

COMP J:

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 Committee¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In the Capital Markets Union (CMU) Action Plan², 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 Strategy³ 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 Economy⁴, 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 Deal⁵.

¹ OJ C [...], [...], p. [...].

² 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.

³ 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.

⁴ 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.

⁵ 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.

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- (2) Easy and structured access to data is important in order for decision makers, professional and retail investors, non-governmental organisations, civil society, social and environmental organisations, as well as other stakeholders in the economy and society to make sound, informed, and environmentally and socially responsible investment decisions that serve the efficient functioning of the market. The provision of reliable and systematised sources of information Rolling out common European data spaces in crucial sectors, including the financial sector, would likewise be of particular relevance for researchers and practitioners in academia, who engage in empirical or theoretical research into serve that purpose. The financial sector is undergoing a digital transformation, which is expected to continue in the coming years, and the Union should support that transformation, in particular by promoting data-driven finance. Furthermore, putting sustainable finance at the heart of the financial markets. Ensuring easier access to public information is also crucial to increasing opportunities for small and medium-business growth, visibility, and innovation. This includes easier access to voluntary information. 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. AM 1 Silva Pereira, AM 73 Fitzgerald, AM 74 Peter Hansen

(2a) Rolling out common European data spaces in crucial sectors, including the financial sector, would serve the purpose of providing easy access to reliable and systematised sources of information. Those spaces are intended to merge currently fragmented and dispersed data that is relevant for capital markets, financial services and sustainable finance. The financial sector is undergoing a digital transformation, which is expected to continue in the coming years, and the Union 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 the 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 and social governance of businesses is easily accessible to investors and other key capital market participants so that they are better informed when making decisions about investments. For those purposes, public access to the financial and non-financial information of certain entities, such as companies, businesses and financial institutions, needs to be improved. An efficient means of doing so at Union level is to establish a centralised platform, namely, a European single access point (ESAP), giving electronic access to all relevant information, and ensuring the measurability and comparability of the data made available. AM 2 Silva Pereira

- (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 and diversity, but not including marketing information. Such access is needed in order to meet the rising demand in the market for investable and diversified environmental, social and governance (ESG) related financial products and to channel capital towards those products. ESAP should also provide access to information relevant to financial services and capital markets that

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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. Such information should be uniform in format and comparable in substance, value, utility and reliability to that submitted on a mandatory basis. To that end, the Joint Committee of the European Supervisory Authorities should develop draft implementing technical standards to specify the metadata to accompany the information submitted and, where applicable, the formats or templates to be used for drawing up such information. To that end, the Joint Committee of the European Supervisory Authorities should take into account existing standards in the corresponding sectoral legislation and in particular the standards specifically designed for small and medium-sized undertakings. ESAP as an interface should be as user-friendly as possible, with a high degree of data comparability, and search criteria that are relevant to retail investors. As presented in the Digital Finance Strategy, ESAP should be established as from 2024. AM 3 Silva Pereira, AM 75 Billy Kelleher, Caroline Nagtegaal

(3a) ESAP should not create any new reporting requirements in terms of content, but should build upon existing disclosure requirements stemming from Union legislation identified in the Annex. It is important to avoid double reporting so as to prevent additional administrative and financial burdens for the entities, especially SMEs. AM 3 Pascal Durand, AM 76 Fitzgerald, AM 121 Ferber

(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 or that is submitted on a voluntary basis. In order to ensure a full and cost efficient ~~the efficient~~ functioning of ESAP, the collection bodies should make the information available to ESAP in automated ways through a single application programming interface, drawing to the extent possible upon the existing collection procedures and infrastructures in place, at Union and national level, for the transmission of information from the collection bodies to ESMA. For the purpose of making ~~For the information to be digitally usable, entities should make such information available~~ on ESAP, the designated collection bodies should store 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 submitted by the entities or generated by the collection bodies themselves, unless appropriate alternative storage mechanisms are already provided for in Union law. Collection bodies should not be required to build new systems where existing national or Union mechanisms can be relied on as regards the storage of information. Member States should be able to identify at least one collection body for the collection of information submitted by entities on a voluntary basis, and those collection bodies could be the same as the ones collecting information submitted on a mandatory basis. ~~in the correct format and to address possible technical issues encountered by the entities, the collection bodies should provide assistance to those entities. AM 4 Silva Pereira, AM 80 Fitzgerald~~

