



CAPITAL MARKET UNION – ACTION 1

EUROPEAN SINGLE ACCESS POINT (ESAP)

AMF RESPONSE TO THE EUROPEAN COMMISSION TARGETED CONSULTATION ON THE EUROPEAN SINGLE ACCESS POINT (ESAP)

March, 2021

The Autorité des Marchés Financiers supports the European Commission initiative to launch a European single access point (ESAP) and welcomes the opportunity to participate in the design of this key project of the Capital Market Union.

Data is a key resource; it is essential to the proper functioning of European capital markets. The challenges posed by its accessibility and, as a corollary, by its cost, are issues that are essential to address in order to ensure the proper functioning of the Capital Market Union. The ESAP should offer increased visibility to companies listed on regulated and SME growth markets; such considerations are even more prominent in the current context given the need for a strong economic recovery and the ambitions of the European Green deal. The ESAP initiative will also play a full part in the implementation of the Commission's strategy on sustainable finance.

In the very first place, it is essential to develop a good understanding of the needs to which ESAP should respond and the benefits it could bring to users and issuers. Indeed, the global architecture of the platform and the potential adjustments this project could entail to current reporting structures may induce potentially heavy costs for the various stakeholders, among which issuers, but also public bodies such as NCAs and OAMs. These costs should participate in the building of an infrastructure that benefits everyone. In order to properly measure the impacts of such a project, a precise costs/benefits analysis must be carried out for each type of actors, including NCAs, in the planning phases of the project.

This database should provide investors with an easy and user-friendly access to the financial and non-financial information reported by European issuers. Today, investors and asset managers largely rely on data providers to source the information they need to build their investment strategies and meet their regulatory obligations. At the same time, European issuers provide the market with significant financial and non-financial data in meeting their regulatory obligations. ESAP should bridge the gap between the disclosure of such information by issuers and effective, comprehensive, timely and efficient access to that information by investors and asset managers. This project should also ensure better and equal access to public corporate information for a large panel of users (incl. academics, NGOs...) and the European population as a whole.

A step-by-step approach should be favored, both with respect to entities included in ESAP and information to be covered. On this basis, and with the continuous aim to address the needs of users, the AMF supports the idea of a progressive centralization of the various reporting obligations that arise from EU regulations. This single access point should thus incorporate documents produced by issuers in line with reporting obligations, but could also contain key performance indicators (KPIs) as long as they are defined at European level and that a common methodology exists for their calculation. As an example, sustainability-related KPIs could be inspired by the revised NFRD and the European ESG

standard reporting (e.g. carbon footprint). **The success of this project will also depend on its timeframe.** The single access point should in particular be set up to enable the storage and exploitation of the first reports prepared in application of the revised non-financial directive. Moreover, and to the extent possible, this single access point initiative should build on existing systems and processes and take advantage of the lessons learnt from previous projects, such as the implementation of XBRL language for listed companies' financial reports, the EEAP or the prospectus register.

The scope of ESAP should be driven by the scope of the EU legislations that the single access point will cover. If companies whose securities are listed on a European regulated market or on an SME Growth Market should be included first in terms of priority, the scope of the single access point should correspond to the scope of the regulations it includes.

A phasing should be envisaged as regards the scope of information to be made available in ESAP. Indeed, not all regulatory information will present the same level of interest to users, in particular in the first steps of the project. Additionally, covering too wide a scope of information could present risks of cluttering and over-complicating the single access point with information that could be of lower interest or value to users or that is not sufficiently comparable. The success of the single access point will also depend on the capacity to operate it efficiently, which should be easier in a more tailored environment that would progressively extend to cover a wider scope of issuers' regulatory information. **The information provided in accordance with the Transparency directive (annual financial statements), the Prospectus Regulation (all types of prospectuses including URD), the NFRD and article 8 of the Taxonomy (non-financial statements) should be the first to be included in ESAP** provided that these elements effectively meet a need on the users' side.

