



## **COMMENTS ON THE PROPOSAL FOR A REGULATION THAT ESTABLISHES A EUROPEAN SINGLE ACCESS POINT**

**(COM(2021) 723 final/[2021/0378 \(COD\)](#))**

### ***SUMMARY OF KEY MESSAGES***

Eumedion has always been supportive of the Commission's Digital Finance Strategy and in particular the underlying objectives of the Commission proposal to establish a European Single Access Point (ESAP). Overall, we are very supportive of the ESAP proposal as we expect ESAP to be very beneficial for the intended users, which include the institutional investors that Eumedion represents. In particular, we are supportive of the following elements of the proposal:

- the notion that information will be made available through ESAP at the same time that it is published in any other means or channel;
- free access;
- the 'file once' principle;
- the leading role for European Securities and Markets Authority (ESMA) in the proposal.

Eumedion, representing the interests of 53 institutional investors who in aggregate have € 8 trillion assets under management, would like to make some comments on the proposal.

#### **Article 10.3**

The information in ESAP will in many cases be extremely price sensitive, as well as time sensitive, inherent to the very nature of how reporting entity filings can affect financial markets. The explanatory memorandum already noted that 'information [needs] to be made available through ESAP at the same time that it is published in any other means or channel'. Investors should under normal circumstances be able to trust that ESAP indeed is the access point where filings are published first. Eumedion therefore suggests that ESAP notifies the collection body of having made publicly available the filing. If the collection body aspires to also make public the same document, it should be obliged to wait with making any filing publicly available until it has received this confirmation from ESAP. Only in cases where ESAP

is taking unreasonable time in providing a response (we suggest a delay in excess of 15 minutes), the collection body should be allowed to publish ahead of ESAP. Each instance of ESAP taking unreasonable time to provide such confirmation is reported to ESMA as part of the procedures described in article 12.

#### **Article 7, suggestion for a new paragraph 1h that facilitates ‘cross referencing’**

The Explanatory Memorandum (page 8) duly explains how crucial it is that ESAP will allow for the filing of a wider variety of corporate filings. Examples of reports that already are related to the financial report are remuneration reports, corporate governance statements and sustainability reports. The diversity in reports related to a ‘core’ financial report is expected to expand in the future. Currently, the expedient retrieval of related reports is problematic for investors. ESAP could make a major contribution to safeguarding stable cross referencing through hyperlinks that remain valid over time. Let us explain one possible approach:

- The reporting entity expresses to the collection body its intention to file a remuneration report and requests to receive, ahead of its actual filing, the location where ESAP is expected to store this remuneration report.
- The collection body makes a (fully automated) request to ESAP for a ‘deep link’ reference to the location where the remuneration report will (soon) be publicly accessible at ESAP. ESAP returns (fully automated) this future location to the collection body.
- The collection body returns this deep link to the reporting entity. The reporting entity can use this deep link in its financial report to support cross referencing.
- When the actual remuneration statement is filed, it is filed with the instruction to save it at the pre-approved deep link location. ESAP recognises the pre-approved location and makes it accessible there.

The above steps are provided only to illustrate what kind of procedure is envisaged by us. There may be other and more effective procedures to effectuate stable cross-referencing. We suggest that Article 7 is expanded with paragraph 1h that contains the following sentence: “ESAP will facilitate cross referencing between related filings. The cross referencing procedures will be designed to safeguard that cross-references remain valid over time.”

#### **Article 5.1f**

We strongly disagree with the proposal to keep data only for 10 years. Typically, fundamentally oriented quant-investing strategies use several decades of data for developing investment strategies. EDGAR-online, the online database for company filings in the United States still contains its earliest 1995 filings. Even though this data may be considered by some as very old, there will be an active and practical use

by investors and academics of such long histories. Data in ESAP should therefore be available indefinite, unless stated otherwise in the directives and regulations referred to in Article 1(1), point (a). The usefulness of ESAP from the first day of operation would be greatly enhanced, if the collection bodies were allowed to upload to ESAP the legacy PDF formats of critical filings, like the annual and quarterly reports, of all qualifying listed entities that exist today.

We find it difficult to envisage any personal data in filings or parts of filings that can remain in the public arena for five years, but would become too sensitive thereafter. We therefore disagree with shortening the term for keeping online personal data to five years.

#### **Article 11.1c**

We expect the role of ESAP to be of such importance to the target audience that we do not consider 5% downtime to be acceptable. After an initial start-up phase, we would expect downtime for both uploading and downloading filings to annually not exceed 24 hours per year.

#### **Article 11.2, 12.2 and 12.3**

We concur with suggestion to involve ESMA's Stakeholders Group and ESMA's role in making an assessment of end-user satisfaction. However, we expect ESAP to become a very important source of information for many stakeholders. We expect a dire need for continuous evolution in this service, especially in the first five years. The scope of topics covered by ESMA's Stakeholders Group is much broader. ESAP may unduly take excessive time from other important topics. The very technical nature of ESAP development is unlikely to be aligned with the expertise and affinity of the current composition of ESMA's Stakeholders Group. We therefore suggest that a separate ESAP Stakeholders Body is established and integrated in the monitoring and governance structure.

Apart from a more general satisfaction assessment, we consider it of importance that the website allows users to easily share suggestions and feedback on a continuous basis. At least annually a summary of this spontaneous user feedback should also be considered by ESMA's (ESAP) Stakeholders Group.

#### **Article 3.2**

We agree with how paragraph 4 of the Explanatory Memorandum explains the requirements that the 'collection bodies' set for the format of the reporting entity's filing. However, this paragraph does not state clear that the collection bodies themselves need to transfer actual files to the ESAP; as the text *'the collection bodies should make the information available to ESAP in automated ways through a single application programming interface'* could be interpreted that the collection bodies could be allowed to file a 'deep link' to a database run by the collection body itself. We expect it to be crucial for allowing text searches, for warranting minimum latency in accessing files and for the overall well-functioning of the

ESAP that the collection bodies provide ESAP with the actual filed documents themselves. We suggest that this is clarified, for example in Article 3.2.

**For more information:**

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