(4a) In order for the information made publicly accessible on ESAP 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. Data extractable formats do not necessarily require information to be structured in a way that makes it machine readable, whereas machine-readable formats are file formats structured

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so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure. In order to ensure the widest array of use, both formats should be open in the sense that they are platform-independent and made available to the public without any restriction that impedes the re-use of the information contained therein. Draft implementing technical standards should be drawn up by the Joint Committee of the European Supervisory Authorities for submission to the Commission, specifying the characteristics of machine readable and data extractable formats and accounting for any evolving technology trends or standards. To ensure that entities submit the information in the correct format and to address possible technical issues encountered by entities, the collection bodies should perform automated validations pursuant to the requirements of this Regulation and provide assistance to those entities as needed. AM 5 Silva Pereira

- (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, academia and the public at large may have an interest in obtaining other information that an entity wants to make publicly accessible. Micro, sSmall and medium-sized enterprises may, in particular, 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 Union 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. While submitted on a voluntary basis, such information should be uniform in format and comparable in substance, value, utility and reliability to that submitted on a mandatory basis, notwithstanding that the former might not necessarily meet all the submission requirements of the latter. 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 Council⁶.~~ AM 6 Silva Pereira, Amendment 85 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal

(5a) Entities submitting information to ESAP remain responsible for the accuracy, ~~veracity,~~ completeness and reliability of such information and metadata. Pursuant to the principles of data minimisation and protection, entities should ensure that no personal data are included, except where those cannot be anonymised and 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 the information submitted contains personal data, entities should ensure that they can rely for the disclosure thereof on one of the lawful grounds of processing laid down in Article 6 of Regulation (EU) 2016/679 of the European Parliament and of

⁶ 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).

*the Council*⁷. AM 7 Silva Pereira, AM 84 Tang Silva Pereira, Amendment 86 Dimitrios Papadimoulis, Amendment 88 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal

- (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. *Any modifications required to that list should be carried out in the shortest timeframe possible.* AM 8 Silva Pereira
 - (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 *and the collection bodies* should implement appropriate and proportionate policies, *including regular reviews*, to ensure that ESAP protects the information processed and functions as needed *to the highest appropriate standard*. AM 90 Fitzgerald, AM 91 Kelleher, Nagtegaal
 - (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, *as well as e-accessibility features designed for visually impaired persons or individuals with disabilities and access needs*. The search functions should be offered *free of charge and* 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 2025⁴, ESMA should ensure that ESAP provides users with a minimum set of functionalities, to be completed by 31 December 2026⁵. AM 9 Silva Pereira, AM 92 Kelleher, Nagtegaal, AM 93 Ferber
- (9 a) When designing the user inter-face for ESAP, it should be borne in mind that it will potentially have a broad range of users, including both professional and retail investors, as well as academic institutions and civil society organisations. Therefore, the user-interface and search function should be designed in a manner that caters for a broad range of potential users.* AM 92 Kelleher, Nagtegaal
- (10) *Using and re-using* information that is *publicly* 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 *for the use and* re-use of the information that is available on ESAP for purposes other than *those the purposes* for which the information was drawn up. ~~However, Such the~~ use and re-use of that information should, *nonetheless*, be subject to objective, proportionate and non-discriminatory

⁷ 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).

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 Council⁸ ~~should apply. The licensing terms of those standard licences should~~allowing allow for data and content to be freely accessible, used, modified and shared by anyone for any purpose. Neither ESMA nor the collection bodies ESMA should bear no any form of 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.~~ AM 10 Silva Pereira, AM 96 Van Overtveldt, Nissinen, Hoogeveen

- (11) The information available on ESAP should be accessible to the public in a timely manner. In that regard, the time interval between ~~collecting the collection of~~ the information by collection bodies and its publication in ESAP and making it 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. The validity of the information should not be assessed on the basis of its content but rather on its compliance with the requirements of this Regulation and any accompanying amendments to sectoral legislation. In assessing the validity of the information, collection bodies should maintain discretion in rejecting information that falls outside the scope of ESAP. AM 11 Silva Pereira
- (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 may, however, should ~~be allowed to~~ impose fees for those specific services, including for services with high maintenance or support costs due to searches for and downloads of very large volumes of information or high frequency of access to information made available in ESAP, in particular if such information is of commercial relevance, ~~or to frequent access to ESAP.~~ Any fees imposed should, however, not exceed the cost of the service provided by ESMA and should be allocated to contributing to the overall functioning of ESAP. Retail investors, academia, social partners and civil society organisations should not be subject to any fees. The calculation of fees should be transparent and based on clear principles. AM 12 Silva Pereira-, AM 101 Papadimoulis, AM 102 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal, AM 104 Peter-Hansen
- (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

