported by companies (i.e. raw source data from preparers), rather than any proprietary ESG data that has value added components or is produced as a product.

Additionally, we are of the view that the ESAP undertaking will be most successful if it could take into consideration the work of other organisations who have previously been involved in reporting standard setting and have developed workable and widely accepted standards. To this end, it is important to consider reporting work by organisations such as the International Financial Reporting Standards Foundation (IFRS), Carbon Disclosure Project (CDP), Climate Disclosure Standards Board (CDSB), Global Reporting Initiative (GRI), International Integrated Reporting Council (IIRC), Sustainability Accounting Standards Board (SASB) and the Task Force on Climate-related Financial Disclosures (TCFD). Additionally, it is important for the ESAP to take into consideration the work of national, regional and international authorities who have established, or are in the process of developing, legislative, regulatory and prudential frameworks on sustainability reporting (for example, IFRS, the International Platform on Sustainable Finance, the World Economic Forum and the International Organisation of Securities Commissions). This is particularly important where non-EU firms may have reporting obligations under EU regulation and should not be put in a position of reporting comparable data differently under their home jurisdiction or global standards compared to ESAP.

Question 2: Which channels do you use when searching for, retrieving or using companies' public information? (Multiple choice allowed)

- Company's website
- Data aggregation service providers
- Stock Exchanges
- Public repositories or databases (OAMs, NCAs, ESAs)
- Other Please **provide detailed information**

On the non-financial reporting front, many of ISDA members tend to rely on external data sources for data not readily available (e.g. scraping companies' filings for various disclosures that is far beyond members' current resources). They also rely on ESG data vendors who are better equipped to do so.

It is important to note that the lack of comparable and reliable ESG data in conjunction with the various regulatory requirements has resulted in firms' using or considering to use estimation models for data they cannot procure. However, this requires extensive in-house capabilities and may lead to a suboptimal outcome in terms of data consistency and level playing field.

Question 3: Would you say that the cost for retrieving and using companies' public information is?

- Immaterial
- Average
- High

Please provide more information

Question 4: In which electronic format is companies' public information provided by these channels?

- XBRL
- PDF
- XML
- CSV, TXT
- Excel
- Formats enabling natural language processing
- Other: Please **provide detailed information**

Question 5: Do you encounter barriers or difficulties when accessing the information?

- YES: **Please describe**
- NO

Many ISDA members are of the view that public financial and ESG information is currently scattered across the EU. They view that as problematic as member state have different implementation of reporting obligations in addition to language barriers.

Question 6: Do you encounter barriers or difficulties when using the information?

- YES: **Please describe**
- NO

2. The scope of ESAP:

Question 7: Should ESAP include information from the hereunder provided list of EU legislations in the financial area? And if so, please specify whether the ESAP should embed this information immediately (as soon as the ESAP starts) or at a later stage (phasing in) (please choose one of the two options for each EU legislation that you agree to include in ESAP).

[the list of EU legislation can be found in the consultation document on page 8 and 9: https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/2021-european-single-access-point-consultation-document_en.pdf

Please explain your position in the text box below providing your arguments, and where appropriate, concrete examples and data to support your answers: [textbox]

ISDA believes that the ESAP should be a data service for information disclosed by companies (financial and non-financial) on a harmonised format rather than a large, consolidated tape for all information created by regulation or subject to regulation, as this would risk turning it into a cumbersome compliance reporting mechanism for the financial industry. A one-size-fits-all format would be inappropriate for many firms as they would be required to make multiple reporting changes concurrently that would entail substantive costs.

We would also like to note that, despite the welcome extension of the consultation's deadline, ISDA members were not in a position to weigh up fully what should or should not be included in the scope of the ESAP in view of timing constraints and given that the options available in the tick boxes did not allow for responding along these lines. The task of assessing the impact of amendments to each of 30+ pieces of relevant legislation was too costly and complex to undertake in the time available for responding to this consultation.

