



Frankfurt,
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BVI¹ position on the Consultation on draft ITS specifying certain tasks of collection bodies and certain functionalities of the European Single Access Point

We welcome the opportunity to present our views on the consultation on draft ITS specifying certain tasks of collection bodies and certain functionalities of the 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. We consider the ESAP not as medium for the dissemination of time-sensitive news, such as ad hoc announcements and financial reports.

We generally embrace the technical set of functionalities (e.g. search functions, API interfaces) for the ESAP as it will enable all market participants (e.g. fund management companies) to obtain the data in an cost-efficient and user-friendly way. The ESAP should provide users (e.g. fund management companies) with access to information for free and without any discrimination. The ESAP should leverage as much as possible on the existing data reporting channels and infrastructure which has been successfully implemented within the EU. The implementation of the ESAP reporting requirements should not enhance the reporting and compliance cost for the submitting entities.

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, in order to achieve the greatest possible acceptance among user groups.

We would like to make the following specific comments:

Q1: Do you agree with the preferred approach outlined above, under which the validations will be defined on a cross-cutting basis without specifying explicitly the types of information to which a given validation should be applied (and understanding that they should be performed always when relevant for a given type of information as set out in the ITS on tasks of collection bodies or sectoral ITS)?

We agree with the approach.

Q2: Do you agree with the above proposal how the collection bodies shall verify that the information is data-extractable? In case of any challenges foreseen, please propose alternatives.

We have no comments. Please see our comments to Q20.

¹ 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 114 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.



Q3: Do you agree with the above proposal how the collection bodies shall verify that the information is machine-readable? In case of any challenges foreseen, please propose alternatives.

We agree with the approach. Please see our answer to Q20.

Q4: Do you agree with the above proposal for the validation of the metadata? In case of any challenges foreseen, please propose alternatives.

We agree with the approach. In respect to para 25 (usage of LEI), please see our answer to Q22.

Q5: Do you agree with the proposed approach to the validation of the electronic seal? In case of any challenges foreseen, please propose alternatives.

We have no comments.

Q6: Do you agree that the format of rejection feedback to the submitting entities should be standardised?

Q7: Do you agree that the rejection feedback should be provided in a common format in accordance with ISO 20022 methodology?

Q8: Do you agree that the rejection feedback should be provided within sixty minutes?

The ESAP should leverage as much as possible on the existing data reporting channels and infrastructure which has been successfully implemented within the EU. The implementation of the ESAP reporting requirements should not enhance the reporting and compliance cost for the submitting entities (e.g. asset managers).

We agree with the approach that the rejection feedback should be provided in a common format in accordance with the ISO 20022 methodology and transmitted as soon as possible. We are a strong proponent of use of ISO standards along the whole value chain of the financial industry, especially in transaction reporting (e.g. EMIR and SFTR). We believe that the ISO structure/organisation at least with some nudging by the regulators across the globe can create a successful story for identifying, classifying and reporting of all kinds of instruments in the same way as FSB was already able to create a global solution for entity identification with the LEI leading to an ISO standard.

We believe that the priority must be on pushing the only universally accepted and government supported industry standard setting system, the UN approved ISO system. The control over the data, and thereby the underlying markets, based on a system of various commercial interests and royalty creation on data which is maintained by the incumbent market participants with the help of proprietary standards is not acceptable going forward if we really want to enable a streamlined and automated reporting within the (financial) industry in cooperation with the Collection Bodies and ESAP.

The securities industry has largely implemented the ISO standards/protocol (such as EMIR and SFTR) in the market. In the EU regulatory reporting space, a solution could be the agreement on standardised protocols for communication, including harmonised connections and messaging protocols, ideally based on existing or new ISO standards with the help of industry in case of regulatory reporting, also with respect to ESAP.

The protocol would describe how by cooperation of collection bodies, supervisory authorities/central banks with industry to further standardise both the content and format based on a common dictionary



as well as the delivery means of reports into one or a few reporting schemes to the collection bodies, ESAs/NCAs and NCBs/ECB, the reporting burden could be reduced while fostering aggregation and analysis of granular industry data. The implementation of the reporting protocol would be a joint effort by the regulatory community and industry and would require some regulatory measures.

Q9: Do you agree that QES under ESAP should be in XAdES, CAdES or PAdES format?

Q10: Do you agree that there is no need to use ASiC format under ESAP?

Q11: Do you agree that QES under ESAP should be at least at conformance level LT?

We have no comments.