⁸ 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).

the context of providing information via ESAP, ESMA, in its capacity as data controller of ESAP, and the collection bodies ~~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 Council⁹ are complied with. Submitting entities should be responsible for the processing of personal data on the basis of one of the lawful grounds for processing listed in Article 6, point (1) of Regulation (EU) 2016/679 of the European Parliament and of the Council and for identifying the presence of personal data in the information. Information accompanied by a metadata identifying that it contains personal data should not be retained by collection bodies or ESAP for longer than necessary and in any event for no longer than 5 years, unless otherwise stated in the legal acts in the scope of ESAP. AM 13 Silva Pereira, AM 106 Silva Pereira

- (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 by entities 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(279), of Regulation (EU) No 910/2014 of the European Parliament and of the Council¹⁰. A specific legal entity identifier (LEI), when available, may should be a mandatory attribute of that certificate. That seal or signature acquired by ESAP should be made available to users. Where available, the legal entity identifier should be based on a globally recognised standard in order to facilitate interoperability. In the absence of a LEI, alternative means of efficiently ensuring a unique identification of the entities concerned should be defined, such as a reference to a set of national and industry identifiers commonly used, and thus widely available in the Member States, that is published and maintained by the ECB. AM 14 Silva Pereira, AM 107 Papadimoulis AM 109 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal
- (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 ~~personal data~~ is neither retained nor made available on ESAP ~~are made accessible~~ for longer than necessary as provided for under Union law and, in any event, for no longer than 5 years, unless stated otherwise in the legal acts in the scope of ESAP. 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 2025⁴. AM 15 Silva Pereira, AM 112 Ferber, AM 113 Nagtegaal
- (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 clear

⁹ 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).

¹⁰ 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).

and detailed 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 *by categories*. To that purpose, the Joint Committee of the European Supervisory Authorities should develop draft implementing technical standards. Additionally, ESMA ~~might should be able to~~ 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. *Such draft implementing technical standards would allow for global and interoperable access to the information of the entity.* 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 Council¹¹, No 1094/2010 of the European Parliament and of the Council¹² and No 1095/2010 of the European Parliament and of the Council¹³. *AM 16 Silva Pereira, Amendment 114 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal*

- (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,

(18 a) This regulation aims to bundle information originating from existing disclosure regimes. To avoid additional burdens, the ESAP should not create any additional reporting or disclosure obligations. AM 121 Ferber

¹¹ 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).

¹² 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).

¹³ 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).

COMP A:

HAVE ADOPTED THIS REGULATION:

Article 1

The European Single Access Point (ESAP)

1. By 31 December 2025, (AM 17 Silva Periera, AM 122 Ferber, AM 123 Nagtegaal, **Kellher**) 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; (AM 18 Silva Pereira)
 - (b) other information of relevance to financial services provided in the Union or to capital markets of the Union or concerning sustainability **and workplace diversity and inclusion** that entities wish to make accessible on ESAP on a voluntary basis about their economic activities in accordance with Article 3(1). (Silva Pereira AM 19)
2. **If available,** ESAP shall ~~not~~ provide access to information submitted before 1 January 2025. (AM 126 Peter Hansen AM 127 Ferber, AM 20 Silva Pereira, AM 128 Nagtegaal)

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 **Member States in application of** the implementing technical standards referred to in Article 3(2); (AM 21 Silva Pereira)
- (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;

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- (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, **contextualise** or manage an information resource, including by describing, explaining, or locating that information resource.

