|  |
| --- |
| 25 September 2015 |

|  |
| --- |
| Reply form for the Consultation Paper on the European Single Electronic Format (ESEF) |
|   |

|  |
| --- |
| Date: 25 September 2015 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in Consultation Paper on the European Single Electronic Format (ESEF), published on the ESMA website.

*Instructions*

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

* use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
* do not remove the tags of type < ESMA\_QUESTION\_ESEF \_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
* if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

* if they respond to the question stated;
* contain a clear rationale, including on any related costs and benefits; and
* describe any alternatives that ESMA should consider

**Naming protocol**

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA\_ ESEF \_NAMEOFCOMPANY\_REPLYFORM.

E.g. if the respondent were XXXX, the name of the reply form would be:

ESMA\_ESEF\_XXXX\_REPLYFORM

To help you navigate this document more easily, bookmarks are available in “Navigation Pane” for Word 2010 and in “Document Map” for Word 2007.

***Deadline***

Responses must reach us by **24 December 2015.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input/Consultations’.

***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

***Data protection***

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the headings ‘Legal notice’ and ‘Data protection’.

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_ESEF\_1>

Note to CP, page 22, 4.1.2, 44. Application of IFRS for individual financial statements: Please correct “not permitted” in “permitted for some” (Germany). See also the table on page 25, 57, individual financial statements in Germany.

Note to CP, page 27, 4.1.4, footnote 11: Please delete: *However, issuers can also submit data in a non-structured format (PDF) hat is subsequently converted to XML/XBRL*. This statement is false.

Note to CP, page 28, 4.1.4, 57: Please correct the table, 2. PDF, accepted format: and delete “Germany” <ESMA\_COMMENT\_ESEF\_1>

**Question 1: The provisions included in the amended Transparency Directive requiring a single electronic format were not subject to a formal impact assessment by the European Commission. While from a legal point of view ESMA could not address in this CP whether there is a need for the provisions included in the amended Transparency Directive, do you believe that a wider assessment should be performed on the requirements of introducing a single electronic reporting format in Europe? Please indicate your opinion and provide arguments.**

<ESMA\_QUESTION\_ESEF\_1>

We appreciate the regulation for a structured electronic reporting format. We do not agree to further regulation of a mandatory reporting in unstructured format. The IFRS-taxonomies for consolidated AFRs shall stay subject to formal auditing and endorsement by IASB. Further regulation is neither purposeful nor necessary. All aspects of reporting could be sufficiently provided by using XBRL. Unstructured elements can be placed within XBRL footnotes and images can be attached. No further formal impact assessment is needed.

<ESMA\_QUESTION\_ESEF\_1>

**Question 2: Do you agree with the description of the policy objectives as included in this section? Are there any further elements that you believe should be analysed? If yes, please indicate them.**

<ESMA\_QUESTION\_ESEF\_2>

Yes, we agree with the description of the policy objectives in general. But we would like to point out that the storage format in the local OAM shall not to be defined in the TD. The OAMs should specify the formats for storage and rendering of information in accordance with the national legislation and also taking into account the interests of issuers and users. This will give the OAMs the opportunity to implement technical innovations easily, improving transparency and facilitate access to data. There are already excellent working structures / taxonomies, developed by XBRL EU and XBRL Germany. The xEBR taxonomie is an intersection of some European taxonomies. This is an interesting project/starting point that should be considered by the ESMA.<ESMA\_QUESTION\_ESEF\_2>

**Question 3: Do you believe that the introduction of electronic reporting should serve as a basis for further debate on auditing of electronic structured data? Please explain your reasoning.**

<ESMA\_QUESTION\_ESEF\_3>

Yes, we think that the introduction of electronic reporting will be a solid foundation for the assurance of a high data quality level as well as for data monitoring and internal and external auditing. The improvement of data quality will have a beneficial influence on the decisions of the financial market and will also lead to a reduction of administrative bureaucracy. We believe these beneficial qualities will only apply to a structured format. Using unstructured format as PDF will detract multiple benefits from ESEF (i.e. transparency and comparability). <ESMA\_QUESTION\_ESEF\_3>

**Question 4: Are you aware of any further elements which are necessary to provide an accurate picture of the current reporting for the purpose of this CP?**

<ESMA\_QUESTION\_ESEF\_4>

All aspects of reporting could be sufficiently provided by using XBRL. Unstructured elements can be placed within XBRL footnotes and images can be attached. As for reporting in composed format with the entire AFR in PDF together with the financial statement in XBRL, both reports could potentially be contradictive. Since PDF would be the legally binding part of the report, issuers would have to make sure that all data within both parts of the report are identical and consistent. This will lead to a higher effort for all stakeholders – firstly when creating and secondly when analyzing the report. Altogether we see an immediate threat in the usage of PDF being an obstacle to the growth of digital services in the European economy.