Q12: Do you agree with the requirement to include ISO 17442 LEI code as an attribute in the digital certificates whenever the information submitted to ESAP is accompanied by a QES?

Yes, we agree with the requirement to include 17442 LEI code as an attribute in the digital certificates whenever the information submitted to ESAP is accompanied by a QES. Please see also our answer to Q22.

Q13: Are there any other characteristics of the QES that should be defined under ESAP?

We have no comments.

Q14: Do you agree with the proposed approach to the open standard licences which shall be applied by collection bodies to the datasets to be made available to ESAP? If not, why not and what alternative approach would you suggest?

We agree with the proposal to apply for the collection bodies the Creative Common Domain Dedication (CCO). The data on GLEIF's website, e.g. LEIs and the Master Agreement, which is the contractual framework governing the relationship between GLEIF and LEI issuing organizations, uses already the Creative Commons (CC0) license. Creative Commons is a nonprofit organization that enables the sharing and use of creativity and knowledge through free legal tools.

In January 2016, GLEIF formally endorsed the International Open Data Charter. The Charter defines open data as "digital data that is made available with the technical and legal characteristics necessary for it to be freely used, reused, and redistributed by anyone, anytime, anywhere. The overarching goal of the International Open Data Charter is to foster greater coherence and collaboration to promote the increased adoption and implementation of shared open data principles, standards and good practice across sectors around the world.

Furthermore, a situation needs to be avoided where third party data contributors to the ESAP can use the ESAP project to force ESAP to become a "reseller" of their data. This would be the case if the data contributors can require the ESAP to pass on their data fees and licenses to ESAP data users (e.g. fund management companies) and also to all downstream user clients of the ESAP data user (e.g. all investors in a UCITS fund).

On the ESAP side, however, we do not oppose in principle ESAP redistribution/reseller licenses for commercial data vendors of ESAP data. These vendors should be clearly defined by either using the ICT third-party service providers definition in DORA (Article 3 (19)) or by excluding any EU regulated financial services entity from the definition of data vendor in ESAP regulation. This exclusion of financial



services firms from the definition of data vendor is justified as all EU regulated financial services entities and corporate issuers are already defined as for free data contributors in the various other parts of the ESAP package. Furthermore, only the financial services firms but not the data vendor community will participate in the financing of the ESAP through the contributions of the NCAs to the ESAP budget.

Furthermore, we urge to introduce a clarifying exception that any copyrights and database rights of the data sources are not applicable anymore after their data are passed on by the ESAP. This rule is imperative in order to ensure the third-party data is acquired and provided fee and license-free by the ESAP. Only with such legal protections in place the ESAP can guarantee the license and fee free acquisition of the data by the first user of the ESAP data and the subsequent fee and license free use of ESAP data in the downstream users' value chain which is required to enable a Digital UNION based on data which entities are required to publish for the public.

By way of justification, we point to the lack of regulation for copyright and database rights of the data sources in the Credit Rating Regulation for the ESMA Rating Database ERP. Article 11 (a) of the CRA Regulation was introduced in 2013 to provide another source of information about credit ratings. It required ESMA to establish the ERP, a public website which publishes details of the individual credit ratings issued by CRAs. The aim of the ERP was to allow users to compare the credit ratings issued by different CRAs. Article 13 of the CRA Regulation specifies that the information on credit ratings disclosed through the ERP and on CRAs' websites under Articles 8 to 12 of the CRA Regulation shall be made available free of charge. In order to access information about credit ratings through the ERP, users must agree to a disclaimer, similar to the terms of use on CRAs' websites. Once they have done so, users enter the search screen of the ERP. They must then complete a captcha to be able to search for EU issued credit ratings by keyword or by rated entity, issuer or instrument. Information on individual credit ratings can then be viewed on the ERP.

In practice, however, this database is hardly used despite the fact that it is free of charge, since ESMA cannot ensure the license-free, internal and external (e.g. in client reporting) use of the rating data due to an insufficient basis for regulation. Users explained to ESMA that they found the terms of the disclaimer on the ERP to be unclear as to whether they were able to download individual credit ratings from the ERP without first entering into a separate data licence from the CRAs' affiliates. This situation should be avoided if the ESAP wants to be successful. For details, please see OPINION OF THE EUROPEAN SECURITIES AND MARKETS AUTHORITY of 22 September 2021 on improving access to and use of credit ratings in the European Union in accordance with Regulation (EC) No 1060/2009 at p. 9 et seq. (Para 43 et seq.)