(AM 129 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal)

(7 a) 'personal data' means personal data as defined in Article 4 paragraph 1 of Regulation (EU) 2016/679. (AM 130 Tang, Silva Pereira)

(7 b) 'historical information' means the information referred to in Article 1(1), point (a) that was made public not more than five years before the date of application of the requirement to submit that information to ESAP. (AM Silva Pereira)

Article 3

Voluntary submission of information for accessibility on ESAP

1. **From 1 January 2027, any entity ~~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 upon its establishment. Each Member State shall designate at least one collection body for the collection of information submitted on a voluntary basis. The substance and format of that information shall be of comparable value and reliability to that referred to in Article 1(1), point (a). When submitting that information, the entity ~~natural or legal person~~ shall:**

(AM 23 Silva Pereira, AM 132 Fitzgerald)

- (a) provide the collection body with a **minimum level of metadata** about the information submitted; **including metadata specifying the voluntary nature of the submission of such information;**

(AM 24 Silva Pereira, AM 135 Fitzgerald)

- (b) provide the collection body with its legal entity identifier as specified pursuant to Article 7(4);
- (c) use **at least** a data extractable format for drawing up that information;

(AM 25 Silva Pereira, AM 137 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal)

- (ca) **ensure that the information submitted falls within the scope of Article 1(1), point (b);** (AM 26 Silva Pereira)

- (d) ensure that no personal data are included, except where the personal **data is required by Union or national law or constitutes** a necessary element of the information about its economic activities. **and that data cannot be anonymised.**

(AM 27 Silva Pereira , AM 139 Tang, Silva Pereira)

- d a) ensure that the data submitted **is appropriately highlighted,** accurate and complete.(AM 142 Fitzgerald, AM 143 Tang, Silva Pereira)

1a. **By 31 December 2026, Member States shall designate at least one collection body for the collection of the information submitted on a voluntary basis and notify ESMA thereof. Those collection bodies shall comply with Article 5. (AM 28 Silva Pereira)**

2. The Joint Committee of the European Supervisory Authorities shall develop draft implementing technical standards to specify all of the following:

- (a) **a minimum level of metadata to be provided about the information submitted;**
(AM 145 Fitzgerald)

- (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.~~
AM 146 Fitzgerald

- (c a) **standards for the automatic identification of personal data**

(AM 148 Tang, Silva Pereira)

- (c b) **the cases under which personal data can be included in voluntary submissions**

(AM 149 TAng, Silva Pereira)

- (c c) **the consequences of inaccurate or misleading information submissions**

(AM 150 Tang, Silva Pereira)

The Joint Committee of the European Supervisory Authorities shall submit those draft implementing technical standards to the Commission by **30 June 2025.** (AM 29 Silva Pereira)

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.

2 a. **If necessary , the Joint Committee of the European Supervisory Authorities shall adopt guidance for entities to ensure the metadata submitted is relevant and draw upon existing technical standards when drafting implementing standards.**

(AM 153 Fitzgerald, AM 154 Nagtegaal, Kelleher)

3. Where the information referred to in paragraph 1 contains personal data, entities shall ensure that the processing **of such data** 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. (AM 30 Silva Pereira)

COMP. B:

Article 4

List of collection bodies

ESMA shall publish a list of the collection bodies with information about the Uniform Resource Locator (URL) of each collection body **on the web portal referred to in Article 7(1), point (a).** (AM 31 Silva Pereira)

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 **technical** automated validations on the information **submitted by the entities** to verify that the information complies with all of the following requirements: (AM 32 Silva Pereira, AM 157 Fitzgerald)
 - (i) the information has been submitted using **at least** 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); (AM 33 Silva Pereira)
 - (ia) **the information contains the appropriate level of authenticity as specified in the implementing technical standard referred to in Article 5(6), availability, integrity and proof of origin;**
(AM 34 Silva Pereira, AM 158 Johan Van Overtveldt, Johan Nissinen, Michiel Hoogeveen)
 - (ii) the metadata as specified pursuant to paragraph 6, point (d) is available and complete;
 - (iii) the information contains a qualified electronic seal, **if available**;
 - (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;

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- (e) provide technical assistance to the entities submitting the information **in relation to, at least, the submission, rejection and resubmission process;** (AM 35 Silva Pereira)
- (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). **Where the metadata accompanying the information submitted pursuant to Article 1(1) refers to or contains any personal data, such information shall not be retained for longer than necessary and in any case not be made available on ESAP for longer than 5 years, unless stated otherwise in the legal acts referred to in Article 1(1), point (a).**

(AM 36, AM 162 Silva Pereira , AM 163 Tang Silva Pereira)

For the purposes of point (f), **and in accordance with Regulations (EU) 2016/679 and (EU) 2018/1725**, 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). (AM 37 Silva Pereira)

(f a) remove any information that is notified to the collecting body as being false or containing errors. (AM 166 Billy Kelleher, Caroline Nagtegaal)

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) **or on the basis of notifications received according to Article 10(2);AM 167 Fitzgerald**
- (b) where the information is ~~manifestly~~ inappropriate, abusive, or ~~clearly~~ outside the scope of the information referred to in Article 1(1).