Type of content

However, we would support ESAP work to start with a selection of a small number of items as initial priorities: there should be both sufficiently broad investor demand for the data and the data in question is sufficiently low volume/low frequency to ensure the ESAP model is not overwhelmed. In particular, as highlighted by ESMA in its response to this consultation, we believe that there is a strong use case to improve on the current channels, such as annual reports under the Transparency Directive, financial statements under the Accounting Directive, auditor financial reports under the Audit Directive, non-financial statements under the NFRD, and inside information under MAR/D, prospectuses. Extension to other use cases could be revisited for future consultations and phases, learning lessons from initial implementation, whilst any individual use-case to leverage the ESAP for a specific regulation would need to be justified by a cost-benefit analysis.

Moreover, ESAP should be forward-looking and include texts expected to play a key role in the future, such as ESG reporting. As mentioned in our response to Question 1, compliance with EU sustainable finance legislation would be significantly eased if required ESG data points are included in ESAP as well as sustainability related information required by NFRD. We would like to caution, however, against including ESG data methodologies and would instead focus on raw ESG data points on a company level.

Focus on “low-frequency” data

Furthermore, we are of the view that the information displayed in ESAP should firstly focus on data from listed companies characterized by a low frequency (such as company level information disclosed as part of annual reports) rather than aiming to introduce requirements to publish data on a daily basis (such as EMIR transaction data). Such highly technical/frequently updated data like MiFIR reporting, or specialised information such as EMIR Clearing member fees, are unlikely to ever to be suitable for an ESAP. The administrative burden would likely outweigh the benefits of having such information centralized in a register given that such data are intended for clients or potential clients of specific products and services rather than disclosures relevant to a broad investor base. In this context, ISDA welcomes ESMA’s view, as expressed in their response to the EC’s consultation, that a phased-in approach based on less frequently obtained data points is the ideal starting point. However, as mentioned above, we do not believe that all data points resulting from the list of financial services regulation would ever be suitable, i.e. ISDA members remain cautious with respect to ESMA’s position that all regulations should be covered by ESAP ‘at a later stage’.

We would thus like to recommend to the European Commission to exclude, at this point in time the imposition of reporting for which detailed technical specifications have already been implemented at great cost to industry – e.g. PRIIPs KIDs, MiFIR reporting. Importantly, no MiFID reporting aspects should be considered until the broader MIFIR review has been completed.

3. The usability and accessibility

Question 8: In order to improve the digital use and searchability of the information, for which of the hereunder information would you support the use of structured data formats, such as ESEF (XHTML and iXBRL), XML, etc., allowing for machine readability? (Multiple choice allowed)

- Listed companies’ half yearly financial reports
- Financial statements
- Management report
- Payments to governments
- Audit report
- Total number of voting rights and capital
- Acquisition or disposal of major holdings
- Inside information
- Prospectuses
- Net short position details

- Fund-related information
- Key Information Document
- Public disclosure resulting from prudential requirements
- Remuneration policies
- Corporate structure of the conglomerate
- Governance arrangements
- Covered bonds – related information
- Solvency and financial condition report
- Sustainability – related information
- Other **Please provide detailed information**

In line with ISDA’s own digitisation strategy which is supported by many other peer trade associations⁴, ISDA and its members believe, in all respects the EC should support digitisation via structured data models of any important documentation which is required to be channelled to ESAP eventually in whole or in part. This will only enhance data integrity and quality in the resulting data set in the ESAP. Obviously, it is important to note that this is a transition and many of the information may not be standardised to a sufficient degree to allow use of structured data immediately, but the principles should be supported broadly by the EC. Overall, it will be important for ESAP’s scalability to be simple to use and easily accessible for both issuers and investors and where possible built on the current filing systems at national level, so as to minimise the additional cost and reporting burden for issuers. ISDA also broadly supports the remarks made by ESMA in their respective consultation response. In this context, please also refer to our general remarks with respect to machine-readability and the CDM model.

