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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability**

(Text with EEA relevance)

{SEC(2021) 572 final} - {SWD(2021) 344 final} - {SWD(2021) 345 final}

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

The establishment of a European Single Access Point (ESAP) by 2024 is a flagship action of the Capital Markets Union (CMU) Action Plan adopted by the European Commission in September 2020<sup>1</sup>. ESAP will contribute to the achievement of the CMU's objectives by providing EU-wide access to information activities and products of the various categories of entities that are required to disclose such information, which is relevant to capital markets, financial services and sustainable finance. ESAP will provide access to this information in an efficient and non-discriminatory manner.

Information about entities' activities and products is essential for decision-making by providers of capital. ESAP will contribute to further integrating the financial services and capital markets in the single market, to allocating capital more efficiently across the EU and promoting the development of smaller national capital markets and economies by giving them greater visibility. ESAP will also allow non-listed entities including Small and Medium-sized Enterprises (SMEs) to make available information on a voluntary basis. This will facilitate their access to capital.

This proposal is part of a package comprised of:

- a proposal for a Regulation establishing a European Single Access Point (this proposal);
- a proposal for a Directive amending certain Directives; and
- a proposal for a Regulation amending certain Regulations.

ESAP is part of the European financial data spaces presented in the Commission's Digital Finance Strategy published in September 2020<sup>2</sup>. The Digital Finance Strategy sets out the objective that, by 2024, information disclosed to the public pursuant to EU financial services legislation should be disclosed in standardised and machine-readable formats.

ESAP is directed primarily to users such as investors, financial analysts and market intermediaries, e.g. asset managers, advisers or data aggregators. Other types of users — such as civil society, regulators, and other public authorities such as statistical authorities — may also see an interest in accessing information through ESAP.

#### **• Consistency with existing policy provisions in the policy area**

This proposal builds on the requirements of existing legislation in the field of financial services, capital markets and sustainable finance. For capital markets to function efficiently, it is essential to have a regular flow of relevant, reliable, complete, timely and comparable company information towards market participants and other stakeholders. ESAP will promote the effectiveness of EU legislation in the area of financial services and capital markets.

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<sup>1</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A capital markets union for people and businesses-new action plan, 24.9.2020, COM/2020/590 final.

<sup>2</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A digital finance strategy for the EU, 24.09.2020, COM/2020/591 final.

This proposal does not create any new reporting obligation in terms of content, but rather builds on existing disclosure requirements set out in the EU legal acts identified in the Annex of the proposal.

ESAP will be built separately from the Business Registers Interconnection System (BRIS) developed in accordance with the Company Law Directive<sup>3</sup>, allowing both systems to pursue their own standards and objectives, based on own respective governance. ESAP will be complementary to BRIS, which provides the public with information on limited liability companies on the European e-Justice Portal<sup>4</sup>. Overlap on data collected for the purposes of BRIS and ESAP will be limited to certain accounting documents (financial statements, audit reports, management reports including corporate sustainability reporting, and country-by-country reporting by extractive industries).

- **Consistency with other Union policies**

This proposal is consistent with and contributes to the implementation of the European strategy for data set-out in a Commission Communication of February 2020<sup>5</sup>, as the ESAP is part of the financial common European data space announced in that strategy.

In its Strategy for Financing the Transition to a Sustainable Economy<sup>6</sup>, the Commission placed sustainable finance at the heart of the financial system and as a precondition to create an enabling framework for private investments in sustainable projects and activities.

ESAP will contribute to the achievement of the objectives of the Strategy for Financing the Transition to a Sustainable Economy and of the European Green Deal<sup>7</sup> by making easily available and useable information about the sustainability of European entities' activities. This will also allow public authorities, private stakeholders and civil society to better assess the sustainability of European entities and, more generally, the progress towards the EU's policy objectives related to sustainable development including the EU's climate strategy and targets.

Finally, ESAP is supported by the CMU Action Plan adopted in September 2020<sup>8</sup>.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

An EU intervention to reduce fragmentation by ways of a single access point would further contribute to integrating the single market by removing obstacles to the circulation of

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<sup>3</sup> Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law. (OJ L 169, 30.6.2017, p. 46).

<sup>4</sup> [https://e-justice.europa.eu/489/EN/business\\_registers\\_search\\_for\\_a\\_company\\_in\\_the\\_eu](https://e-justice.europa.eu/489/EN/business_registers_search_for_a_company_in_the_eu)

<sup>5</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A European strategy for data, 19.02.2020, COM/2020/66 final.

<sup>6</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Strategy for financing the transition to a sustainable economy, 06.07.2021, COM/2021/390 final.

<sup>7</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European green deal, 11.12.2019, COM/2019/640 final.

<sup>8</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A capital markets union for people and businesses-new action plan, 24.9.2020, COM/2020/590 final.

information within the Union. The Treaty on the Functioning of the European Union (TFEU) confers upon the European institutions the competence to lay down appropriate provisions that have as their object the establishment and functioning of the internal market (Article 114 TFEU).

- **Subsidiarity (for non-exclusive competence)**

The objectives of this initiative cannot be sufficiently achieved by the Member States individually. The Member States have currently certain leeway for the design of rules on mechanisms and formats of corporate reporting obligations set out by the EU legislation, with heavy reliance on national systems. The resulting geographical and thematic fragmentation of disclosure mechanisms and formats increases access and processing costs for users of corporate information. Further individual actions by Member States would not reduce this fragmentation unless they move in the same direction to build a single access point and address a number of barriers, which is unlikely without a coordinated approach.

Enabling better access to information at the EU level, considering the scale and the effects of such a project, is an objective that can be better achieved at Union level. In addition, the design of suitable formats, terms of use, language specifications, etc. necessitates a certain degree of harmonisation at the EU level to enable interoperability and cross border access and use. There is widespread support for such initiative from Member States, the European Parliament, regulators, regional or national market participants, users, civil society, etc. Therefore, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union.

- **Proportionality**

In accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union, this initiative does not go beyond what is necessary in order to achieve the objectives of this initiative. This proposal will not add or modify reporting obligations in terms of content. In order to minimise the burden on entities and national authorities, ESAP builds as much as possible on the existing data reporting channels and infrastructure.

- **Choice of the instrument**

A Regulation is considered to be the most appropriate legal instrument to establish ESAP since most of the provisions therein are addressed to the European Securities and Markets Authority (ESMA) who will be building and governing the platform, as well as to the collection bodies. ESMA is an independent European Union authority that contributes to safeguarding the stability of the EU's financial system by enhancing the protection of investors and promoting stable and orderly financial markets. In that context, ESMA is given the task of establishing and operating ESAP, as it contributes in particular to ensuring the integrity, transparency, efficiency and orderly functioning of financial markets.

Moreover, a Regulation will eliminate the risk of major divergences between national laws as regards the characteristics of information to be included and made accessible, as well as the tasks to be carried out by the collection bodies.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

The impact assessment accompanying this proposal draws on - inter alia - the fitness check of the EU framework for public reporting by entities published by the Commission in April

2021<sup>9</sup>. A key finding of this fitness check is the need to tap the potential of digital tools to improve access to, use and re-use of regulated information disclosed by entities. In particular, the fitness check highlighted the lack of an EU-wide single point of access to regulated information and limited machine readability of information disclosed by entities.

- **Stakeholder consultations**

The consultation process and its main conclusions on which this proposal is based are summarised in Annex 2 of the Impact Assessment<sup>10</sup>. These included a targeted online consultation, workshops with various categories of relevant stakeholders, and input from relevant expert groups established by the Commission, in particular the High-Level Forum (HLF) on the CMU<sup>11</sup>.

In general, all consulted stakeholder groups welcomed the Commission's initiative on the ESAP and expressed their support for a phased-in implementation to prioritise and make available the information on ESAP in different phases. Stakeholders also emphasised the importance of using a 'file once' principle. Preparers of the information to be reported publicly and SMEs also underlined the need to avoid creating additional administrative burdens, including no new reporting obligations introduced for entities.

The majority of the stakeholders supported a broad scope of information to be included in ESAP covering both financial and sustainability-related information. The vast majority of stakeholders believed that the standardisation of information under a common reporting framework with common schemes and metadata would be useful to address the challenges regarding comparability, reliability, and reusability of information. They also mentioned that the absence of such common standards is one of the main barriers users and society face when they process financial and environment social and governance (ESG)-related information.

Most stakeholders have similar views on the infrastructure dimension and on how ESAP should collect information, and suggest that ESAP should build on the existing national or European reporting channels. In addition, stakeholders called for information to be made available through ESAP at the same time that it is published in any other means or channel.

