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## ESAP – the German fund industry perspective

The BVI<sup>1</sup> gladly takes the opportunity to express its support for the EU Commission's plan to establish a European Single Access Point (ESAP). From the investor and fund manager point of view, the ESAP is very much welcomed, as it would considerably improve the accessibility and availability of company data throughout the EU and at the same time enable member companies to implement in a comparable and cost-efficient manner the various reporting requirements stemming from diverse EU sustainability regulations. In this way the ESAP would also give a visible face to the CMU project– all EU capital markets and company info in one place! Digital businesses, like open finance, can be leveraged. Non-listed companies could improve their access to capital and therefore enhance their visibility to (cross border) investors. However, negative experiences with data projects in the past, such as the introduction of the ESMA operated European Rating Platform (ERP), should be taken into account in the development of ESAP, order to achieve the greatest possible acceptance among user groups. Also currently, non-listed firms are generally not required to disclose information in any specific format which could change with ESAP.

In this paper, we propose after general remarks specific conceptual and technical requirements for the implementation of an ESAP, which are important preconditions for its success.

### General Comments

On scope, we consider that besides all regulatory mandate financial company information, ESG data is of utmost importance to be included within the ESAP as a first step. The ESAP should contain the data required under the SFDR and EU taxonomy as well as other data useful for the better assessment of sustainability risks and opportunities in investment and risk management.

A mandatory precondition of any information to be made accessible via ESAP is a corresponding publication requirement under EU law. On the one hand, information that does not need to be published by law must not be made available by the ESAP. This pertains for example to private information on certain alternative investment funds (AIF). Pre-contractual and periodic disclosures on AIFs that are not subject to public distribution are communicated directly to investors and often subject to confidentiality agreements, in particular in case of customized fund solutions set up for specific investor(s), such as insurance companies or pension funds. Such private information must remain outside of the scope of ESAP. On the other hand, we see no reason to limit the ability of groups or companies to disclose data in the ESAP on a voluntary basis. Indeed, we hope that the establishment of the ESAP as a central access point for company-related data will provide an incentive for companies not subject to regulatory reporting obligations to provide voluntary disclosures. especially on ESG matters. This also pertains to companies headquartered outside the EU that could use the ESAP as a tool to attract EU investors or because they from part of the global supply chain of EU companies need to provide them with relevant

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<sup>1</sup> BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset Managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 117 members manage assets of some EUR 4 trillion for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 27%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit [www.bvi.de/en](http://www.bvi.de/en).



information. In any case, a precondition of any information to be disclosed on a voluntary basis should be compliance with the relevant EU requirements and standards. Any disclosures on ESG matters should be in full conformity with the future CSRD (NFRD) requirements including specific reporting standards to be potentially developed at EU level. Obviously, the quality of the voluntary information provided via the ESAP must conform with the general requirements for data supply. It is not practicable for data users to differentiate between information disclosed on a mandatory or voluntary basis when referring to the ESAP as a data base.

In order to incorporate all relevant information in an efficient way within the ESAP, we also share the view of the Commission that the ESAP should leverage as much as possible on the existing data reporting channels and infrastructure which has been successfully implemented within the EU.

Beyond financial and ESG data the ESAP should also include information of the ultimate beneficial ownership as required in EU regulation 2015/849 (Money Laundering Directive). Under the 4th Money Laundering Directive, companies and other legal entities need to identify their ultimate beneficial owners. The beneficial owner of a company or other legal entity is generally a person who owns or controls over 25 % of the shares or interest in that entity. The member states are required to hold this information in a central register and provide access, amongst other, to the competent authorities.