The EU-wide introduction of PDF being the lowest common denominator to all member states for reporting of Annual Financial Reports to the OAMs would imply a significant technical step back for those member states that have already implemented XBRL or at least a structured file format successfully.

This would come along with a substantial economic damage caused by the transition from XBRL back to the already omitted and therefore historical PDF-format. The affected member states (OAMs as well as issuers) would have to bear another high financial expenditure in presumably the same dimension when re-implementing the abandoned XBRL-format in favor of the PDF-format at a later stage of the ESEF-project (phased approach).

Following the lead of the lowest minimum standard while omitting all other higher best-practice standards (race to the bottom) should be prevented by all means with respect to the significant economic consequences for the affected member states.

Therefore we strongly suggest the following approach:

Introducing a structured electronic format for reporting of Annual Financial Reports will be kept as a global goal.

XBRL shall be implemented as the mandatory structured electronic format for all AFRs (individual and consolidated financial reports). The requirements for the entire content of the AFRs shall be covered completely by XBRL. No other data-format shall be used to report unstructured data in parallel. All elements that cannot be brought into a structured format must be placed into the parts for unstructured data within the XBRL file (i.e. unstructured text in footnotes). This is a common and well accepted practice by the German OAM since many years and does not create all the problems raised in the consultation paper.

Member states which are currently not capable of processing XBRL to its full extent shall keep the possibility to accept and process AFRs in PDF-format for the time being. These PDF-reports should also cover the full content of an AFR so that no other data-format shall be used to report other data in parallel, neither structured nor unstructured.

Regardless of a decision to this suggested approach any regulation of the usage of PDF should be avoided in favor of the usage of PDF/A. In contrast to regular PDF, PDF/A is automatically brought into a searchable format when being created and is also intended for long-term archiving. Requirements for easy accessibility can be achieved on a much higher level, since PDF/A already is an easy accessible document format by design.<ESMA\_QUESTION\_ESEF\_4>

**Question 5: Do you agree with the description of the technologies included in the CP?**

<ESMA\_QUESTION\_ESEF\_5>

CP, page 32, 5.1, 69: Overall, this paragraph does not correspond to the regulatory conditions in Germany. A structured format (XML/XBRL) is mandatory by law. PDF is not accepted as a delivery or storage format.

Basically we agree with the descriptions. But, please take into consideration (regarding CP, page 33, 5.1.2, 71), that iXBRL-files are also valid if containing only XHTML and no XBRL-data at all. When accepting iXBRL-files it has to be ensured that the XBRL-facts are present and correctly filled in the document. A set of XBRL-content shall be defined by the RTS (ESEF) for accepting iXBRL-data to keep iXBRL-files machine-readable. This will require a significant effort for testing and validating for the OAMs.

It has obviously not been taken into account that in case the XHTML-data within the iXBRL file needs to be used for rendering. It must be ensured by the RTS (ESEF) that the OAM may restrict the use of formatting possibilities within the XHTML regarding their local specifications. By implementing OAM-specific formatting restrictions it should be ensured that no layout modifications are used contradicting the layout ruleset of the respective OAM. Please note that the comparability and transparency of data must be strictly preserved.

We like to point out, that working XBRL workflows for filing and storage of Full AFRs are already implemented in Germany. Without causing additional efforts for the German economy. This could be a good template for full transparency through ESEF by filing one single document to the OAM and the EEAP.

<ESMA\_QUESTION\_ESEF\_5>

**Question 6: Do you agree with the choice of the technologies to be further analysed as part of the CBA? If not, please indicate which other technologies you would propose for further analysis.**

<ESMA\_QUESTION\_ESEF\_6>

Yes, we agree. We would not suggest assessing any other technology any further, since XBRL is already an XML-based and therefore structured technology and meets all requirements for ESEF.