All stakeholder groups overall support that ESAP should offer free access to information and information should be available without any payment required. Even if the open data/free access model was strongly recommended, there were some stakeholders that supported the idea that issuers (when submitting the information) or those who will use the information could pay some fees (e.g. annual subscription). The benefit ESAP would create for these providers or users could then justify a decision to apply some kind of fees for specific services.

A clear majority of stakeholders expressed a preference for a public model, for example, under the management of ESMA, with the possible involvement of the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA).

- **Collection and use of expertise**

The impact assessment accompanying this proposal also draws on data available from desktop research and in particular from the following studies and expertise:

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<sup>9</sup> SWD/2021/81 final, 21 April 2021.

<sup>10</sup> SWD(2021)344.

<sup>11</sup> The HLF recommended that ESAP should provide access "to entities' public financial and non-financial information, as well as other financial product or activity-relevant public information [...], which shall be freely accessible to the public and free of fees or license use." See Final Report of the High Level Forum on the Capital Markets Union: A New Vision for Europe's Capital markets, June 2020.

- Study on the “Regulatory framework analysis for potential integration into the European Electronic Access Point (EEAP)”<sup>12</sup>;
- Study on the “Governance for a DLT / Blockchain enabled European Electronic Access Point (EEAP)”<sup>13</sup>;
- “Impact Assessment study on the list of High Value Datasets to be made available by the Member States under the Open Data Directive”<sup>14</sup>;
- Expertise provided by Business Reporting - Advisory Group (BR-AG), a company contracted specifically to assist the Commission for this initiative.

The material gathered and used to feed the impact assessment was generally factual or otherwise coming from reputable and well-recognised sources that act as benchmarks and reference points for the topic. Input received from stakeholders during the consultation activities was generally treated as opinions, unless of factual nature.

- **Impact assessment**

The Impact Assessment accompanying this proposal was examined by the Regulatory Scrutiny Board on 22 July 2021. The Board gave a positive opinion providing a few comments, which were addressed by the Commission in the final version of the Impact Assessment (details are provided in Annex 1 thereof).

The Impact Assessment analyses several policy options to achieve the specific objectives of enabling seamless and integrated access to the relevant entities' public information in a way that will increase the circulation of that information within the Union, and to increase the digital use (and re-use) of such information. The policy options were identified based on the following five main dimensions of ESAP: (1) scope of the information accessible via ESAP; (2) format of the information accessible via ESAP; (3) collection of the information accessible via ESAP and interconnection of existing collection points; (4) open data and; (5) governance. These are the core aspects in terms of addressing the identified problems and they are also the principal determinants of costs.

The following aspects were also assessed, although they are considered to be more technical and less crucial for the achievement of ESAP specific objectives: (i) ESAP functionalities; (ii) timeliness of information accessibility via ESAP; (iii) ensuring data integrity and credibility of the source; (iv) ensuring data quality; (v) addressing language barriers; (vi) removal of certain barriers to access; (vii) file only once principle; (viii) grand fathering; (ix) retention period; (x) principles about “voluntary information” which will be accessible via ESAP.

- **Regulatory fitness and simplification**

This initiative sets out the rules for the establishment of ESAP. By streamlining disclosure channels, ESAP will bring simplification and improved efficiency mainly on the demand side (users), with reduced search and processing costs, and to some extent to entities in terms of filing obligations.

- **Fundamental rights**

This proposal respects fundamental rights and observes the principles recognised in particular by the Charter of the Fundamental Rights of the European Union. ESAP will improve access to information that include personal data. This is necessary to promote data-driven innovation in finance, help integrate European capital markets, channel investments into sustainable

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<sup>12</sup> ISBN 978-92-76-13304-9.

<sup>13</sup> ISBN 978-92-76-13305-6.

<sup>14</sup> ISBN 978-92-76-25267-2.

activities, and bring efficiencies for consumers and businesses. At the same time, ESAP will improve access only to those personal data that have to be processed pursuant to Union law or another legal basis pursuant to Regulation (EU) 2016/679<sup>15</sup>, as this proposal does not introduce new data reporting requirements in addition to those that already exist.

#### **4. BUDGETARY IMPLICATIONS**

In order to optimally achieve the objectives of this initiative, this proposal holds implications in terms of costs and administrative burden for ESMA and national and EU collection bodies, in particular the Officially Appointed Mechanisms (OAMs), National Competent Authorities (NCAs), European Supervisory Authorities and their Joint Committee. The exact magnitude and distribution of these costs will depend on the final specifications of the IT infrastructure and magnitude and timing of the related regulatory, governance and monitoring tasks, which partly depend on decisions made after the adoption of this act.

The legislative financial statement linked to this initiative provides a detailed overview of the costs involved for ESMA as regards the governance of ESAP. For ESMA, the initiative will require over time a total of three full-time employees (FTE) to take on the tasks of overseeing and managing the development and operations of this project. The total financial resources necessary for the implementation of the proposal in the 2022-2027 period will be up to EUR 16.5 million, including EUR 2.3 million of administrative costs and up to EUR 14.2 million in operational spending, of which the EU would support EUR 9.6 million under the current Multiannual Financial Framework (2022-2027). Out of this amount, EUR 5 million would be covered by the Digital Europe Programme in the years 2022-23<sup>16</sup>. Over the period 2024-2027, ESMA costs related to the ESAP would amount to EUR 11.5 million. These costs would be funded via the EU budget for up to 40%, representing EUR 4.6 million and National Competent Authorities would be solicited to fund EUR 6.9 million via their contribution to ESMA.

The financing will support costs linked to developing, maintaining, operating and supporting the ancillary functions and duties in relation to ESAP, including carrying out annual monitoring activities.

As regards regulatory activities implied by the ESAP, a number of implementing acts will have to be developed. Their delivery is staged over time by the Regulation. For certain acts, the Regulation mandates the joint Committee of the European Supervisory Authorities (ESMA, EBA and EIOPA) to undertake their development. The EBA and EIOPA would in addition collaborate with ESMA in the conduct of certain tasks in relation to the functioning and monitoring of the ESAP. In performing these tasks, ESMA, EBA and EIOPA respectively will continue to work towards maximising synergies and efficiency gains, and monitor the additional workload and FTE associated with this proposal in the context of their overall tasks.

For the collection bodies, the costs for the interconnection of the EU/national collection bodies with ESAP (mainly based on the development of Application Programming Interfaces) are estimated to be around EUR 50 800 at individual level (one-off), while annual recurring

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<sup>15</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>16</sup> This planning is without prejudice to adoption process for the following Work Programme (2023-2024), and in particular, assessments on the prioritisation for funding and agreement of the respective Programme Committee.

costs would be around EUR 6 500 at individual level. In some cases, there are strong synergies with existing tasks carried or projects already planned by collection bodies, such as the recent proposal to amend the Regulation (EU) No 575/2013<sup>17</sup> in order to empower the EBA to centralise the publication of institutions' annual, semi-annual and quarterly prudential disclosures. The EBA will act as the collection body for this information in the context of ESAP<sup>18</sup>. This proposal also builds on the existing OAMs that currently collect regulated information from issuers of transferable securities listed on EU regulated markets pursuant to the Transparency Directive<sup>19</sup>.

The Commission provides a tailor-made expertise via Technical Support Initiative (TSI) to help EU Member States design and implement growth-enhancing reforms in a wide range of policy areas. The Commission's TSI programme can partially fund the technical support for the implementation of ESAP by NCAs, upon their request. Through the TSI programme, the Commission will also provide input on the practical aspects of reforms. This can take the form of strategic or legal advice, studies, training and in-country missions by experts. Funding provided through the TSI is based on annual request rounds.

## 5. OTHER ELEMENTS

### • **Implementation plans and monitoring, evaluation and reporting arrangements**

This proposal does not require an implementation plan, but includes specific provisions for ESMA to monitor the implementation and effectiveness of ESAP.

This proposal includes a requirement that the Commission reports to the European Parliament and to the Council on the operation and functioning of ESAP no later than 5 years after the entry into force of ESAP Regulation. When evaluating this initiative, the Commission will rely on a public consultation and discussions with the ESMA, the EBA, EIOPA and collection bodies. The evaluation shall be conducted according to the Commission's better regulation guidelines<sup>20</sup>.

### • **Detailed explanation of the specific provisions of the proposal**

Article 1 mandates ESMA to establish, by 31 December 2024, ESAP to provide public access to the information that entities must disclose to the public pursuant to the legislation listed in the Annex of this Regulation, and to additional categories of information, including financial or sustainability-related information that entities decide to include on a voluntary basis in ESAP.