Collection bodies shall notify the entities of the rejection and the reasons thereof within a reasonable timeframe. AM 170 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal

(AM 38 Silva Pereira, AM 169 Peter Hansen)

3. **Where the information submitted by an entity is rejected by the collection body, that entity shall correct and resubmit the information without undue delay. The collection body shall notify ESMA if information is removed or replaced. Users that have downloaded information that is subsequently removed or replaced shall be notified of this.** Entities may submit information referred to in Article 1(1), point (a) only once to either one of the relevant collection bodies. (AM 39 Silva Pereira)

4. **Entities subject to mandatory reporting shall be responsible for ensuring the accuracy of the information submitted owing to their legal obligations under the relevant Union law listed in the Annex to this Regulation or national law. ~~Entities shall ensure and assume responsibility and be liable~~ for the accuracy, completeness and reliability of the information that they submit to the collection bodies, as well as for the accompanying metadata. Entities shall also ensure the accuracy of the information they submit to the collection bodies on a voluntary basis.**

(AM 40 Silva Pereira, AM 171 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal, ~~AM 172 Johan Van Overtveldt~~, Johan Nissinen, Michiel Hoogeveen, AM 173 Peter-Hansen, AM 174 Fitzgerald)

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 Council¹⁴, **or any other intellectual property rights in a way that prevents or restricts the use and re-use of the contents of the database pursuant to Article 9 of this Regulation.**

(AM 41 Silva Pereira, AM 175 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal)

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;
 - (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).

(ea) a list of formats that are acceptable as data extractable formats and as machine-readable formats in accordance with paragraph 1, point (b)(i). (AM 42 Silva Pereira)

- 6 a. **When developing the implementing technical standards referred to in paragraph 1, the Joint Committee of the European Supervisory Authorities shall take into consideration the standards already existing in the corresponding sectoral legislation, and in particular the standards specifically designed for small and medium-sized undertakings. (AM 43 Silva Pereira)**

6 b. The collection bodies that are Union bodies, authorities or registers may provide ESAP with historical information. That information shall be prepared in a data extractable format as defined in Article 2(3), and be accompanied by metadata specifying the names of the entity, the type of information as classified pursuant to Article 7(4), and, where available, the legal entity identifier of the entity as specified pursuant to Article 7(4), and specifying that this information is historical information. By way of derogation from Article 5(1), point (f), historical information provided to ESAP shall not be made available for longer than 5 years. (AM Silva Pereira)

¹⁴ 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).

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.

COMP C:

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. **ESMA may carry out periodic reviews of the IT security policy and the cybersecurity situation of ESAP in consideration of evolving European and international cybersecurity trends and latest developments.** (AM 44 Silva Pereira, AM 179 Fitzgerald)

COMP D:

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, **taking account of individuals with disabilities and access needs**, in all the official languages of the Union to provide access to the information in ESAP; (AM 45 Silva Pereira)
 - (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.

1 a (new). ESMA shall put in place appropriate technical and organisational measures to avoid excessive disclosure of personal data via the API or download reservice referred to in paragraph 1, points b and f of this article. (AM 180 Tang, Silva Pereira)

2. ESMA shall ensure that ESAP provides for the functionalities referred to in paragraph 1, points (e) and (g) by 31 December 2026. (AM 46 Silva Pereira)

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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 **and to which the information relates; (AM 47 Silva Pereira)**
- (b) the legal entity identifier of the entity that submitted the information **and, where applicable, the legal entity identifier of its subsidiaries;**

(AM 181 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal)

- (c) the type of information, **as provided for in Article 1(1) and including information on sustainability where applicable**, submitted by the entity **and the mandatory or voluntary nature of the submission of such** information;

(AM 48 Silva Pereira, AM 182 Hansen, AM 183 Fitzgerald, AM 184 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal)

- (d) the **date on** in which the information was submitted by the entity **to the collection body; (AM 49 Silva Pereira, AM 185 Fitzgerald)**

(e) the size of the entity **by category** that submitted the information **and to which the information relates; (AM 50 Silva Pereira)**

(e a) **the country of establishment of the entity; (AM 186 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal)**

(e b) **the industry sector(s) of the entity's economic activities; (AM187 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal)**

- (f) the source of the information submitted.