Question 9: Which of the following machine-readable formats would you find suitable? Please rate the following information based on how suitable they are according to you (please rate each item from 1 to 5: “5” being the highest rate and “1” the lowest):

	1	2	3	4	5	No Opinion
ESEF (XHTML files + inline XBRL tagging requirements)						
XML files						
CSV files						

⁴ <https://www.isda.org/2020/07/29/joint-association-letter-on-digital-future-for-financial-markets/>

Excel						
Formats enabling natural language processing						
Other. Please indicate						

It is not clear from the above if these are expected structured data formats referred to in Q8 – these formats do not necessarily have a structured data model which will allow the analysis and consistent searchability that is assumed a desired outcome from previous questions. ISDA would encourage multiple formats of access which adhere to a standard data model (an approach espoused in the CDM project) and would encourage the EC to work with industry on establishing this approach in an iterative manner. ISDA would welcome the opportunity to discuss this with the EC at a future date.

Please explain your position in the text box below providing your arguments, and where appropriate, concrete examples and evidence to support your answers: [textbox]

Question 10: How should the information be accessible in ESAP? (Multiple choice allowed)

- Through Application Programming Interfaces (APIs)
- Bulk download
- Web portals
- Other **Please insert here**

All the above. APIs are easy to implement and access now and would be an imperative for interfacing with any technology implementations.

Question 11: To what extent should the language barrier be tackled? For the following features of the ESAP (web portal, metadata, taxonomy/labels, and content/data), which of the following language arrangements would you favour?

Portals/ search tools:

- in a language that is customary in the sphere of international finance
- in multiple or all EU languages

Metadata (where variable text):

- in original language

- in a language that is customary in the sphere of international finance
- in multiple or all EU languages

Taxonomy / labels (if any):

- in original language
- in a language that is customary in the sphere of international finance
- in multiple or all EU languages

Content / data

- in original language
- in a language that is customary in the sphere of international finance
- in multiple or all EU languages

We believe that for obligations where there is an existing language requirement, and the proposal is to transfer the reporting from the current source to ESAP, then any assessment of a change to the language obligation should be undertaken through a disclosure-specific cost-benefit analysis before incorporation into ESAP. For instance, SMEs should not be compelled to translate all company documents for all disclosures. An option to disclose in an additional or alternative language, where this has the effect of making it more accessible (i.e. to be in an international language of finance – English, rather than to a less commonly used non-home language to make disclosure intentionally harder to assess) should always be permitted at the option of the reporting firm.

4. Infrastructure and data governance (collection of data + validation of data)

Question 12: Should specific categories of stakeholders be involved in the governance of ESAP? (Multiple choice allowed)

- EU authority (ESMA, European Commission etc.) or a consortium of EU authorities. If, so which ones **Please insert here**
- National Competent Authorities **Please specify**
- Investors
- Reporting companies
- Other **Please insert here**

Industry bodies and trade associations which represent large elements of the reporting industries could be valuable connection to the reporting companies. Furthermore, the opportunity to develop this technology solution via open source standards and a transparent approach would also develop a user network of committed and active stakeholders outside the regulators/operators. In light of ESMA's likely role in

managing the ESAP, ISDA would very much welcome the opportunity to discuss reporting solutions with the EC and ESMA, with a view to increasing the efficiency of ESAP.

Question 13: Considering the point in time at which a company makes public some information that is legally required, what would be the ideal timing for the information to be available on the ESAP?

In real time.

Question 14: Should the integrity of the information and the credibility of the source of data used be ensured, when it is made accessible in ESAP?

- By electronic seals or electronic signatures embedded at source
- By the ESAP platform
- By other means / trust services Please insert here**

As outlined in our response to the European Commission's public consultation on the revision of the NFRD, *'there are legal requirements for financial market participants to disclose the ESG risks and factors of their financial products based on data sourced from issuers of the instruments underlying the financial products, mandatory third-party assurance around such data would be critical. It would help enhance the quality and credibility of the non-financial information reported by issuers and consequently by financial product manufacturers and distributors.'* Therefore, we would support that ESAP requirements with respect to the integrity of information and the credibility of the source of data be aligned with the NFRD requirements. In principle, assurance requirements under ESAP should not exceed the requirements asked from the legislations listed under Question 7.

Question 15: Should the information in ESAP be subject to quality checks?

- YES**
- NO
- Other **Please insert here**

Yes and remediation efforts should be ongoing to make improvements, adjust reporting standards and enhance functionality.