Moreover, we strongly support ESMA's view that all information included in the ESAP should be comparable in terms of content (i.e. prepared on the basis of the same or similar – ideally globally agreed - standards or requirements) and rendered in a structured/machine readable format ([https://www.esma.europa.eu/sites/default/files/library/esma32-60-707\\_letter\\_to\\_ec\\_on\\_esap\\_targeted\\_consultation.pdf](https://www.esma.europa.eu/sites/default/files/library/esma32-60-707_letter_to_ec_on_esap_targeted_consultation.pdf)). These are the necessary conditions for information to be easily consumable by cross-border investors, who need to be able to access information in several languages, and automatically extract large amounts of data in a seamless way, based on precise definitions of terms and concepts. By basing the ESAP on globally agreed ISO or ISSB in case of ESG data standards the ESAP could morph into a global single access point. As an example of global ISO standards, the Final Report of the High-Level Forum (HLF) on the Capital Markets Union made a specific reference to the LEI (ISO17442) under the recommendation of creation of an EU Single Access Point (ESAP) under the cluster "A. Creating a vibrant and competitive business environment. In the recently published Digital Finance Strategy for the EU, it is decided that by 2024, the EU aims to put in place the necessary conditions to enable the use of innovative technologies, including RegTech and SupTech tools, for supervisory reporting by regulated entities and supervision by authorities. In this context the Commission will make full use of available international standards and identifiers, including the LEI. The use of international ISO standards consistently will facilitate the use of RegTech tools for reporting and SupTech tools for data analysis by authorities in a digital environment. To support machine-readability we support clear ISO standard based identification of all the elements of a report /transaction (LEI, ISIN, etc). The LEI should be leveraged as the cornerstone for legal entity identity as it is already the case within EU legislation and is the only applicable identifier for all EU member state and non-members state legal entities. All publicly listed entities in the EU have a LEI due to Transparency Directive. The LEI could help such companies, especially SMEs, easily to identify themselves vis-à-vis investors within the EU and in third countries. The LEI could alleviate the difficulties of finding information in local languages as the LEI connects to reference data in the local authoritative language and transliterations of this information. Making the LEI parent information mandatory at the same time would also help to address the beneficiary ownership issue and the identification of the company tree in global supply chain management. Using the LEI as the primary identifier for legal entities in ESAP rather than regional/national identifiers will render information more easily accessible and therefore more valuable to users. Given the ESAP also aims to include information on entities/investors outside of the EU – at least in the mid or long-term - adoption of a



global standard for entity identification will ensure standardized and consistent data within the ESAP platform.

Also the integrity of the information and the credibility of the source of data used should be ensured where possible, when it is made accessible in ESAP by using EIDAS certification, including the LEI of the entity issuing the report/document, and the LEI of the individuals acting in a business capacity, e.g. board members, on documents requiring signature. For a practical example, see GLEIF annual (XBRL) report available at [www.gleif.org](http://www.gleif.org).

Furthermore, it is of utmost importance that all reports provided by the ESAP are indeed machine readable and artificial intelligence (natural language analysis) compatible. An analysis by the US SEC found in 2018 that 85% of visits of the US database EDGAR for SEC required reports, prospectuses, financial reports (the US ESAP equivalent) were originating from computer bots and not from human analysts (<https://mailchi.mp/xbrl/governance-critical-to-digital-disclosures-key-speech-from-esmas-chair-inline-xbrl-software-avoid-dual-filing-more-from-xbrl-international-755858?e=75f9867f59>).

Finally, it is of major importance to tackle also the significant issue of ever-increasing financial market data costs, such as market data, index data, credit rating agencies data and, increasingly, ESG data as well. There is a significant market failure harming investors, consumers and investment firms in the single market, which should be addressed within the upcoming regulatory approach by the EU Commission for the creation of ESAP.

### **Conceptual and Technical Comments**

In order for ESAP to fulfil its central task of improving financing opportunities for European companies, we agreed with the Germany insurance industry as represented by GDV on the following aspects that should be taken into account for the ESAP setup:

- **Launch ESAP promptly**  
ESAP should be established as soon as possible and made available to companies in the financial sector, ideally at the same time as the first application of reporting obligations from the Taxonomy and Transparency Regulations. As soon as the reporting obligations and taxonomy requirements need to be observed, investors need access to the required data. As a transitional solution, at least a fast "first-step" solution of ESAP should be introduced, which already allows easy central data access.
- **Ensure automated data transfer and data-analysis**  
ESAP should be designed conceptually and technically in such a way that automated data transfer, including data evaluation, is possible without restriction and that the company data is of good technical quality and reliability and can thus be fully taken into account by investors in their investment decisions.

From an investor's point of view, the following aspects should be taken into account in the conceptual and technical requirements for ESAP:



- **Non-profit organisation without access restrictions**

ESAP should be developed as a non-profit organisation with the involvement of the reporting companies and the investors using the data and should be freely accessible to all stakeholders. Access to financial and sustainability data published via ESAP should not be restricted by terms of use or licensing requirements of the publishing company / the company subject to publication / data sources. ESAP should be operated by an independent institution which is committed to a clear service concept towards the reporting companies and the investors using the data. A user-friendly and professional implementation and operation of ESAP will be a decisive factor in whether stakeholders will use ESAP or continue to rely on third party vendors for their information needs.

- **Timely introduction / launch of ESAP**

From the point of view of investors, and also of the reporting companies, it would be desirable if ESAP would be available before or at the latest at the time of the reporting obligations and ESG requirements provided for in the most important legislative acts on sustainability regulation (Transparency and Taxonomy Regulation). Otherwise, investors would first have to use private data service providers, which would result in inconsistent and incorrect data due to different methodologies of the service providers. Furthermore, the importance and relevance of ESAP as a central European data access point would be considerably limited for the future, since after a one-off commissioning of an external provider, a switch to an alternative system would probably be considered too costly in many cases. In addition, this would cause unnecessary costs, which would ultimately be borne by consumers. A timely start of ESAP could avoid these disadvantages and ensure that investors have the opportunity to obtain the necessary data and information in the ESG area depending on the scope of the Corporate Sustainability Reporting Directive (CSRD), from all major European companies and investments. Even if it is not possible to introduce ESAP before the main sustainability regulations are applied, the project should be given top priority. As a transitional solution in this case, at least a quick "first step" solution of ESAP should be introduced, which would already allow easy central data access. This way, access to the data would already be centralised and both users and reporting companies could already familiarise themselves with ESAP.

