



# Annex to the comments of German Banking Industry Committee on

Targeted Consultation on the establishment of a European  
Single Access Point (ESAP) for financial and non-financial  
information publicly disclosed by companies

Register of Interest Representatives

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The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent more than 1,700 banks.

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## **Comments of German Banking Industry Committee to question 7 "The scope of ESAP"**

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

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

### **General remarks**

With respect to the provided list of EU legislations, we are of the opinion that, in general, an ESAP should lead to efficiency gains for any involved stakeholder, regardless if on the preparer or user side. Against this background and as already explained in our comments on question 1, it is important that ESAP does not involve any additional information requirements. In our opinion, the ESAP serves solely as a central collection point for information that has to be published today but has so far been stored in different locations.

In order to avoid an additional procedural burden for the submitting companies, we are in favour of maintaining the submission methods that are currently used by the companies or required by law (e.g. submission to national registers, ESMA, etc.). In a further step, these information should be forwarded from these registers to the ESAP. If, in exceptional cases, new publication requirements will be considered inevitable it should also be envisaged and possibly regulated that other existing publication requirements will be removed or simplified and, in addition, could be disclosed on a voluntary basis if the preparer considers the information still useful. The duplication or multiplication of mandatory systems, data and reporting lines clearly needs to be avoided by all means. Such additional burdens would significantly weaken the acceptance of the ESAP and the Capital Markets Union in general.

We would like to emphasize that, in our opinion, the ESAP is not suitable for the publication of data that is subject to constant change, such as market data according to MiFIR that is continuously generated in secondary market trading. The ESAP should therefore contain only data that is not overwritten by new data after a very short period of time.

We consider it extremely unfortunate that only a summarized assessment is possible for Regulation (EU) 2019/2088 on sustainability-related disclosure and the Taxonomy Regulation (2020/852/EU), since we have a differentiated view of the possible inclusion of information related to these legal texts in the ESAP. With regard to the Taxonomy Regulation (2020/852/EU), we fully agree with the inclusion in the ESAP as soon as possible. With regard to Regulation (EU) 2019/2088 on sustainability-related disclosure we are much more critical and would therefore select "somewhat disagree". The reasons for our assessments are described in the explanations to the individual legal texts below.

### **Explanation regarding NFRD and Art. 8 Taxonomy Regulation**

From a sustainable finance perspective, we are particularly interested in the integration of the requirements of the Non-Financial Reporting Directive (NFRD) (2014/95/EU) and Art. 8 Taxonomy Regulation into the scope of ESAP. In particular, the first-time reporting of the taxonomy ratio represents a challenge for banks, as there are large data gaps or information that cannot be directly retrieved from

our business partners. Without sufficient and valid data from the real economy, determining a robust taxonomy ratio will be a serious challenge. The appropriate integration of the real economy into this database system could make a significant contribution to closing existing data gaps.

In the context of reporting, it would also be helpful to include some climate and environment-related information in the database focusing on a company's emissions (compare for example ECB Guide, requirement 13; TCFD Guide etc.). Motivation for this argumentation is that financial institutions still face the problem of calculating Scope 3 emissions along their own business portfolio, as they still have to deal with a significant lack of data from their borrower/business partners. Therefore, this is where the public availability of a company's scope emissions could be very helpful for the financial sector. In addition, the disclosure of climate and environmental information of companies could help to identify transformation potential in the respective industry. From our point of view, it would be helpful to include first data from corporate reporting in the database and at a later stage information disclosed by banks.

#### **Explanation regarding SFDR**

In addition to the explanation above to the NFRD and Art. 8 Taxonomy Regulation it would be helpful to include data from non-financial corporates in the ESAP database, especially with regard to the Sustainable Finance Disclosure Regulation (SFDR) (2019/2088) and the requirement for Financial Market Participants (FMP) to disclose Principal Adverse Impacts on Sustainability (PAI). In order to fulfil his requirement, information on Key Performance Indicators (KPIs) is of utmost importance. Only when this has been realised an appropriate reporting of PAI will be possible for FMP. Apart from that, there is no need for delivering information on sustainability risks policies in the ESAP.

#### **Explanation regarding Prospectus Regulation (2017/1129/EU)**

The current publication regime under the prospectus regulation is transparent, established and well-functioning. It gives investors the opportunity to obtain comprehensive information about the issuer or the relevant security based on data legally required by Prospectus Regulation. This data is already publicly available at national level. More recently, ESMA established a prospectus register (ESMA Registers (europa.eu)) and provides in that centralized mechanism EU-wide certain information stored in a machine readable way. It allows interested investors access free of charge and appropriate search facilities. The data from this register could be easily integrated in the ESAP. In any case, there should be no additional obligation for issuers to submit data twice or on an even more granular basis. The data provided by ESAP must correspond to those data and in that format, which is legally required by the Prospectus Regulation.