Article 2 sets out the definitions for the purposes of this Regulation.

Article 3 sets out the conditions and requirements pursuant to which entities can, on a voluntary basis, submit information that will be made accessible through ESAP.

Article 4 requires ESMA to maintain an up-to-date list of collection bodies responsible for accepting information disclosed by entities, to publish this list on the ESAP web portal and to notify it to the Commission.

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<sup>17</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

<sup>18</sup> See the Commission's proposals for a Regulation amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor, in particular the amendments to Article 433.

<sup>19</sup> See Article 21 of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 as amended.

<sup>20</sup> SWD(2021) 305 final, 3 November 2021.



Article 5 sets out the roles and tasks of the collection bodies, including the technical standards they shall apply to validate whether information submitted by entities comply with the specifications required by this Regulation and the accompanying amendments to sectoral legislation. It also lays down the retention period for the information accessible through ESAP, which shall be 10 years unless otherwise specified in the applicable EU legal act from the Annex. The article also includes a specific provision to ensure compliance with legislation on personal data protection.

Article 6 requires ESMA to develop an effective IT security policy for ESAP.

Article 7 sets-out the functionalities of ESAP through which users can access and search for information.

Article 8 stipulates the conditions under which users will have access to the information available on ESAP, which shall normally be free of charge. ESMA may charge fees to users that require very large volumes of data or frequently updated information. However, Union institutions, agencies and bodies, and a range of national bodies and competent authorities shall always have direct and immediate access free of charge to ESAP to enable them to fulfil their respective responsibilities, mandates and obligations.

Article 9 requires ESMA to ensure that the use and re-use of the information accessible on ESAP does not infringe sui generis database rights and is not subject to any conditions for the use and re-use unless certain conditions are met.

Article 10 requires ESMA to perform certain automated validations to verify the compliance of the information it receives from collection bodies with the requirements of this Regulation and applicable sectoral legislation referred to in the Annex.

Article 11 specifies the tasks of ESMA, acting in close cooperation with the EBA and EIOPA, to manage ESAP.

Article 12 lays down requirements that ESMA, in cooperation with EBA and EIOPA, shall implement to monitor the functioning of ESAP, based on certain qualitative and quantitative indicators. It also requires ESMA, in consultation with EBA and EIOPA, to publish an annual report about ESAP. This article also provides for the consultation of ESMA's Securities and Markets Stakeholder Group about the annual report.

Article 13 stipulates that the Commission shall review the functioning and effectiveness of ESAP 5 years after the entry into force of this Regulation.

Article 14 states that this Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

In order to establish a sound and efficient ESAP platform which will cover publicly available information about financial services provided in the Union, capital markets of the Union and sustainability, a number of Directives and Regulations in those fields will be amended by an Omnibus Directive and an Omnibus Regulation to add an ESAP stand-alone provision about the format of the information and its submission to a collection body. The scope of the ESAP will need to be built in a proportionate and gradual manner from 2024 to 2026, entailing a transitional scaling-up of the collection and submission of the information on its platform. The outcome of the ESAP targeted consultation has emphasized as a crucial driver that at least ESG information - such as the ones coming from the Taxonomy Regulation – and the information provided by issuers of securities in the scope of the Transparency Directive and the Prospectus Regulation should be accessible on ESAP as soon as it is established. This has been reflected in the proposal of the Commission. In addition, the Commission proposes to also start with the collection and submission on ESAP of pieces of information that - based on

sectoral legislation - are already available in a machine-readable format. Machine-readable formats will be extended to additional information depending on future decisions of the Commission through delegated acts on a case-by-case basis.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>21</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In the Capital Markets Union (CMU) Action Plan<sup>22</sup>, the Commission proposed to improve public access to entities' financial and non-financial information by building a European Single Access Point (ESAP). The Commission Digital Finance Strategy<sup>23</sup> set out general lines on how Europe can support the digital transformation of finance in the coming years, and in particular to promote a data-driven finance. In the Strategy for Financing the Transition to a Sustainable Economy<sup>24</sup>, the Commission placed sustainable finance at the heart of the financial system as a key means to achieve the green transition of the economy of the Union, as part of the Green Deal<sup>25</sup>.
- (2) Easy access to data is important in order for decision makers in the economy and society to make sound decisions that serve the efficient functioning of the market. Rolling out common European data spaces in crucial sectors, including the financial sector, would serve that purpose. The financial sector is undergoing a digital transformation, which is expected to continue in the coming years, and the Union

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<sup>21</sup> OJ C [...], [...], p. [...].

<sup>22</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A capital markets union for people and businesses-new action plan, 24.9.2020, COM/2020/590 final.

<sup>23</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A digital finance strategy for the EU, 24.09.2020, COM/2020/591 final.

<sup>24</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Strategy for financing the transition to a sustainable economy, 06.07.2021, COM/2021/390 final.

<sup>25</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European green deal, 11.12.2019, COM/2019/640 final.

should support that transformation, in particular by promoting data-driven finance. Furthermore, putting sustainable finance at the heart of the financial system is a key means to achieving a green transition of the economy of the Union. For the green transition to succeed through sustainable finance, it is essential that information related to the sustainability of businesses is easily accessible to investors so that they are better informed when making decisions about investments. For those purposes, public access to entities' information such as companies, businesses, financial institutions, financial and non-financial information needs to be improved. An efficient means to do so at Union level is to establish a centralised platform, a European single access point ("ESAP"), giving electronic access to all relevant information.

- (3) ESAP should provide the public with an easy centralised access to information about entities and their products that is made public in relation to financial services, capital markets and sustainability. ESAP should also provide access to information relevant to financial services and capital markets that is made public on a voluntary basis by any entity governed by the law of a Member State, where such entity chooses to make that information accessible on ESAP. As presented in the Digital Finance Strategy, ESAP should be established as from 2024.
- (4) The information to be made publicly accessible on ESAP should be collected by collection bodies designated for the purpose of collecting the information that the entities are under an obligation to make public. In order to ensure the efficient functioning of ESAP, the collection bodies should make the information available to ESAP in automated ways through a single application programming interface. For the information to be digitally usable, entities should make such information available in a data extractable format or, where required by Union law, in a machine-readable format. Compared to data extractable formats, machine-readable formats are file formats structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure. To ensure that entities submit the information in the correct format and to address possible technical issues encountered by the entities, the collection bodies should provide assistance to those entities.
- (5) Apart from the information in relation to financial services, capital markets and sustainability that has to be made public under Union law, investors, market participants, advisors and the public at large may have an interest in obtaining other information that an entity wants to make accessible. 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. Also, market participants may want to provide more information than that required by law or to make public the information required by national law but not available at Union level in order to complement the information provided to the public at the Union level. Any entity should therefore be allowed to make financial, sustainability-related and other relevant information accessible on ESAP. Pursuant to the principle of data minimisation, entities should ensure that no personal data are included, except where those data constitute a necessary element of the information about their economic activities, including when the name of the entity coincides with the name of the owner. Where such information contains personal data, the entities should ensure that they can rely for such disclosure on one of the lawful grounds of

processing laid down in Article 6 of Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>26</sup>.

- (6) The objective of the European Securities and Markets Authority (ESMA) is to protect the public interest by contributing to the stability and effectiveness of the financial system for the Union economy, its citizens and businesses. In that context, ESMA is to contribute in particular to ensure the integrity, transparency, efficiency and orderly functioning of financial markets. It has, amongst others, the task to improve investor protection. Because of those reasons, ESMA should be given the task of establishing and operating ESAP.
- (7) In order to enable entities and the public to identify the collection bodies providing information to ESAP, ESMA should publish on its website a list of the collection bodies and keep it up to date.
- (8) ESAP risks being subject to confidentiality breaches, integrity risks or risks on availability of the system and on the information processed therein. Those threats include accidents, errors, deliberate attacks and natural events, and need to be recognised as operational risks. ESMA should implement appropriate and proportionate policies to ensure that ESAP protects the information processed and functions as needed.
- (9) To facilitate the searching, finding, retrieving and use of data, ESMA should ensure that ESAP offers a set of functionalities, including a search function, machine translation and possibilities to extract the information. The search functions should be offered in all the official languages of the Union and build at least on the metadata provided pursuant to the directives and regulations listed in the Annex. By 31 December 2024, ESMA should ensure that ESAP provides users with a minimum set of functionalities, to be completed by 31 December 2025.
- (10) Re-using information that is available on ESAP can improve the functioning of the internal market and promote the development of new services that combine and make use of such information. It is therefore necessary, where justified on grounds of a public interest objective, to allow re-use of the information that is available on ESAP for purposes other than the purposes for which the information was drawn up. However, the use and re-use of that information should be subject to objective, proportionate and non-discriminatory conditions. For that purpose, conditions corresponding to those laid down in open, standard licences within the meaning of Directive (EU) 2019/1024 of the European Parliament and of the Council<sup>27</sup> should apply. The licensing terms of those standard licences should allow for data and content to be freely accessible, used, modified and shared by anyone for any purpose. ESMA should bear no liability for the use and re-use of information accessible on ESAP. The submission of information by the collection bodies should either not be subject to conditions or be subject to an open standard licence enabling the licensing terms applying for information accessible in the ESAP.
- (11) The information available on ESAP should be accessible to the public in a timely manner. In that regard, the time between collecting the information and making it

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<sup>26</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>27</sup> Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).

accessible to the public should be reasonable and, in any event, as short as technically possible. In order to ensure a uniform quality of information, the collection bodies should perform automated validations and reject invalid information.