- **Access to financial and sustainability data**

As much financial and non-financial data as possible should be available via ESAP and in particular, the necessary sustainability data (as a starting point: Taxonomy and Transparency Regulation-related data) should be recorded 1:1 in ESAP as soon as possible. Financial data should be reported in ESAP in a standardised digital form (standardised and machine-readable) from the beginning. Other financial information that is available but not yet in standardised digital form could be provided via upload. Similarly, sustainability information should be made available via upload in ESAP from the beginning. Please see also BVI recommendation above on using global standards to the maximum extent possible.

- **Avoid redundant reporting channels via ESAP**

In the context of ESAP, a "file only once" principle should be promoted, where data is uploaded once but used for different purposes and different stakeholder groups. The links between the ESAP and existing European and national legislation should be taken into account, e.g. with regard to national differences in the implementation of EU rules. This requires close dialogue and cooperation with the EU Member States. However, additional reporting formats should be maintained where necessary to ensure the best possible communication with different stakeholder groups. These additional reporting formats should in principle be accessible through ESAP.



- **Requirements on data quality and information quality**

The quality and informative value of the data available through ESAP is crucial for the success of ESAP. In this context it would be important:

- **Data authenticity - clear assignment to reporting companies**

It is important that the reporting, including the concrete data and data authenticity, is clearly assigned to the respective company. A prior registration requirement for companies reporting via ESAP should ensure the identification of reports, documents or files and a clear assignment of data submissions to the respective reporting company.

- **Up to date Information**

From an investor's point of view, information on the timeliness of the data is required. Concrete references to a reporting period or reporting date or the use of a time stamp attached to the information are conceivable. There could also be an indication of how long data will be available in ESAP, as users may need to consider this for their own documentation and data storage.

- **Indication of the source of data / information**

In addition to the specific data / information, the source of the data / information should also be indicated (e.g. indication of the management report 2021). This would be necessary and useful in view of a possible validation of the data by the investor or in case of a need for further information. Where there is no other format besides ESAP such a declaration wouldn't be necessary. Please see also BVI recommendation on digital (EIDAS) certificates above.

- **Complete or clearly identifiable data**

Particularly in the case of corporate groups with a large number of legally independent companies with different LEIs, it should be ensured that the financial ratios and ESG data for each company are available in full or can be clearly assigned.

- **Data quality control mechanisms**

In order to achieve a high level of data quality and to be able to ensure it in the long term, the use of data quality control mechanisms – such as automated functions to detect errors and irregularities – should also be taken into account in the development of ESAP. The functions should be applied to both the uploading source and the uploaded information. Artificial intelligence and learning algorithms could be used for this purpose. This would have a direct benefit for the users of the data as well as for the reporting companies themselves, as elaborate correction loops could be avoided and potential legal and reputational risks could be reduced.

- **Clear governance structure - uniform data formats and data keys**

Investors need clear and meaningful financial and non-financial data / information for their investment decisions. In order to ensure a uniform data basis (definitions, time periods, measurement units, etc.) as well as comparability of company data, there should be clearly defined content specifications for the ESAP via the corresponding disclosure regulations. This requires in particular uniform data keys. Examples:

- Uniform measurement data, e.g. CO2 savings in tons and not expressed in other units.
- Uniform reference periods, e.g. savings per year. It should be avoided that companies report CO2 savings for different time periods only in absolute figures, because this would make comparability impossible.
- Financial ratios should be reported in the same currency (Euro) to avoid sources of error or exchange rate differences.