Information available in ESAP should be comparable and provided in a machine-readable format in order to ensure ESAP efficiency and usability. However, the AMF considers that ESAP should not introduce new obligations in terms of machine-readability and standardization of the information. Indeed, it should remain with each EU legislation to establish the formats in which the reports they require should be made available; ESAP should not drive in itself the introduction of an obligation to use machine-readable formats. Currently, EU legislations have only introduced requirements for machine-readable information in a limited number of regulations. Further requirements should be envisaged in the process of the future negotiations of existing or future EU regulations. A careful costs/benefits analysis should then have to be conducted to identify the better way to digitize the information. As far as language is concerned, filings in ESAP should meet the requirements set by the EU regulation pursuant to which they are produced. The ESAP could nonetheless allow to also file on a voluntary basis a translated version of the documents in a language that is customary in the sphere of international finance as long as issuers still bear the responsibility for it.

Data quality checks should be performed at the time of the submission of information to ensure that the information available in the ESAP is usable and a clear data governance should be built. Indeed, it is essential that the single access point could build on data quality checks that would ensure that the information stored in the system is operable and corresponds to what is expected in terms of format in particular. These controls should be performed in a systematic and - to the extent possible - automatized manner at the time the information is filed to guarantee a smooth and seamless operation of the single access point. These controls should consist only in practical checks of information and should not be perceived as a validation or scrutiny of the uploaded document. Additionally the single access point should only store information approved by a NCA or certified by a third-party to ensure data reliability.

The architecture of the single access point should not interfere with the supervisory activities of NCAs. Indeed, these activities are key to ensure the quality of the data made available by issuers. In designing the ESAP, careful attention should be given to information flows and existing structures. In particular, it should be noted that the Officially Appointed Mechanisms (OAMs), introduced by the Transparency directive, are organized differently in the different Member States. In France, the AMF and the OAM are two independent bodies and, for listed issuers, the AMF needs to remain the first recipient of the regulatory filings to ensure its supervisory activities. As it is key to avoid multiple submission of the information by issuers, the AMF would then transfer these regulatory filings to the ESAP through the French OAM.

This project should benefit from technological functionalities and be sufficiently adaptable to take advantage of future digital innovations; it should be empowered with search, comparison, analysis and downloading functionalities. A structured architecture of the single access point should allow for rapid search and document identification based on common criteria (LEI, typology of reportings...). The single access point should also offer downloading functionalities, in particular to meet the needs of investors and asset managers and analysis functionalities. ESAP should constitute a storage platform and should not constitute a way to fulfill the obligations related to the dissemination of information for listed companies, i.e. it should not be a tool for 'demonstrating' compliance with an issuer's disclosure obligation. Certain algorithms and functionalities powering the project could be open-sourced, which would allow for a more dynamic evolution of the infrastructure and potentially foster user participation in its maintenance and addition of new features.

Establishing strong, simple and transparent governance for the ESAP and ensuring a viable economic model are essential to ensure that the project is sustainable over time. The governance of this project must be adaptable and able to respond to a number of challenges, including those posed by a step-by-step approach; it should take into account the interests of ESAP various stakeholders. Lastly, this governance must guarantee stable access to information and data protection and integrity over time. **The AMF considers that ESMA could be entrusted with the governance of the ESAP.** Indeed, the European supervisory body has already been in charge of the development of several data projects, could build on its experience in the development of the platform and rely on its Committee network.

It is essential to ensure a viable economic model to guarantee the development of the single access point on the long-term. To the extent possible, the AMF is of the view that access to the ESAP should remain free of charge; nevertheless, a costs analysis should be made from the inception to ensure proper funding of the project throughout its different stages of development. In light of this analysis, and as it is essential not to place all the cost of managing and maintaining this base solely on public actors, a contribution could be requested from users above a certain volume of downloaded information for example and/or a limited registration fee could be charged to issuers.