- (12) ESAP should provide users with access to information for free and without discrimination and should make it possible for those users to search, access and download the information through ESAP. However, taking into account the need to protect ESMA from an excessive financial burden in relation to costs incurred for serving the needs of intensive users, if any, ESMA should have the ability to generate revenues. Therefore, by way of derogation from the principle that information should be accessible free of charge, ESMA should be allowed to impose fees for those specific services, including for services with high maintenance costs due to searches for very large volumes of information or to frequent access to ESAP. Any fees imposed should, however, not exceed the cost of the service provided.
- (13) To promote data-driven innovation in finance, help integrate capital markets in the European Union, channel investments into sustainable activities, and bring efficiencies for consumers and businesses, ESAP should improve access to information that include personal data. ESAP should, however, only improve access to those personal data that have to be processed pursuant to Union law, or that are processed voluntarily provided that there is a lawful ground for such processing pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council. For any processing of personal data in the context of providing information via ESAP, the collection bodies, and ESMA in its capacity as operator of ESAP, should ensure that Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>28</sup> are complied with.
- (14) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on [insert date].
- (15) In order to build and maintain public trust in ESAP and to protect each entity from undue alteration of its information, ESAP should ensure data integrity and credibility of the source of the information submitted to the collection bodies. Therefore, information submitted by the entities should include a qualified electronic seal attached to the information submitted as defined in Article 3(20), of Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>29</sup>. A specific legal entity identifier may be a mandatory attribute of that certificate. That seal or signature acquired by ESAP should be made available to users.
- (16) In order for the information to be comparable over time, users should have access to past information. It is therefore necessary to require ESAP to provide access to information for a reasonable period of time, to the extent compatible with other applicable provisions of Union law. For that purpose, ESMA should ensure that no personal data are made accessible for longer than necessary as provided for under Union law. In order to enable ESMA and the collection bodies to prepare the operation of ESAP, ESAP should only provide access to the information submitted as from 1 January 2024.

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<sup>28</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

<sup>29</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

- (17) To ensure a smooth processing of the information received or drawn-up by the collection bodies and made available to ESAP, it is necessary to lay down certain requirements specifying the format and the metadata of that information and which collection bodies should collect such information. In order to ensure the quality of the information submitted to ESAP by the collection bodies, it is also necessary to define the characteristics of the automated validations to be carried out on each information reaching the collection bodies, and the characteristics of the qualified electronic seal to be attached to that information by the entities. To ensure the use and re-use of data on ESAP, a list of the designated open standard licences would need to be defined. To facilitate the searching, finding, retrieving of the data in a timely manner, the characteristics of the application programming interface and the metadata to be implemented will also need to be designed. Additional requirements as regards efficient search functions will need to be implemented such as the specific legal entity identifier, the classification of the type of information, and the categories of the size of the entities. To that purpose, the Joint Committee of the European Supervisory Authorities should develop draft implementing technical standards. Additionally, ESMA might develop draft implementing technical standards to determine the nature and extent of the specific services for which fees may be charged and the associated fee structure. The Commission should be empowered to adopt those implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council<sup>30</sup>, No 1094/2010 of the European Parliament and of the Council<sup>31</sup> and No 1095/2010 of the European Parliament and of the Council<sup>32</sup>.
- (18) The objective of this Regulation is to contribute to integrating the European financial services and capital markets by providing an easy centralised access to public information about entities and their products. Since that objective cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

### **The European Single Access Point (ESAP)**

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<sup>30</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

<sup>31</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

<sup>32</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

1. By 31 December 2024, the European Securities and Markets Authority (ESMA) shall establish and operate a European single access point (“ESAP”) providing centralised electronic access to the following information:
  - (a) information to be made public pursuant to the relevant provisions in the directives and regulations listed in the Annex and pursuant to any further legally binding Union act which provides for centralised electronic access to information through ESAP;
  - (b) other information of relevance to financial services provided in the Union or to capital markets of the Union or concerning sustainability that entities wish to make accessible on ESAP on a voluntary basis about their economic activities in accordance with Article 3(1).
2. ESAP shall not provide access to information submitted before 1 January 2024.

## *Article 2*

### **Definitions**

For the purposes of this Regulation, the following definitions shall apply:

- (1) ‘entity’ means any natural or legal person that is required to make information public pursuant to any of the legal acts referred to in Article 1(1), point (a), or any natural or legal person that submits to a collection body the information referred to in Article 1(1), point (b), on a voluntary basis in accordance with Article 3(1) for the information to be made accessible on ESAP;
- (2) ‘collection body’ means any Union or national body or authority or register designated as such pursuant to any of the legal acts referred to in Article 1(1), point (a) or by the implementing technical standards referred to in Article 3(2);
- (3) ‘data extractable format’ means any electronic open format as defined in Article 2, point (14), of Directive (EU) 2019/1024 that is widely used or required by law, that allows data extraction by a machine, and that is not only human-readable;
- (4) ‘machine-readable format’ means a format as defined in Article 2, point (13), of Directive (EU) 2019/1024;
- (5) ‘qualified electronic seal’ means a qualified electronic seal as defined in Article 3, point (27), of Regulation (EU) No 910/2014;
- (6) ‘application programming interface’ (‘API’) means a set of functions, procedures, definitions and protocols for machine-to-machine communication and seamless exchange of data;
- (7) ‘metadata’ means structured information that makes it easier to retrieve, use, or manage an information resource, including by describing, explaining, or locating that information resource.

## *Article 3*

### **Voluntary submission of information for accessibility on ESAP**

1. Any natural or legal person may submit to a collection body the information referred to in Article 1(1), point (b) to make that information accessible on ESAP. When submitting that information, the natural or legal person shall:



- (a) provide the collection body with metadata about the information submitted;
  - (b) provide the collection body with its legal entity identifier as specified pursuant to Article 7(4);
  - (c) use a data extractable format for drawing up that information;
  - (d) ensure that no personal data are included, except where the personal data constitute a necessary element of the information about its economic activities.
2. The Joint Committee of the European Supervisory Authorities shall develop draft implementing technical standards to specify all of the following:
  - (a) the metadata to be provided about the information submitted;
  - (b) the specific formats to be used for drawing up the information;
  - (c) the designation of collection bodies to which the information is submitted to.

The Joint Committee of the European Supervisory Authorities shall submit those draft implementing technical standards to the Commission by [PO: please insert *three years after entry into force*].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010, (EU), Article 15 of Regulation (EU) No 1094/2010 and Article 15 of Regulation (EU) No 1095/2010.
3. Where the information referred to in paragraph 1 contains personal data, entities shall ensure that the processing relies on one of the lawful grounds of processing listed in Article 6(1) of Regulation (EU) 2016/679 of the European Parliament and of the Council. This Regulation does not create a legal basis for the processing of personal data by those entities.

#### *Article 4*

##### **List of collection bodies**

ESMA, on the web portal referred to in Article 7(1), point (a), shall publish a list of the collection bodies with information about the Uniform Resource Locator (URL) of each collection body.

ESMA shall ensure that the list referred to in the first subparagraph is kept up-to-date and shall notify the Commission of any changes to that list.