(fa) **the original language in which the information was submitted by the entity. (AM 51 Silva Pereira)**

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.

[4 a. The Joint Committee of the European Supervisory Authorities shall consult with the European Financial Reporting Advisory Group \(EFRAG\) on the development of these draft](#)

implementing standards when it comes to defining requirements for the accessibility formats of sustainability information. AM 18 ~~Pascal Durand~~JURI

COMP E:

Article 8

Access to information available on ESAP

1. **In order to promote transparency and the smooth functioning of European capital markets** ESMA shall ensure that access to ESAP is provided without discrimination. (AM 191 Tang, Silva Pereira)

1 a. **When establishing ESAP, ESMA may require all users to complete a digital declaration specifying whether they intend to use any of the services referred to in paragraph 2 in respect of which ESMA is able to charge fees.** (AM 54 Silva Pereira)

2. ESMA shall ensure that anyone has direct and immediate access free of charge to the information available on ~~and distributed by~~ ESAP. (~~AM 52 Silva Pereira~~)

ESMA ~~shall~~ may, however, charge fees for specific services **having high maintenance or support costs, or** that involve searches for **and downloads of** large volumes of information, **in particular if such is of commercial relevance and re-use of data.** Those fees shall **be kept to a minimum and, in any case,** not exceed the **direct** cost incurred by ESMA for the provision of the service. **The relevant revenue shall be allocated to contributing to the overall functioning of ESAP. Retail investors, academia, social partners, civil society organisations and public bodies shall not be subject to fees.** Other circumstances where fees shall not apply include the use of information provided on ESAP by entities in fulfilling regulatory obligations.

(AM 53 Silva Pereira, AM 194 Papadimoulis, AM 195 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline, AM 196 Peter-Hansen, AM 197, 198 Fitzgerald)

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 Council¹⁵;

¹⁵Regulation (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

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- (d) any member of the European System of Central Banks;
- (e) the resolution authorities designated under Article 3 of Directive 2014/59/EU of the European Parliament and the Council¹⁶.

(e a) any Member State government institution, body, or agency. (AM 200 Fitzgerald)

(ea) any educational and training establishment for the sole purposes of teaching and empirical or theoretical research, academics, news organisations and non-governmental organisations insofar as access to the data is necessary in the performance of their work. (AM 55 Silva Pereira, AM 201 Tang, Silva Pereira)

4. For the purposes of paragraph 2, second subparagraph, ESMA shall develop draft implementing technical standards to determine the nature and extent of the specific services for which fees may be charged to commercial users and to determine the associated fee structure. (AM 56 Silva Pereira, AM 204 Papadimoulis)

4 a. If ESMA decides to charge fees to certain users of ESAP or for certain services of ESAP, it shall publish and make easily accessible on the ESAP website the fee structure, the volume thresholds, if relevant, and rate, and review the rate and thresholds on an annual basis.

AM 205 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal

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.

COMP F:

Article 9

Use and re-use of information accessible on ESAP

Neither ESMA nor collection bodies shall bear any liability for the use and re-use of information made available by entities and accessible on ESAP. (AM 57 Silva Pereira, AM 206 Fitzgerald (identical))

Personal data from ESAP shall be used or re-used in line with Regulation (EU) 2016/679 and any personal data that is re-used shall not be retained for longer than necessary and in any case not for longer than 5 years, unless provided for otherwise in the legal acts referred to in Article 1(1), point (a) of this Regulation. (AM 207 Tang, Silva Pereira)

⁸⁹89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

¹⁶Directive 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).