<ESMA\_QUESTION\_ESEF\_6>

**Question 7: Do you agree with ESMA’s proposal to use the IFRS taxonomy as issued by the IFRS Foundation for reporting under IFRS, subject to formal endorsement in the European Union?**

<ESMA\_QUESTION\_ESEF\_7>

We can neither agree nor reject, since it must be ensured that the requirements of the national legislation will be considered. From a technical perspective, the IFRS-taxonomy of the IFRS-foundation can be used without problems. In this context, it must be ensured that updates / changes will be communicated to all stakeholders at an early stage.

<ESMA\_QUESTION\_ESEF\_7>

**Question 8: Do you agree with ESMA’s preliminary conclusions not to use regulatory and entity specific extensions? Please provide arguments in your answer in relation to the impact on issuers and users.**

<ESMA\_QUESTION\_ESEF\_8>

It is important to distinguish between regulatory extensions and individual extensions used by the reporting entities. Local regulatory extensions can only be defined by the authority of local regulators and local member states. Entities need the ability to extend the core data to ensure an optimal representation of their performance to stakeholders.

We want to emphasize that a restriction of the architecture regarding the use of extensions cannot be accepted. Otherwise, we expect significant user issues and thus acceptance problems in the German Economy.

<ESMA\_QUESTION\_ESEF\_8>

**Question 9: Do you agree with the proposed approach in relation to the taxonomies of third countries GAAPs deemed equivalent to IFRS?**

<ESMA\_QUESTION\_ESEF\_9>

CP, page 43, 5.2.1.2, 129: In our opinion this is only feasible with considerable effort (and therefore impractical) to bring all national GAAPs with IFRS in a unitary structure, taking into account all national interests and legal regulations. Entities use national GAAPs successfully on the basis of applicable laws. Workflows and systems of German Entities are aligned on these structures.
Question to CP, page 43, 5.2.1.2, 128: We do not exactly understand the difference between “taxonomy is extended…” and “extensions”. This has to be clearly defined to avoid contradictions.

<ESMA\_QUESTION\_ESEF\_9>

**Question 10: Do you believe that taxonomy shall be developed for other parts of the AFR (outside financial statements)? If yes, please indicate which ones and explain why.**

<ESMA\_QUESTION\_ESEF\_10>

 As answered in question 9: this is a good idea in theory, but in our point of view only feasible with considerable effort. All national requirements beyond the financial statements would have to be brought into a unitary European structure, taking into account all national interests, legal regulations and the requirements of issuers. We would like to point out that there is a general footnote systematics in XBRL which allows to submit any text and tables. We prefer one document instead of two - all information is bundled in a single document. Unstructured data can also be transmitted with XBRL by using the XBRL-footnotes. This is a well proven and efficient method in Germany to submit less structured or unstructured data. <ESMA\_QUESTION\_ESEF\_10>

**Question 11: Do you agree that non-structured electronic reporting should be required for the entire Annual Financial Report? Do you agree that the format used shall be PDF? If you disagree, please explain your opinion by providing arguments on the policy objectives and impact on the CBA.**

<ESMA\_QUESTION\_ESEF\_11>

We believe that PDF should neither be defined as a delivery format nor a storage format.

We agree using PDF only for information provisioning. Accepting PDF, the data arrives unstructured and remains unstructured within all systems. A unified search, presentation, consistency, transparency, comparability and transformation are no longer guaranteed. Since this is absolutely essential in our view, PDF should not be accepted. While favoring the PDF format ESMA improves and strengthens the market situation of just one sole software vendor. The market would have to implement a closed technology, being dependent on the developments of this single vendor. This cannot be accepted and should be omitted or at least be accompanied by an open and structured equivalent alternative without any limitations, such as XBRL. We do not see the necessity of delivering just a small part of an annual report in XBRL. All this data already exists in structured format. Unstructured data can simply be added to the XBRL footnotes or be attached as images. German entities already use XBRL-workflow-structures, therefore XBRL can be used easily even for quarterly reports.

Please see our comments to question 10.