#### *Article 5*

##### **Tasks of the collection bodies**

1. The collection bodies shall:
  - (a) collect and store the information submitted by the entities;
  - (b) perform automated validations on the information submitted to verify that the information complies with all of the following requirements:
    - (i) the information has been submitted using a data extractable format or, where appropriate, the machine-readable format specified in any of the legal acts referred to in Article 1(1), point (a) pursuant to which the

information is submitted or in the implementing technical standards referred to in Article 3(2), point (b);

- (ii) the metadata as specified pursuant to paragraph 6, point (d) is available and complete;
- (iii) the information contains a qualified electronic seal;
- (c) ensure that the use and re-use of the information provided to ESAP is either not subject to any conditions, or is subject to open standard licences that are equivalent to the licencing terms referred to in Article 9;
- (d) implement the API and provide ESAP, for free and within the applicable time-limits, with the information, the metadata for that information and, where relevant, the qualified electronic seal;
- (e) provide technical assistance to the entities submitting the information;
- (f) ensure that the information referred to in Article 1(1) remains available to ESAP for at least 10 years, unless stated otherwise in the legal acts referred to in Article 1(1), point (a). Personal data in the information submitted pursuant to Article 1(1) shall not be retained and made available for longer than 5 years, unless stated otherwise in the legal acts referred to in Article 1(1), point (a).

For the purposes of point (f), the collection bodies shall take appropriate technical and organisational measures to ensure that the information is not retained or made available for longer than provided for in that point (f).

2. Collection bodies shall reject information submitted by entities in each of the following cases:
  - (a) where the automated validations referred to in paragraph 1, point (b), reveal that the information does not comply with the requirements laid down in that point (b);
  - (b) where the information is manifestly inappropriate, abusive, or clearly outside the scope of the information referred to in Article 1(1).
3. Entities may submit information referred to in Article 1(1), point (a) only once to either one of the relevant collection bodies.
4. Entities shall ensure the accuracy of the information they submit to the collection bodies.
5. As regards the information falling under this Regulation, the collection bodies shall not exercise the right of the maker of a database, referred to in Article 7(1) of Directive 96/9/EC of the European Parliament and of the Council<sup>33</sup>, to prevent or restrict the re-use of the contents of the database or to restrict re-use of those contents.
6. The Joint Committee of the European Supervisory Authorities shall develop draft implementing technical standards specifying all of the following:
  - (a) how the automated validations referred to in paragraph 1, point (b), are to be performed for each type of information submitted by entities;

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<sup>33</sup> Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).

- (b) the characteristics of the qualified electronic seal referred to in paragraph 1, point (b)(iii);
- (c) the open standard licences referred to in paragraph 1, point (c);
- (d) the characteristics of the API to be implemented pursuant to paragraph 1, point (d), and the metadata referred to in that point;
- (e) the time limits referred to in paragraph 1, point (d).

The Joint Committee shall submit those draft implementing technical standards to the Commission as regards points (b), (c) and (d) by [PO: please insert *one year after entry into force*] and as regards points (a) and (e) by [PO: please insert *two years after entry into force*].

Power is conferred to the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010.

#### *Article 6*

#### **Cybersecurity**

ESMA shall put in place an effective and proportionate IT security policy for ESAP and shall ensure appropriate levels of authenticity, availability, integrity and non-repudiation of the information made accessible on ESAP and of the protection of personal data.

#### *Article 7*

#### **Functionalities of ESAP**

1. ESMA shall ensure that ESAP provides at least for the following functionalities:
  - (a) a web portal with a user-friendly interface in all the official languages of the Union to provide access to the information in ESAP;
  - (b) an API enabling easy access to the information in ESAP;
  - (c) a search function in all the official languages of the Union;
  - (d) an information viewer;
  - (e) a machine translation service for the information retrieved;
  - (f) a download service, including for the download of large quantities of data;
  - (g) a notification service informing users of any new information in ESAP.
2. ESMA shall ensure that ESAP provides for the functionalities referred to in paragraph 1, points (e) and (g) by 31 December 2025.
3. The search function referred to in paragraph 1, point (c), shall allow for a search on the basis of the following metadata:
  - (a) the names of the entity that submitted the information;
  - (b) the legal entity identifier of the entity that submitted the information;
  - (c) the type of information submitted by the entity that submitted the information;
  - (d) the year and month in which the information was submitted by the entity that submitted the information;

- (e) the size of the entity that submitted the information;
  - (f) the source of the information submitted.
4. The Joint Committee of the European Supervisory Authorities shall develop draft implementing technical standards specifying all of the following:
- (a) the characteristics of the API referred to in paragraph 1, point (b);
  - (b) the specific legal entity identifier referred to in paragraph 3, point (b);
  - (c) a classification of the types of information referred to in paragraph 3, point (c);
  - (d) the categories of the size of the entities referred to in paragraph 3, point (e).

The Joint Committee of the European Supervisory Authorities shall submit those draft implementing technical standards to the Commission by [PO: please insert *one year after entry into force*].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010, (EU), Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010.

#### *Article 8*

##### **Access to information available on ESAP**

1. ESMA shall ensure that access to ESAP is provided without discrimination.
2. ESMA shall ensure that anyone has direct and immediate access free of charge to the information available on ESAP.  
  
ESMA may, however, charge fees for specific services that involve searches for a very large volume of information or for frequently updated information. Those fees shall not exceed the cost incurred by ESMA for the provision of the service.
3. Notwithstanding paragraph 2, second subparagraph, ESMA shall allow all of the following entities to have direct and immediate access to ESAP free of charge to the extent necessary for those entities to fulfil their respective responsibilities, mandates and obligations:
  - (a) any Union institution, agency or other Union body;
  - (b) any national competent authority designated by a Member State pursuant to the legal acts referred to in Article 1(1), point (a);
  - (c) any member of the European Statistical System as defined in Article 4 of Regulation (EC) No 223/2009 of the European Parliament and of the Council<sup>34</sup>;
  - (d) any member of the European System of Central Banks;

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<sup>34</sup>Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

- (e) the resolution authorities designated under Article 3 of Directive 2014/59/EU of the European Parliament and the Council<sup>35</sup>.
4. For the purposes of paragraph 2, second subparagraph, ESMA may develop draft implementing technical standards to determine the nature and extent of the specific services for which fees may be charged and to determine the associated fee structure. ESMA shall submit those draft implementing technical standards to the Commission. Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

#### *Article 9*

##### **Use and re-use of information accessible on ESAP**

ESMA shall ensure that the use and re-use of the information accessible on ESAP does not infringe sui generis database rights pursuant to Article 7(1) of Directive 96/9/EC and is not subject to any conditions unless those conditions fulfil all of the following requirements:

- (a) the conditions are objective and non-discriminatory;
- (b) the conditions are justified on grounds of a public interest objective;
- (c) the conditions correspond to conditions laid down in open standard licences within the meaning of Article 2(5) of Directive (EU) 2019/1024, allowing free use, modification and sharing of that information by anyone and for any purpose.

#### *Article 10*

##### **Quality of the information**

- 1. ESMA shall perform automated validations to verify compliance of the information submitted by the collection bodies with the requirements laid down in Article 5(1), point (b).
- 2. ESMA shall implement appropriate technical processes to automatically notify a collection body that the information submitted does not comply with the requirements laid down in Article 5(1), point (b).

#### *Article 11*

##### **Tasks of ESMA**

- 1. ESMA shall, in close cooperation with the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA):
  - (a) ensure that the information received by the collection bodies is made available on ESAP in a timely manner;
  - (b) provide service support to collection bodies;

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<sup>35</sup>Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

- (c) ensure that ESAP is accessible at least 95% of the time per month;
  - (d) consult as appropriate with the collection bodies to address common issues and common principles of conduct, and in particular to discuss:
    - (i) the daily management of ESAP;
    - (ii) the development and implementation of a quality policy and, where appropriate, of service level agreements between ESMA and the collection bodies;
    - (iii) the funding conditions of ESAP, including in which situations fees may be imposed and the calculation of those fees;
    - (iv) threats in relation with cybersecurity.
  - (e) monitor the implementation and functioning of ESAP as specified in Article 12, and report annually thereon to the Commission.
2. For the purposes of paragraph 1, ESMA shall consult the Securities and Markets Stakeholders Group referred to in Article 37 of Regulation (EU) No 1095/2010.
  3. ESMA shall not store information containing personal data except for automatic, intermediate and transient processing, including storage of that information insofar as strictly necessary for the purpose of giving access to information provided by the collection bodies.