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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 **ensure that ESAP performs periodic** automated validations to verify compliance of the information **provided** by the collection bodies **as submitted by the entities, under** the requirements laid down in Article 5(1), point (b). (AM 58 Silva Pereira, AM 208 Peter-Hansen)

2. ESMA shall implement appropriate technical processes to automatically notify a collection body that the information **provided** does not comply with the requirements laid down in Article 5(1), point (b). **In cases of non-compliance with those requirements, responsibility for the information contained in ESAP shall lie with the reporting entities. The collection body shall notify the submitting entity of the rejection and the reasons for in accordance with Article 2(2), subparagraph 2.**

(AM 59 Silva Pereira, AM 209 Billy Kelleher, Pascal Durand, Stéphanie Yon-Courtin, Gilles Boyer, Caroline Nagtegaal)

2 a. ESMA shall apply procedures to verify the completeness and accuracy of the information submitted by the collection bodies. ESMA may also perform additional data quality, integrity, and proof of origin checks, and may notify and suspend publication of information depending on the results of these checks. (AM 210 Peter-Hansen)

COMP G:

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, **following submission by the entities**, is made available on ESAP in a timely manner; (AM 60 Silva Pereira)
- aa) **ensure that the information made available on the ESAP is complete, and accurate;** (AM 212 Peter-Hansen)
- (b) provide service support to collection bodies;

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(c) ensure that ESAP is accessible at least 97% of the time per month, **not accounting for cases of scheduled maintenance, content updates and page upgrades, in which cases a clear notice shall be given to users indicating the likely duration of the interruption of services provided by ESAP;** (AM 61 Silva Pereira)

(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;~~ (AM 214 Ferber)

(iv) **existing and emerging** threats in relation with cybersecurity. (AM 62 Silva Pereira)

(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, **and establish an ad hoc consultative group composed of experts and relevant stakeholders to advise and support ESMA in the technical implementation of ESAP.** (AM 63 Silva Pereira)

3. ESMA shall **ensure that no** information containing personal data **is stored on ESAP unless necessary for facilitating easy and timely access to the information on ESAP and for implementing the relevant requirements set out in [this Regulation].** ESMA shall take appropriate technical and organisational measures to ensure that personal data processing via ESAP is carried out in accordance with Regulation (EU) 2018/1725 and that information is not retained or made available any longer than provided for in Article 5(1), point (f). (AM 64, 218 Silva Pereira)

3 a. ESMA shall ensure that personal data processing is in compliance with the Data Protection Framework for EU Institutions. (AM 219 Fitzgerald)

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 **and submit to the European Parliament and the Council** an annual report about the functioning of ESAP. (AM 65 Silva Pereira)

2. The qualitative and quantitative indicators referred to in paragraph 1 are the following:

(a) the number of visitors, searches **and downloads;** (AM 66 Silva Pereira)

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(aa) the type of information viewed and downloaded by percentage; (AM 67 Silva Pereira)

(ab) the fees referred to in Article 8 and charged by ESAP; (AM 68 Silva Pereira)

- (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 affecting the operation or overall performance of ESAP; (AM 69 Silva Pereira)
- (f) an assessment of the accessibility, quality, usability, reliability and timeliness of the information in ESAP; (AM 70 Silva Pereira)
- (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 and the ad hoc consultative group to be established pursuant to Article 11 of this Regulation before submitting the report referred to in paragraph 1. (AM 71 Silva Pereira)

COMP H:

Article 13

Review

By [PO, please insert a date 5 years after the entry into force of this Regulation], the Commission shall, in close cooperation with ESMA and taking into account the annual report published in accordance with Article 12, review the functioning of ESAP and assess its effectiveness and identify shortcomings in its performance. This review shall be accompanied by an overview of existing data-gaps in the EU and a strategy to address them. The review shall also include an assessment of the impact of this Regulation on the market position of private data providers in the EU. The review shall also include the contribution of ESAP to the increased visibility of SMEs to cross-border investors, ESAP's interoperability with similar global platforms and the costs incurred by ESMA for operating ESAP. (AM 220 Nagtegaal)

Should the report reveal operational difficulties from either the reporting entities, collection bodies or ESMA, the Commission shall take appropriate action. (AM 221 Fitzgerald)

The Commission shall report to the European Parliament and to the Council on the results of this review. (AM 72 Silva Pereira, AM 222 Tang Silva Pereira)

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The review shall make recommendations on the future development of ESAP including any further reporting requirements to be included within the scope. (AM 225 Fitzgerald)

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*

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