Question 16: Should a quality check be needed, what would need to be checked? (Multiple choice allowed)

- Compliance with IT formats
- Certain key tests (matching figures, units, ...)
- Use of a correct taxonomy
- Completeness

- Availability of metadata
- Other **Please insert here**

Yes – validation of incoming data to ensure it conforms with the required standards is crucial to have useable structured data in the ESAP. The results of the validations will be important feedback to enhance and improve the system and communication with reporting firms about how they should report.

5. Targeted questions, regarding entities with no access to capital markets (non-listed entities), including SMEs

Question 17: Should it be possible for companies other than those with securities listed on EU regulated markets to disclose information on ESAP on a voluntary basis?

- YES
- NO

Yes – ISDA of the view that firms not listed on public markets, or who do not have publicly traded debt, as well as non-EU companies should be able to disclose via ESAP voluntarily as this could further support the objective of promoting globally consistent sustainability standards. However, in order to ensure the integrity of the data, where reporting is voluntary the reporting firm should be required to sign up to a code of conduct or rulebook requiring them to adhere to the same standards and formats as firms reporting mandatorily. This should include a sanction mechanism, including exclusion for non-adherence. Where there is no EU home language (e.g. for non-EU firms) English should be required.

Question 17.1: If you replied yes to question 17, please specify, which type of entities should be allowed to disclose data on a voluntary basis in the ESAP? (Multiple choice allowed)

- Companies with securities listed on a SME growth-market
- Companies with securities listed on other non-regulated markets
- Pre-IPO companies not yet listed on an exchange
- Any unlisted companies
- Other entities: **Please insert here**

Question 18: What type of information should be disclosed on a voluntary basis in the ESAP? (Multiple choice allowed)

- A set of predefined key financial information, allowing to compare data
- Any financial information that the issuer would be willing to render public via ESAP
- A set of predefined key sustainable related information, allowing to compare the data

- Any sustainability related information that the issuer would be willing to render public via ESAP
- Other (give a few examples) **Please insert here**

Question 19: As regards frequency of the submission of the voluntary information to ESAP, when should it occur?

- Following predefined periodic submission dates (if, so please specify frequency **Please insert here**)
- On an ongoing basis as soon as available

Question 20: In which language should entities with no access to capital markets be able to encode the voluntary information, please choose one or more preferred language from the list below:

- National language
- A language that is customary in the sphere of international finance
- Any language
- Other (please explain) **Please insert here**

Question 21: Should filings done on a voluntary basis by SMEs and non-listed companies follow all the rules of the ESAP as regards for instance identification, data structuring and formats, quality checks, etc.?

Please explain your position in the text box below: [textbox]

6. Costs and benefits

Question 22: Do you expect that costs of introducing ESAP be proportionate to its overall benefits?

- Not at all
- To some extent
- To a reasonable extent
- To a very great extent
- No opinion

Question 23: As a user, can you give an estimation of your yearly cost for retrieving and using companies' public information?

Question 24: As a user, how large share of these costs do you expect to save through the use of ESAP?

- 10%
- 20%
- 30%
- 40%
- More than 50?
- Other (please explain) **Please insert here**

Question 25: Should the user have access for free to all data in the ESAP (based e.g. on an open data policy approach)?

- YES
- NO

It is difficult to envisage a model whereby users could be charged to access data through ESAP if such data is freely available (albeit dispersed) today. This question would hence need to be assessed when the precise scope of data was clearer. As a minimum some EU funds will be necessary to set up the ESAP, and likely also to run it.

Question 26: Assuming that development and maintenance costs will arise, how do you think the ESAP should be funded? (Multiple choice allowed)

- By EU funds
- By national funds
- By users (i.e. usage fees)
- By preparers (i.e. uploading fee)
- Other (please explain) **Please insert here**

We do not think disclosing firms should be required to pay to disclose mandatory information simply through a new channel where there are not charged today. As a minimum some EU funds will be necessary to set up the ESAP, and likely also to run it.

Question 27: What would be the main benefits for entities with no access to capital markets to disclose this information publicly in ESAP? (Multiple choice allowed)

- Get more visibility and attract a broader range of investors
- Get more transparency on ESG data (easily retrievable)
- Other **Please insert here**

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has more than 925 member institutions from 75 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on Twitter @ISDA.