#### **Explanation regarding The Shareholders Rights Directive (SRD)**

It is our understanding that only information provided by issuers of shares (e.g. Remuneration Report "say on pay", Information on related party transactions) is to be included in the ESAP. Therefore, ESAP should contain these information, which benefits all market participants by providing publicly available information from a central source. However, the ESAP data deriving from the SRD should be restricted to data delivered by an obligation to deliver through regulation only.

#### **Explanation regarding capital markets regulation such as Prospectus Reg, MiFID / MiFIR, SFTR, EMIR**

In general, we have sympathy for the idea of an EU-wide platform that can provide investors and institutions with seamless access to financial and especially sustainability related company information.

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Improved transparency of company data can surely help to promote cross-border investments. However, there are many related questions and aspects e.g. in relation to governance, associated costs, scope, potential users, responsibilities, input parameters of/for the platform which need to be addressed beforehand in order to be able to properly assess the project. In addition, we also have certain doubts with respect to the feasibility and practicability of any new system as we have mixed experiences with existing platforms and databases in the European market. Nevertheless, given that those databases already exist in some areas of capital markets regulation, it is important that they would be linked into a newly set up EU-wide master database. The duplication or multiplication of systems, data and reporting lines clearly needs to be avoided.

**Explanation regarding The Market Abuse Regulation (596/2014/EU) and Market Abuse Directive (2014/57/EU) (e.g. inside information)**

The current publication regime under the Market Abuse Regulation is established and well-functioning. The purpose of the ad hoc disclosure obligation or the director's dealings disclosure is to achieve an equal level of information for market participants by informing the market as soon as possible and uniformly so that no inappropriate prices are formed due to incorrect or incomplete information of the market. The disclosure obligation therefore serves the interest of the entire investing public, ensures the functioning and integrity of the capital market and creates equal opportunities through transparency. The publication regime under MAR is at the same time an important preventive measure against the abuse of insider information. There should be no additional obligation for issuers to submit data twice or on an even more granular basis. The data provided by ESAP must correspond to those data and in that format, which is legally required by the Market Abuse Regulation or at national level.

**Explanation regarding Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation (1286/2014/EU)**

We fully disagree with the idea to include the Key Information Document (KID) into the ESAP. According to Art. 5 para 1 of the PRIIPs Regulation the manufacturer shall, in general, draw up a KID for the respective product and shall publish it on its website before the product is made available to retail investors. Further details on the provision of the KID contain Art. 13 and 14. There are no further publication requirements for the manufacturer, e.g. there is no requirement to submit the KID to the respective NCA for approval or any register as opposed to the prospectus area for instance. Please note that the use of the ex-ante notification in Art 5 para 2 is only practiced in very few member states in the EU and it is not required by the PRIIPs Regulation itself. In addition, there are established market practices for the "transport" of the KID from manufacturer to distributor, which work pretty well. This being said, any plan to include the KID in the ESAP would necessarily impose new requirements and additional burdens for the manufacturer. As already mentioned in our general comments to section 7 above, it is of utmost importance for us that with the ESAP no additional information requirements will be introduced in comparison to the status quo. Please also note that due to the requirements of the PRIIPs Regulation many KIDs are being updated very frequently in the market today (often daily) which leads to dynamic data that is also not suitable for an ESAP in our point of view.

**Explanation regarding "Low Carbon Regulation" (EU 2019/2089)**

In our view, there is no need to include sustainable benchmarks from Regulation (EU) 2019/2089 in the ESAP. For a couple of years, ESMA maintains a public register that contains a list of third country benchmarks and a list of EU administrators ([ESMA Registers \(europa.eu\)](https://www.esma.europa.eu/registers)). This data is free of charge, publicly available and updated promptly. Nevertheless, there is a considerable potential for improving

that register. Currently market participants cannot identify which EU benchmarks have been approved and which have not. This information is of considerable relevance, because market participants are only allowed to use such approved benchmarks.

Therefore, it would create a great benefit, if in the future all benchmarks used in the EU were listed in the benchmark register. A restriction to those from Regulation (EU) 2019/2089 would be inconsistent. Such a comprehensive register would thus ensure a high degree of transparency and legal certainty for all market participants (and not only for ESG investors).

It is also conceivable for data from the BMR register to be transferred to the ESAP. In this case, however, it must be ensured that administrators only have to report the legally required data to the BMR register.