<ESMA\_QUESTION\_ESEF\_11>

**Question 12: Do you agree with the solution of a single electronic format composed of structured and non-structured data (option B)? If not, please explain your opinion as well as the impact on the CBA.**

<ESMA\_QUESTION\_ESEF\_12>

No, We prefer Option C, a single electronic structured format will always be the most cost effective for all parties for filing and storage. We would not suggest to separate one report into different files (structured and unstructured). We suggest to include all elements within a single XBRL file. Unstructured additional information could be placed within XBRL footnotes. This is a reliable and approved procedure in Germany for many years. A combination of separate files with structured and non-structured data will be cost-intensive and will enlarge the administrative burden for organizations.

Allowing multiple files in separate file formats bears the danger of supplying deviating information on the same subject in different sources. It would have to be decided which piece of information is legally binding. For information provisioning a single electronic format, e. g. PDF or html is reasonable.

<ESMA\_QUESTION\_ESEF\_12>

**Question 13: Do you agree that iXBRL and XBRL are the most relevant options available for the ESEF?**

<ESMA\_QUESTION\_ESEF\_13>

Yes, iXBRL and XBRL are the most relevant options available for the ESEF.
In Germany XBRL is already mandatory for annual tax declaration only. Also it is being well used for filing purposes for AFR to the German OAM.

Rendering of XBRL has initially to be prepared with stylesheets only. All filed documents will be converted into the same uniform presentation (layout). Regarding iXBRL the effort to achieve a uniform (thus comparable) layout will need a significantly higher effort. Each filed document may potentially have to be modified since it might "destroy" the embedding layout (i.e. OAMs website). Without manual checks the level of transparency and comparability will decrease.

iXBRL-files are also valid if containing only XHTML and no XBRL-data at all. When accepting iXBRL-files it must be validated that the XBRL-facts are present and correctly filled within the document. Therefore, a combination of iXBRL and XBRL should be prevented since it might lead to more confusion and higher costs for the market participants. They might have to implement two different technical processes although only one (i.e. just for XBRL) would be sufficient.

While processing (i)XBRL it must be ensured by the RTS that any OAM may restrict the use of formatting possibilities within the rendered XHTML (or PDF) regarding their local specifications to ensure a uniform presentation.

<ESMA\_QUESTION\_ESEF\_13>

**Question 14: Could you please indicate what is your preferred solution between iXBRL and XBRL? Please explain the reasons.**

<ESMA\_QUESTION\_ESEF\_14>

As answered in question 3, the preferred technology is XBRL. The introduction of electronic reporting in XBRL will allow a unified search, higher consistency and quality of data, higher transparency, easier comparability and transformation of data into different layout presentations (i.e. XHTML or PDF). Please see also our answer to Q3.

<ESMA\_QUESTION\_ESEF\_14>

**Question 15: Do you agree that structured reporting format should in a first stage be required for consolidated IFRS financial statements and eventually in a second stage for individual financial statements?**

<ESMA\_QUESTION\_ESEF\_15>

No, we disagree. For all market participants it is more cost effective and also much more user-friendly if all issuers and entities have to supply their data in one single unified format from the start. Therefore we do not see the necessity of a staged approach. As already mentioned above, national and legal regulations must be considered for national entities.

<ESMA\_QUESTION\_ESEF\_15>

**Question 16a: Do you agree with a different approach for the financial statements under national GAAPs compared to IFRS on the grounds of the existence of a taxonomy?**

<ESMA\_QUESTION\_ESEF\_16a>

No, please see our comments to Q15.

<ESMA\_QUESTION\_ESEF\_16a>

**Question 16b: Do you agree with the proposed approach in terms of potential development of a EU core taxonomy to be used for national GAAPs in the future?**

<ESMA\_QUESTION\_ESEF\_16b>

Yes, but this will certainly take time. We believe that issuers and entities first have to gain experience with the electronic reporting in a structured format.

<ESMA\_QUESTION\_ESEF\_16b>

**Question 17: Do you agree that a single electronic format should not be required for financial statements under third country GAAP?**

<ESMA\_QUESTION\_ESEF\_17>

A unified, global structure would of course be desirable. The TD is only valid for EU member states and can not make any specifications for third countries.