Q15: Do you agree with the proposed characteristics of the API for data collection? If not, what alternative characteristics would you recommend?

Q16: Do you agree with the proposed approach to the format, list and characteristics of the metadata? If not, what alternative approach would you recommend?

We have no comments.

Q17: Do you agree with the proposed approach with regards to time limits? If not, what alternative approach would you suggest?



Q18: [for users of information only] Do you currently access price and time-sensitive information via the Officially Appointed Mechanisms or other (private or public) databases? If so, which ones? If not, how do you access such information?

Q19: Do you expect that a maximum time delay of sixty minutes between when information is available at the level of the collection body and when it is available on ESAP will diminish the usefulness of ESAP? If so, what maximum time delay would you consider acceptable?

We consider ESAP not as medium for the dissemination of time/price-sensitive news, such as ad-hoc announcements and financial reports. ESAP will not be the first place where final investors will seek access to sensitive information as soon as it becomes available, since companies' websites, investor events, press releases etc are expected to continue to be the preferred way for investors and asset managers to access this type of information. Our members use a mixture of "Officially Appointed Mechanisms "and/or private/public databases to access price and time-sensitive information.

We expect that a maximum time delay of sixty minutes between when information is available at the level of the collection body and when it is available on ESAP's website will be sufficient as such fund documents do normally not contain time-sensitive information. Today, UCITS fund management companies publish the net asset value of fund units through a broad range of communication platforms (e.g. fund management company website, online brokerage, data providers etc) enabling (retail) investors to obtain the net asset value up to date. The one-hour delay could be problematic if a fast amount of data is sent by the UCITS fund management companies to the collecting bodies.

Q20: Do you agree with the indicative list of formats and characteristics proposed? If not, what alternative formats or characteristics would you recommend?

We agree with the indicative list of formats. 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.

The ESAP should leverage as much as possible on the existing data reporting channels, formats, characteristics and infrastructure which has been successfully implemented within the EU. The implementation of the ESAP reporting requirements should not enhance the reporting and compliance cost for the submitting entities (e.g. asset managers).

Within the fund industry, as of today, there are neither EU wide accounting regulated nor requirement to insure the machine readability of financial reports, prospectus, annual reports, the issue, sale, repurchase or redemption price of fund units made available to investors by investment funds (UCITS). This applies also for the creation and distribution of PRIIPS related documents.

Against this background, we acknowledge that the ESA's intends to accept also the delivery of PDF documents to the ESAP. We are, however, concerned that the ESAP will enable the further development of machine-readable formats only in the long run, and on a case-by-case basis, together with common minimum sets of metadata, with the ability to improve digital use of information.

Already today, investment funds are prepared to deliver data to a multitude of distribution channels and investors in various, also machine-readable data formats, but also unstructured data, including PDF.



Therefore, we strongly encourage the European Supervisory Authorities to take into consideration for the development of the ESAP machine-readable formats for (UCITS) investment funds any existing and widely accepted market standards established at national and EU level.

As users, however, fund management companies need machine-readable formats with structured numbers and values information if the ESAP shall users to extract the added value of the data in a cost-efficient way. Against this background, we see generally a great risk of a significant reduction in the usability of the ESAP data if PDF documents become the main ESAP data collection standard. Fund management companies would have significant difficulties to extract the relevant information from the flood of documents provided by hundreds of thousands of issuers and individual issues, including but not limited to annual reports, sustainability reports, quarterly reports, prospectuses and PRIIPS-KIDs.

The lack of an EU-wide standard for structured data PDFs combined with the language barriers existing in the EU will lead to the likely situation that often only the not EU based large data vendors will be able to provide ESAP data to the market participants in structured formats. Only large data vendors (e.g. Bloomberg or MSCI) have the resources to handle such big data analyses. Therefore, many asset managers will not be able to use the ESAP data directly and in full depth but will have to continue to pay large amounts to the data providers in order to obtain structured data across hundreds of thousands of issuers and individual issues.

It is of utmost importance that already with the start of ESAP the contribution of machine-readable, structured data is encouraged with the data sources. The acceptance of existing machine readable, structured fund data standards/formats developed by the relevant reporting stakeholders (e.g. investment fund management companies) will not only reduce the work load of the reporting entities in our industry but will contribute also to the success of the ESAP as widely used database.

Q21: Do you agree with the proposed characteristics of the API for data publication? If not, what alternative characteristics would you recommend?

We have no comments.