- **ESG data - structured data specifications / requirements from an investor perspective**  
 ESG data differs significantly from purely financial indicators in terms of their reporting and evaluation in the investment process. While aggregation is possible with financial data, this is often not possible with ESG data. Violations of human rights or the use of child labour must always be accounted for and cannot be assessed differently in aggregation. In order to ensure a comprehensive and accurate information and investment basis for investors, structured data specifications / content requirements are therefore particularly important in the ESG area. The underlying disclosure requirements and materiality requirements must be defined accordingly. Please see also BVI recommendation above on using global standards to the maximum extent possible.
- **Conditions for a broad scope of application**  
 The reporting scope of companies is regulated by the corresponding disclosure regulations, for ESG data in particular by the CSRD. Irrespective of this, ESAP should be designed in such a way that companies not subject to reporting requirements can also report comparable information via ESAP on a voluntary basis. This applies to European companies below the respective regulatory thresholds as well as companies domiciled outside the European Union. In this way, the needs of global institutional investors for information that is as comprehensive as possible could be taken into account.  
 First and foremost, the ESAP should be designed to enable companies to fulfil their disclosure obligations through the ESAP. In the further developing of ESAP, a data field for company information on the future sustainability planning or development of the company should be considered.  
 The reporting obligations are only based on completed periods in the past. For sustainability-oriented investors such as funds, however, in addition to current company data, it is also of interest how the concrete sustainability plans for the future will look like. This is especially relevant if the investors strive for a corresponding sustainability strategy for their own investments, up to and including CO2 neutrality. Furthermore, when developing ESAP, consideration should be given to how (in the medium term) also qualitative information can be usefully included in ESAP. Please see also BVI recommendation above on using global standards, e.g. as set up by the ISSB, to the maximum extent possible.
- With respect to the sustainability transformation of the economy and the financial system and the concrete reporting obligations of investors, ESAP should, in addition to the financial ratios, contain the information required by the Taxonomy and Transparency Regulation from the very beginning. This applies to the

  - Principal Adverse Impact Indicators (PAI) per asset class in accordance with the Transparency Regulation (SFDR) and the
  - Data points in accordance with Article 8 of the Taxonomy Regulation (Status: Proposal of the EU Commission consultation for a Delegated Regulation of 6 July 2021).  
 The data points required for investors from the Transparency and Taxonomy Regulation are shown in detail in the annex. The data structure for the Taxonomy Regulation is based on the templates published by the EU Commission. Technical requirements and aspects. Please see also BVI recommendation above on using global standards, e.g. as set up by the ISSB, to the maximum extent possible which requires alignment between EU and other jurisdiction rules.
- **Uniform database and no cascade structure of different databases**  
 ESAP should be designed as a uniform database and not have a cascade structure composed of different databases in the respective European member states. If a cascade structure would be





chosen, this would create considerable hurdles for the successful introduction and use of ESAP from an investor's point of view.

➤ **Technical reasons**

For automated data access and subsequent automated data evaluation and data processing, a uniform database-IT-infrastructure with corresponding data interfaces as well as uniform file formats and uniformly structured data are required. These compelling technical requirements demand data storage in a uniform, large database. Linking a multitude of databases with possibly different IT infrastructures, data formats and data contents would not primarily meet these requirements.

➤ **Legal reasons**

Users of the ESAP database need legal clarity and legal certainty regarding access, use, processing, storage and disclosure of ESAP data. From an investor / user point of view, it is important that only one corresponding data use agreement needs to be concluded with the one database operator (ESAP) and not a multitude of agreements with each individual database linked via ESAP. This would lead to legal uncertainty and, especially in the development of ESAP, to great expenses. BVI also recommends that the operator is clearly allowed in law not only to make available but also to distribute all ESAP data for all internal and external use cases, including redistribution. BVI also recommends as is the case with the global single access point for company identification data, the GLEIF, that no intellectual property rights shall be claimed neither by the reporting entities nor the ESAP on the data to insure maximum usability.

● **Clearly defined data access / interfaces**

For automated data queries, there is a need for technically well-defined data accesses / interfaces that enable automated data queries. For this purpose, it makes sense to set up corresponding application programming interfaces (API). It would also be possible to use CSV-file formats (CSV - comma-separated values). Solvency II insurers and banks also use XBRL formats for their reporting. The decisive factor is that the files enable automated readability and processing of the file contents.

● **Data access / links based on ISIN, LEI, NACE**

ESAP should be technically designed in such a way that registered investors can automatically query and receive all data on the equity and debt instruments issued or the company via data access using the ISIN and the Legal Entity Identifier (LEI). In this context, it would also be important for ESAP to enable the assignment of companies identified with LEI to sectors / industries according to the classification of sustainable activities (NACE) used by the EU taxonomy. I. e. ESAP should technically map the link between the two levels (enterprise (LEI / ISIN) and sector (NACE)).

● **Concepts for data management and data reference of ESAP**

It would also make sense if both an upload of the complete data and - for example, if an investor already has it or subsequently - an upload of the updates / changes were technically possible. It is common practice in investment processes that all required company data are first required completely by the investor and then only the updates / changes are automatically requested and processed.

➤ Step 1: Up-load of all company data (financial ratios and ESG data)

➤ Step 2 or later steps: upload of the updates / changes (key financial figures and ESG data).

● **Concepts for data protection and data security**

As a central data platform in the European Union, ESAP can be of great importance for both reporting companies and institutional investors. When designing ESAP, attention should therefore be paid to compliance with current data protection and data security requirements. This applies in particular to appropriate measures to protect against cyber risks.