<ESMA\_QUESTION\_ESEF\_17>

**Question 18: Would you be in favour for a phased approach for SMEs, if it would be allowed under the legal mandate? Would it be relevant in the context of the development of the Capital Markets Union?**

<ESMA\_QUESTION\_ESEF\_18>

No, a phased approach is not necessary as this is also an affordable solution for SMEs. A unified regulation for all market participants would be preferable. It is relevant for the capital market to ensure that small and independent entities adhere to the same regulation. Comment: For financial tax declaration filings of SMEs in Germany XBRL is already in use. Please see our answers to question 17. These regulations can be made exclusively for entities subject to the TD.

<ESMA\_QUESTION\_ESEF\_18>

**Question 19: Do you have any other comment to make?**

<ESMA\_QUESTION\_ESEF\_19>

There is no clear distinction between submission and information provisioning. With reference to the RTS, we believe that exclusively the output- format is regulated and not the delivery-format. In Germany it is regulated by law that data has to be delivered in a structured format (XML, XBRL). A change will produce very high expenditure and costs and must be regulated by law (financial / tax legislation and Federal Ministry of Justice). There is already a legal requirement to submit structured data for many years, which is successfully lived and practiced by all participants. We are not the only member state that used structured standards (see table CP, page 28, 4.1.4).

Allowing various reports in different formats within the OAM would lead to an inconsistent portfolio in the OAMs archive.

Exclusively for information provisioning (rendering of data) we supply PDF as a unified electronic format, that can be produced electronically, is already common practice and user-friendly.

Under these conditions, we interpret the RTS as follows:

We assume that article 1 exclusively defines one output-format (among other possible formats) used by the OAMs.

We also assume that article 2 exclusively defined the output-format used by the OAMs.
We also assume that article 3 exclusively defines the output-format used by the OAMs. In that case, “issuer” has to be replaced by “OAMs”. We speak explicitly against PDF, if the submission format should be regulated in article 3 as well.

Conclusion to article 3: Our suggestion is to delete article 1 and 2 and modify article 3 as follows: The issuer shall use the technological version which is compatible with those appointed by the OAMs.

The EU-wide introduction of PDF being the lowest common denominator to all member states for reporting of Annual Financial Reports to the OAMs would imply a significant technical step back for those member states that have already implemented XBRL or at least a structured file format successfully.

This would come along with a substantial economic damage caused by the transition from XBRL back to the already omitted and therefore historical PDF-format. The affected member states (OAMs as well as issuers) would have to bear another high financial expenditure in presumably the same dimension when re-implementing the abandoned XBRL-format in favor of the PDF-format at a later stage of the ESEF-project (phased approach).

Following the lead of the lowest minimum standard while omitting all other higher best-practice standards (race to the bottom) should be prevented by all means with respect to the significant economic consequences for the affected member states.

Therefore we strongly suggest the following approach:

Introducing a structured electronic format for reporting of Annual Financial Reports will be kept as a global goal.

XBRL shall be implemented as the mandatory structured electronic format for all AFRs (individual and consolidated financial reports). The requirements for the entire content of the AFRs shall be covered completely by XBRL. No other data-format shall be used to report unstructured data in parallel. All elements that cannot be brought into a structured format must be placed into the parts for unstructured data within the XBRL file (i.e. unstructured text in footnotes). This is a common and well accepted practice by the German OAM since many years and does not create all the problems raised in the consultation paper.

Member states which are currently not capable of processing XBRL to its full extent shall keep the possibility to accept and process AFRs in PDF-format for the time being. These PDF-reports should also cover the full content of an AFR so that no other data-format shall be used to report other data in parallel, neither structured nor unstructured.

Regardless of a decision to this suggested approach any regulation of the usage of PDF should be avoided in favor of the usage of PDF/A. In contrast to regular PDF, PDF/A is automatically brought into a searchable format when being created and is also intended for long-term archiving. Requirements for easy accessibility can be achieved on a much higher level, since PDF/A already is an easy accessible document format by design.

We would like to offer any interested Member of ESMA the possibility of discussing these proposals with us and also offer to host a workshop with all involved parties to clarify all technical details. We would gladly provide the location and the required technological equipment (Phone conferencing, Network infrastructure).

 <ESMA\_QUESTION\_ESEF\_19>