#### *Article 12*

##### **Monitoring the implementation and functioning of ESAP**

1. ESMA, in close cooperation with the EBA and EIOPA, shall monitor the functioning of ESAP based on at least the qualitative and quantitative indicators laid down in paragraph 2, and shall publish an annual report about the functioning of ESAP.
2. The qualitative and quantitative indicators referred to in paragraph 1 are the following:
  - (a) the number of visitors and searches;
  - (b) the percentage of searches that lead to a view or a download;
  - (c) the number and percentage of machine-readable information accessible on ESAP and the number and percentage of machine-readable views and downloads;
  - (d) the proportion of notifications pursuant to the automated validations referred to in Article 10;
  - (e) any significant malfunction or incident;
  - (f) an assessment of the accessibility, quality, usability and timeliness of the information in ESAP;
  - (g) an assessment of whether ESAP meets its objectives, taking into account the evolution of its use and the information flows within the Union;
  - (h) an assessment of end-user satisfaction;
  - (i) a comparison with similar systems in third countries.

3. ESMA shall consult the Securities and Markets Stakeholder Group referred to in Article 37 of Regulation (EU) No 1095/2010 before submitting the report referred to in paragraph 1.

#### *Article 13*

##### **Review**

By [*PO, please insert a date 5 years after the entry into force of this Regulation*], the Commission shall review the functioning of ESAP and assess its effectiveness. The Commission shall report to the European Parliament and to the Council on the results of this review.

#### *Article 14*

##### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council establishing a European Single Access Point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability

#### 1.2. Policy area(s) concerned

Policy area: Financial stability, financial services and capital markets union  
Activity: An economy that works for people

#### 1.3. The proposal relates to

- a new action
- a new action following a pilot project/preparatory action<sup>36</sup>
- the extension of an existing action
- a merger of one or more actions towards another/a new action

#### 1.4. Objective(s)

##### 1.4.1. General objective(s)

The general objectives are to further integrate the European capital markets, and to enable a more efficient allocation of capital across the EU.

##### 1.4.2. Specific objective(s)

###### Specific objective No 1

The first specific objective is to enable a seamless and integrated access to data published by entities subject to disclosure obligations in the area of financial services and capital markets, including sustainability related data, whilst avoiding disproportionate administrative costs for entities. The ESAP will thus increase flows of information both within Member States and cross-border.

###### Specific objective No 2

The second specific objective is to increase the digital use (and re-use) of data.

From the digital use angle, the ESAP should seek to standardise the way in which information is drawn up in order to make it easier to find, compare and analyse, thus reducing search and processing costs for users. This means improving data findability and data extractability (as regards metadata, data structuring and IT formats and if possible as regards machine readability), ensuring data quality, removing unnecessary restrictions to re-use, lowering linguistic barriers, enabling access to timely information, and possibly addressing the integrity

<sup>36</sup> As referred to in Article 58(2)(a) or (b) of the Regulation.



of data and credibility of sources. This should be consistent with actions which will facilitate use of data at national level and at Union level<sup>37</sup>.

#### 1.4.3. *Expected result(s) and impact*

*Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

From an economic angle, the ESAP will increase the circulation of information, both within the Member States and across borders thanks to free access. It will increase the digital use of this information thanks to open terms of use and widely used data extractable formats. The initiative would also foster machine readability in the long run. This will bring higher, equal and indiscriminate visibility of any market participants and voluntary filer, independently from their own size or the size of their market to investors, analysts, intermediates, researchers or funds. Such visibility will open up funding opportunities, ensure a better allocation of capital, thus contributing to lower cost of capital and more resilience of the internal market.

From an investor perspective, ESAP will ensure easy access to a wider array of information in a timely and efficient manner, thus opening new horizons. Investors will also save time and resources for searching and processing information. The ESAP will help address a growing need for sustainability-related data by companies, thus contributing to the objectives of sustainable finance and the Green Deal.

It will serve the needs of other data users including retail investors and financial advisors, public administrations, civil society, researchers and academia.

The ESAP will enable the offer of innovative services in the financial area based on analytics, big data or artificial intelligence / machine learning, and as well access and use on electronic devices.

#### 1.4.4. *Indicators of performance*

*Specify the indicators for monitoring progress and achievements.*

The following indicators of performance have been identified:

##### Objective No 1

Number of searches, views and download per year

Proportion of corrections required due to validation checks per year

Evolution of use, including cross border access

##### Objective No 2

Number of machine-readable datasets available from ESAP

<sup>37</sup> Formats specified at Union level include the formats laid down in Commission Delegated Regulation (EU) 2019/815 of 17 December 2018 on the European Single Electronic Format (ESEF).

## 1.5. Grounds for the proposal/initiative

### 1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

Establishing a single access point is a key action point of the CMU Action Plan of September 2020. The financial sector extensively relies on information and communication technologies (ICT).

**A minimum viable product should be set up by end 2024<sup>38</sup>.** The intervention should also ensure that these measures enable the EU framework to remain dynamic in order to be able to accommodate future technological progress and remain evolutionary.

### 1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Reasons for action at European level (ex-ante)

The current geographical and thematic fragmentation of disclosure mechanisms and formats of information that is relevant for the financial services, markets and sustainability is pervasive in the Union and increases access and use costs for users of that information. Information is also often searchable or available in local languages only, which is a key obstacle that discourages investors. Further individual actions by Member States would not reduce this fragmentation unless they move in the same direction to build a single access point, which is unlikely without a coordinated approach.

The expected generated Union added value (ex-post)

The Union intervention would significantly increase the effectiveness of the policy while also reducing complexity and easing the financial and administrative burden on all market participants.

The objective of this initiative (i.e. integrating information across the union and making them digitally usable) cannot be sufficiently achieved by the Member States individually. Currently, most of the rules pertaining to the channels and formats of disclosure of corporate reporting information are set out by Member States' legislation. Considering the scale and the effects of establishing a European single access point, addressing these issues can be more efficiently achieved at Union level.

### 1.5.3. Lessons learned from similar experiences in the past

New initiative

<sup>38</sup> As per the Digital Finance strategy: “By 2024, information to be publically released under EU financial services legislation should be disclosed in standardised and machine-readable formats” – Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a digital finance strategy for the EU, COM/2020/591 final

1.5.4. *Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments*

Europe wants to strengthen its digital sovereignty and set its own standards, with a focus on data, technology, and infrastructure<sup>39</sup>. Empowering businesses in a sustainable and more prosperous digital future will include the digitalisation of public services and the digital transformation of businesses.

In its European Data Strategy<sup>40</sup>, the Commission wants to make more data available for use in the economy and society, including through the development of common data spaces. The Commission's Digital Finance Strategy published in September 2020<sup>41</sup> sets out general lines on how Europe can support the digital transformation of finance in the coming years, and in particular to promote a data-driven finance including by ways of enhanced access and use of data. The roll out of a common data space such as ESAP contributes to these strategies.

The Commission is equally committed to achieving a green transition of the EU economy, as set out in the European Green Deal communication of December 2019<sup>42</sup> and the Strategy for Financing the Transition to a Sustainable Economy<sup>43</sup>. In this regard, the ESAP will contribute to this agenda by facilitating private investments in sustainable projects and activities.

Finally, ESAP is supported by the Capital Markets Union (CMU) Action Plan adopted in September 2020<sup>44</sup>.

This legislative proposal is fully compatible with the Multiannual Financial Framework.

1.5.5. *Assessment of the different available financing options, including scope for redeployment*

Several financing options were considered, including scope of redeployment, and various mixes of funds and / or EU budget.

In the final option retained, the proposal would have a limited impact on the MFF, as it foresees additional Union contribution to ESMA stemming from the additional 3 FTEs that the Authority would need in order to fulfil the additional tasks conferred by the legislators as regards the governance of the ESAP.

This will translate into a proposal to increase the authorised staff of the agency during the future annual budgetary procedure. In addition, approx. EUR 3.74 million of Union funding will be provided to ESMA for the operational costs (title 3) associated with the development and establishment of the ESAP.

Funding provided to ESMA (for both administrative and operational costs) following the entry into force of the legislation, will be co-funded by the Union and National Competent Authorities in accordance with the standard funding formula foreseen in recital 68 of ESMA's founding Regulation 1095/2010, i.e. 40% from union funds and 60% through contributions from Member State National Competent Authorities.

As regards regulatory activities implied by the ESAP, a number of implementing acts will have to be developed. This task is staged over time by the Regulation. For certain acts, the Regulation mandates the joint Committee of the European Supervisory Authorities (ESMA,

<sup>39</sup> Commission priorities for 2019-24 , [A Europe fit for the digital age](#).

<sup>40</sup> [Communication: A European strategy for data](#), European Commission, 19.02.2020.

<sup>41</sup> COM(2020) 591 final of 24.9.2020.

<sup>42</sup> Communication: [The European Green Deal](#), European Commission, 11.12.2019.