Q22: Do you agree with the proposal to specify that the legal entity identifier should be the ISO 17442 LEI code? If not, what other identifier would you suggest and why?

We strongly agree with the proposal to use the LEI. 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).

From a user's point of view, the ESAP data, both of a financial and non-financial (ESG) nature, should be always identifiable with the GLEIF operated LEI ISO 17442. Other identifiers, including but not limited to EU company register numbers should not be used as the primary ESAP entity identifiers. They should primarily be used in the data delivery of issuers and their intermediaries (company registers) to the ESAP.

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) within 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 the 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, please see: (<https://www.gleif.org/en/newsroom/blog/the-missing-ingredient-for-globally-compatible-esg-data-collation-and-reporting-standardized-digital-entity-identification>).

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.

Full coverage of the LEI (i.e. an LEI for all legal entities in the EU) and real-time accuracy of the LEI data available in the Global LEI System (e.g. including group information) would facilitate operations in all sectors of the economy and its regulation as the digital age advances and powerful new technologies advance rapidly. This would give the EU an essential infrastructure for the digital age.

That achievement is however subject to compatibility with the principle of proportionality. We would recommend to encourage that the Regulatory Oversight Committee consider for the Global LEI System a business model that would allow official sources of identity mandated by law (e.g. business registers) to register for an LEI each entity in the population they cover, in ways that make the LEI free of charge for registrants and accurate in real time. Exploration of such a business model is ongoing between the ROC and the Global LEI Foundation.

Offering such an infrastructure in the EU would enable regulatory institutions to improve their effectiveness and efficiency in many areas (e.g. financial stability, banking supervision, AML) and in a way sustainable into the digital age. Moreover, it could open avenues for innovation in the EU and enhance competitiveness of EU companies. Finally, it could serve in the otherwise difficult practical implementation of goals linked to Climate sustainability (e.g. tracking supply chains, preventing greenwashing).



It would also ensure a full alignment between the national business registers and LEI. There needs to be only “one single source of truth”.

Q23: Do you agree with the proposed approach with regards to types of information? If not, what additional/ alternative type of information do you recommend?

We agree with the type of information for AIF and PRIIPS. In respect to UCITS we would like to highlight the following point:

Since January 1, 2023, fund management companies must prepare a PRIIPs key information document (Article 5 para 1), i.e. a key information document for packaged retail and insurance-based investment products for investment funds that are distributed to retail and semi-professional investors. However, from this date, the obligation for fund management companies to prepare key investor information in accordance with Section 166 of the German Investment Code (in conjunction with Section 270 German Investment Code, if applicable) will no longer apply. In accordance with the newly introduced Article 82a of Directive 2009/65/EC (Directive on Undertakings for Collective Investment in Transferable Securities - UCITS Directive), a key information document that meets the requirements of the PRIIPs Regulation is considered equivalent to key investor information.

German fund management companies will not produce any UCITS-KIDS anymore. Therefore, we encourage ESMA to delete this legal obligation.

Q24: Do you think that information required at national level pursuant to Article 3(1) of the Transparency Directive (so-called gold plating) should be captured by certain specific types of information? Or would you prefer such information be captured by one generic category, namely “Additional regulated information required to be disclosed under the laws of a Member State”?

We have no comments.

Q25: Do you agree with the proposed approach with regards to the categories of the size of the entities? If not, what alternative approach would you suggest and why?

Q26: Do you agree that it would be disproportionate to the purpose of the ESAP search function to introduce new categories by size for reporting regimes where currently no size category is foreseen in level one legislation? If not, for what additional categories of entities would you add a size category and on the basis of what thresholds?

We have no comments.

Q27: Do you think it would be useful to leverage on the thresholds introduced by DORA for the classification by size of at least some entities in scope of ESAP, such as IDD intermediaries and PRIIS manufacturers? If not, why not? If yes, are there other entities in scope of ESAP for which you think the thresholds defined in DORA would be applicable and/or useful?

We have no comments.

Q28: Do you agree with proposed approach with regards to the categorisation of industry sectors? If not, what approach would you suggest and why?



Q29: Do you think additional or fewer sectors would be appropriate for the ESAP search function? If so, which ones would you propose to add and/or remove?

We agree with the proposal to identify the non-financial sector with the NACE-Code. It is also 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)).

We do not agree to classify the financial entities according to the EMIR reporting obligation. The identification of the financial entities (e.g. asset managers) should be integrated in the NACE classification as the application of two different (industry) classification system will enhance the operational complexity for the financial industry.