<sup>43</sup> Finance Package, Communication: [Digital Finance Strategy](#), European Commission, 24.09.2020.

<sup>44</sup> Communication : [A Capital Markets Union for people and businesses-new action plan](#), 24.09.2020.

EBA and EIOPA) to undertake the development. In performing these tasks, The EBA and EIOPA would in addition collaborate with ESMA in the conduct of certain tasks in relation to the functioning and monitoring of the ESAP. ESMA, EBA and EIOPA respectively will continue to work towards maximising synergies and efficiency gains, and monitor the additional workload and FTE associated with this proposal in the context of their overall tasks.

In order for the preparation of this important initiative to start as quickly as possible, EUR 2 million has been foreseen under the first Multi-Annual Work Programme for Digital Europe Programme (2021-2022), to be implemented via procurement. An additional contribution from the Digital Europe Programme EUR 3 million will be considered in the context of the preparation of the following Work Programme (2023-2024). Its ultimate allocation will be subject to the prioritisation for funding in the context of the underpinning adoption procedure and agreement of the respective Programme Committee. This additional funding would allow to continue the development of ESAP until the EU legislation officially appoints ESMA as the owner of the ESAP. To provide for a seamless transition, and provided this amount is ultimately allocated in the next Digital Europe Work Programme, its implementation would be entrusted to ESMA through a contribution agreement.

Whereas ESMA shall ensure that any natural or legal person have access to the information available on the ESAP free of charge, it is empowered by way of derogation to charge fees for specific services, especially in cases involving very large volume of frequently updated information. Those fees shall not exceed the cost incurred by ESMA for the provision of the specific service. Such service, associated development costs and fees, as well as their magnitude, depends on future decisions. As a result, this has no impact on the present assessment of the budgetary implications.

**1.6. Duration and financial impact of the proposal/initiative**

**limited duration**

Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY

Financial impact from YYYY to YYYY

**unlimited duration**

Implementation with a start-up period from 2022 to 2026,  
followed by full-scale operation.

**1.7. Management mode(s) planned<sup>45</sup>**

**Direct management** by the Commission through

executive agencies

**Shared management** with the Member States

**Indirect management** by entrusting budget implementation tasks to:

international organisations and their agencies (to be specified);

the EIB and the European Investment Fund;

bodies referred to in Articles 70 and 71;

public law bodies;

bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

Comments

N/A

<sup>45</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: <https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>.

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

*Specify frequency and conditions.*

In line with already existing arrangements, the ESAs prepare regular reports on their activity (including internal reporting to Senior Management, reporting to Boards and the production of the annual report), and are subject to audits by the Court of Auditors and the Commission's Internal Audit Service on their use of resources and performance. Monitoring and reporting of the actions included in the proposal will comply with the already existing requirements, as well as with any new requirements resulting from this proposal.

### **2.2. Management and control system(s)**

#### *2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

The European Securities and Markets Authority (ESMA) will manage the ESAP.

As regards the control strategy, ESMA works closely with the Commission's Internal Audit Service to ensure that appropriate standards are met in all areas of internal control framework. Those arrangements will also apply to the role of the Agencies in respect of the current proposal.

In addition, every financial year, the European parliament, following a recommendation from the Council, and taking into account the findings of the European Court of Auditors, considers whether to grant discharge to the Agencies for their implementation of the budget.

#### *2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them*

In relation to the legal, economic, efficient and effective use of appropriations resulting from the actions to be carried out by the ESAs in the context of this proposal, this initiative does not bring about new significant risks that would not be covered by an existing internal control framework. The actions to be carried out in the context of this proposal will start in 2022, and will further continue.

#### *2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

Management and control systems are provided in the Regulations currently governing the functioning of the ESAs and are deemed to be cost effective. The Regulation is regularly reviewed. Risks of error are expected to be low.

### **2.3. Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.*

For the purposes of combating fraud, corruption and any other illegal activity, the provisions of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May

1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) shall apply to ESMA without any restrictions.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. <sup>46</sup>	from EFTA countries <sup>47</sup>	from candidate countries <sup>48</sup>	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
1	DG CNECT: <02.04.03>	Diff.	YES	NO	NO	NO
1	ESMA: <03.10.04>	Diff.	NO	NO	NO	NO

New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	N/A					

<sup>46</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>47</sup> EFTA: European Free Trade Association.

<sup>48</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

<b>Heading of multiannual financial framework</b>	Number	Heading 1 : Single Market, Innovation & Digital
---------------------------------------------------	--------	-------------------------------------------------

ESMA: <03.10.04>			2022	2023	2024	2025	2026	2027	<b>TOTAL</b>
Title 1:	Commitments	(1)			0.096	0.195	0.199	0.203	<b>0.693</b>
	Payments	(2)			0.096	0.195	0.199	0.203	<b>0.693</b>
Title 2:	Commitments	(1a)			0.017	0.035	0.036	0.036	<b>0.124</b>
	Payments	(2a)			0.017	0.035	0.036	0.036	<b>0.124</b>
Title 3:	Commitments	(3a)			0.894	0.849	1.159	0.838	<b>3.740</b>
	Payments	(3b)			0.894	0.849	1.159	0.838	<b>3.740</b>
<b>TOTAL appropriations for ESMA: &lt;03.10.04&gt;</b>	Commitments	=1+1a +3a			<b>1.007</b>	<b>1.079</b>	<b>1.394</b>	<b>1.077</b>	<b>4.557</b>
	Payments	=2+2a +3b			<b>1.007</b>	<b>1.079</b>	<b>1.394</b>	<b>1.077</b>	<b>4.557</b>



DG CNECT: <02.04>			2022	2023	2024	2025	2026	2027	TOTAL
• Operational appropriations									
Budget line: <02.04.03>	Commitments	(1a)	2.000 <sup>49</sup>	3.000 <sup>50</sup>					5.000
	Payments	(2a)	0.500	4.500					5.000
Budget line	Commitments	(1b)							
	Payments	(2b)							
Appropriations of an administrative nature financed from the envelope of specific programmes <sup>51</sup>									
Budget line		(3)							
<b>TOTAL appropriations for DG CNECT: &lt;02.04&gt;</b>	Commitments	=1a+1b+3							
	Payments	=2a+2b+3							
• TOTAL operational appropriations	Commitments	(4)	2.000	3.000					5.000
	Payments	(5)	0.500	4.500					5.000
• TOTAL appropriations of an administrative nature financed from the envelope of specific programmes		(6)							
<b>TOTAL appropriations</b>	Commitments	=4+ 6	2.000	3.000	1.007	1.079	1.394	1.077	9.557

<sup>49</sup> As foreseen in section 2.2.1.9 'Preparatory actions for the Financial Data Space' of the Annex to the Commission Implementing Decision on the financing of the Digital Europe Programme and the adoption of the multiannual work programme for 2021 - 2022, 10.11.2021, C(2021) 7914 final.

<sup>50</sup> For planning purposes it is forecast that ESMA's costs in 2023 (i.e. before the proposed legislation is foreseen to enter into force) could be financed from a contribution agreement between the Commission and ESMA with funding from the Digital Europe Programme. This planning is without prejudice to adoption process for the following Work Programme (2023-2024), and in particular, assessments on the prioritisation for funding and agreement of the respective Programme Committee.

<sup>51</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

<b>under HEADING 1 of the multiannual financial framework</b>	Payments	=5+ 6	0.500	4.500	1.007	1.079	1.394	1.077	<b>9.557</b>
-------------------------------------------------------------------	----------	-------	-------	-------	-------	-------	-------	-------	--------------

• TOTAL operational appropriations (all operational headings)	Commitments	(4)	2.000	3.000	1.007	1.079	1.394	1.077	<b>9.557</b>
	Payments	(5)	0.500	4.500	1.007	1.079	1.394	1.077	<b>9.557</b>
TOTAL appropriations of an administrative nature financed from the envelope of specific programmes (all operational headings)		(6)							
<b>TOTAL appropriations under HEADINGS 1 to 6 of the multiannual financial framework (Reference amount)</b>	Commitments	=4+ 6	2.000	3.000	1.007	1.079	1.394	1.077	<b>9.557</b>
	Payments	=5+ 6	0.500	4.500	1.007	1.079	1.394	1.077	<b>9.557</b>

<b>Heading of multiannual financial framework</b>	<b>7</b>	‘Administrative expenditure’
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EUR million (to three decimal places)

		2022	2023	2024	2025	2026	2027	<b>TOTAL</b>
DG: <.....>								
• Human Resources								
• Other administrative expenditure								
<b>TOTAL DG &lt;.....&gt;</b>	Appropriations							

<b>TOTAL appropriations under HEADING 7 of the multiannual financial framework</b>	(Total commitments = Total payments)							
--------------------------------------------------------------------------------------------	--------------------------------------	--	--	--	--	--	--	--

EUR million (to three decimal places)

		2022	2023	2024	2025	2026	2027	<b>TOTAL</b>
<b>TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework</b>	Commitments	2.000	3.000	1.007	1.079	1.394	1.077	<b>9.557</b>
	Payments	0.500	4.500	1.007	1.079	1.394	1.077	<b>9.557</b>

3.2.2. *Estimated impact on ESMA's appropriations*

The proposal/initiative does not require the use of operational appropriations

The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ↓			2022	2023	2024	2025	2026	2027	<b>TOTAL</b>							
	<b>OUTPUTS</b>															
	Type <sup>52</sup>	Average cost	№	Cost	№	Cost	№	Cost <sup>53</sup>	№	Cost	№	Cost	№	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1: Establishment of the European Single Access Point																
- Output	IT System	3.489			1	0.894	1	0.849	1	1.159	1	0.838	1	3.740		
- Output																
Subtotal for specific objective No 1					1	0.894	1	0.849	1	1.159	1	0.838	1	3.740		
SPECIFIC OBJECTIVE No 2 ...																
- Output																
Subtotal for specific objective No 2																
<b>TOTAL COST</b>					1	0.894	1	0.849	1	1.159	1	0.838	1	3.740		

<sup>52</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

<sup>53</sup> Cost to Union budget, excluding contribution of National Competent Authorities, and excluding foreseen contribution from the Digital Europe Programme.

### 3.2.3. Estimated impact on ESMA's human resources

#### 3.2.3.1. Summary

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	2022	2023	2024	2025	2026	2027	TOTAL
--	------	------	------	------	------	------	-------

Temporary agents (AD Grades)			0.096	0.195	0.199	0.203	<b>0.693</b>
Temporary agents (AST grades)							
Contract staff		0.210 <sup>54</sup>					<b>0.210</b>
Seconded National Experts							

<b>TOTAL</b>		<b>0.210</b>	<b>0.096</b>	<b>0.195</b>	<b>0.199</b>	<b>0.203</b>	<b>0.903</b>
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Staff requirements (FTE):

	2022	2023	2024 <sup>55</sup>	2025	2026	2027	TOTAL
--	------	------	--------------------	------	------	------	-------

Temporary agents (AD Grades)			3	3	3	3	<b>3</b>
Temporary agents (AST grades)							
Contract staff		3					<b>3</b>
Seconded National Experts							

<b>TOTAL</b>		<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>
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<sup>54</sup> Full cost (including pension contribution) of 3 CAs for 12 months which, without prejudice to future decision making and adoption of the required Financing Decision, for working purposes is assumed to be covered by a contribution agreement financed from the Digital Europe Programme.

<sup>55</sup> Recruitment foreseen for July and as such 50% of the average cost is taken into account for 2024.

### 3.2.3.2. Estimated requirements of human resources for the parent DG

The proposal/initiative does not require the use of human resources.

The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full amounts (or at most to one decimal place)*

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
<b>• Establishment plan posts (officials and temporary staff)</b>							
20 01 02 01 and 20 01 02 02 (Headquarters and Commission's Representation Offices)							
20 01 02 03 (Delegations)							
01 01 01 01 (Indirect research)							
10 01 05 01 (Direct research)							
<b>• External staff (in Full Time Equivalent unit: FTE)<sup>56</sup></b>							
20 02 01 (AC, END, INT from the 'global envelope')							
20 02 03 (AC, AL, END, INT and JPD in the Delegations)							
Budget line(s) (specify) <sup>57</sup>	- at Headquarters <sup>58</sup>						
	- in Delegations						
<b>01 01 01 02</b> (AC, END, INT – Indirect research)							
10 01 05 02 (AC, END, INT – Direct research)							
Other budget lines (specify)							
<b>TOTAL</b>							

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

<sup>56</sup> AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD = Junior Professionals in Delegations.

<sup>57</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

<sup>58</sup> Mainly for the EU Cohesion Policy Funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime Fisheries and Aquaculture Fund (EMFAF).

Description of tasks to be carried out:

Officials and temporary staff	
External staff	

Description of the calculation of cost for FTE units should be included in the Annex V, section 3.

### 3.2.4. *Compatibility with the current multiannual financial framework*

- The proposal/initiative is compatible the current multiannual financial framework.
- The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

Minor recourse to the margin under heading 1 will be required to increase the programming for Union contributions to ESMA <Budget line 03.10.04> by EUR 4.557 million (in current prices) over the course of the MFF 2021-2027, consisting of EUR 1.007 million in 2024, EUR 1.079 million in 2025, EUR 1.394 million in 2026 and EUR 1.077 million in 2027.

- The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>59</sup>.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

[...]

### 3.2.5. *Third-party contributions*

The proposal/initiative does not provide for co-financing by third parties.

The proposal/initiative provides for the co-financing estimated below:

EUR million (to three decimal places)

	2022	2023	2024	2025	2026	2027	Total
National Competent Authorities' contributions in accordance with the standard funding formula for ESMA as set out in recital 68 of the founding Regulation 1095/2010 <sup>60</sup>			1.528	1.656	2.128	1.536	6.848
TOTAL appropriations co-financed			1.528	1.656	2.128	1.536	6.848

<sup>59</sup> See Articles 12 and 13 of Council Regulation (EU, Euratom) No 2093/2020 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027.

<sup>60</sup> i.e. 40% Union contribution to 60% Member State National Competent Authority (NCA) contribution together with the NCA share of employers pension contributions.



### 3.3. Estimated impact on revenue

The proposal/initiative has no financial impact on revenue.

The proposal/initiative has the following financial impact:

on own resources

on other revenue

please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative <sup>61</sup>				
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)
Article .....						

For miscellaneous ‘assigned’ revenue, specify the budget expenditure line(s) affected.

[...]

Specify the method for calculating the impact on revenue.

[...]

## **Annex to the Legislative Financial Statement**

The forecast impact on the Union budget following the assumed entry into force of the proposed legislation in early 2024 was estimated on the following basis:

### *Title I – Staff Expenditure*

The three additional temporary agents that it is estimated ESMA would need to oversee the development, maintenance and operation of the ESAP, are to be hired at the entry grade AD5. They are assumed (on average) to take up post at the start of July and are consequently budgeted for 6 months in 2024 and for full years thereafter.

The estimated cost of each Temporary Agent was calculated as the standard average cost of Temporary Agents to be used in the estimates of personnel costs in Legislative Financial Statements prepared in 2021 (EUR 152 000) less the standard (EUR 25 000) allowance for building and IT costs (‘habillage’) included in that standard average costing (i.e. EUR 127 000) adjusted by the correction coefficient applicable to Paris (120.5) and adjusted for an assumed inflation of 2% after 2022<sup>62</sup>.

### *Title II – Infrastructure and operating expenditure*

<sup>61</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.

<sup>62</sup> The share of the employer’s pension contributions corresponding to the proportion of Member State National Competent Authority (NCA) contributions as foreseen in recital 68 of the ESMA founding Regulation 1095/2010 was included in the estimate of the NCA contributions in section 3.2.5 of the LFS.

Costs were estimated by multiplying the number of staff by the proportion of the year employed by the standard cost for ‘habillage’, i.e. EUR 25 000 plus EUR 2 500 per staff member to cover other administrative expenses both of which adjusted for an assumed inflation of 2% after 2022.

### *Title III – Operational expenditure*

Expenditures correspond to an infrastructure that should enable the functionalities and specifications laid down by legislation for the ESAP, and ensure the technical interoperability<sup>63</sup> of the system. It should ensure smooth and high quality of service, security of storage and communication, reliable access, etc. The technical design of the infrastructure will be a prerogative of the governing body of the ESAP, and therefore this Annex provides a couple of suggested realistic avenues, which are retained as a basis for the costs assumptions.

The indicative costs are those in 5 phases to be implemented from mid-2022 until 2027, including: Proof of Concept, Work on functionalities and capabilities development, Licence fees, system maintenance, Cloud compute / storage / network costs.

The estimated costs have been adjusted for an assumed inflation of 2% after 2022.

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<sup>63</sup> Technical interoperability” covers the applications and infrastructures linking systems and services, including aspects such as interface specifications, interconnection services, data presentation and exchange, and secure communication protocols.