Reply Form

**to the Consultation on draft ITS specifying certain tasks of collection bodies and certain functionalities of the European Single Access Point**

**Responding to this Consultation Paper**

ESMA invites comments on all matters in this Consultation Paper and in particular on the specific questions summarised in Annexes. Comments are most helpful if they:

* respond to the question asked;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider or comment to specific questions irrespective of the preferred option.

ESMA will consider all comments received by **8 March 2024.**

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

**Instructions**

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

* Insert your responses to the questions in the Consultation Paper in this reply form.
* Please do not remove tags of the type < ESMA\_QUESTION\_ESAP\_0>. Your response to each question has to be framed by the two tags corresponding to the question.
* If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
* When you have drafted your responses, save the reply form according to the following convention: ESMA\_CP1\_ESAP \_nameofrespondent.
* For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP1\_ESAP \_ABCD.
* Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at www.esma.europa.eu under the heading *‘Your input - Consultations’*.

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. 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 not to disclose the response 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 heading ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’.

**Who should read this paper?**

This Consultation Paper may be of particular interest to securitisation investors/potential investors, securitisation issuers/originators, market infrastructures, securitisation repositories, credit rating agencies as well as public bodies involved in securitisations (market regulators, resolution authorities, supervisory authorities, central banks and standard setters).

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Kneip |
| Activity | Associations, professional bodies, industry representatives |
| Are you representing an association? |  |
| Country / Region | Luxembourg |

# Questions

1. Do you agree with the preferred approach outlined above, under which the validations will be defined on a cross-cutting basis without specifying explicitly the types of information to which a given validation should be applied (and understanding that they should be performed always when relevant for a given type of information as set out in the ITS on tasks of collection bodies or sectoral ITS)?

<ESMA\_QUESTION\_ESAP\_1>

We concur that collection bodies should diligently conduct validation checks on submitted information to ensure both consistency and compliance. However, we advocate for the suboptimal approach described, where ESAP should share their comprehensive expectations, thereby enhancing the overall quality and accuracy of the data received.

<ESMA\_QUESTION\_ESAP\_1>

1. Do you agree with the above proposal how the collection bodies shall verify that the information is data-extractable? In case of any challenges foreseen, please propose alternatives.

<ESMA\_QUESTION\_ESAP\_2>

We concur with the proposed approach. Drawing from our industry experience, fund documentation is currently generated by automated systems, which inherently qualifies it as data extractable. However, should any obstacles arise, we recommend exploring alternative methods to ensure seamless data extraction.

<ESMA\_QUESTION\_ESAP\_2>

1. Do you agree with the above proposal how the collection bodies shall verify that the information is machine-readable? In case of any challenges foreseen, please propose alternatives.

<ESMA\_QUESTION\_ESAP\_3>

We endorse the proposed approach. However, it is imperative that the collection bodies also validate that the information or report adheres to the prescribed formats outlined in the respective regulations.

<ESMA\_QUESTION\_ESAP\_3>

1. Do you agree with the above proposal for the validation of the metadata? In case of any challenges foreseen, please propose alternatives.

<ESMA\_QUESTION\_ESAP\_4>

We endorse this proposal. Ideally, metadata standards should be established for each document type, and ESAP should communicate the specific requirements. Where existing standards are in place, adoption is recommended. This approach will ensure uniformity in the data submitted by all entities.

<ESMA\_QUESTION\_ESAP\_4>

1. Do you agree with the proposed approach to the validation of the electronic seal? In case of any challenges foreseen, please propose alternatives.

<ESMA\_QUESTION\_ESAP\_5>

While we concur with the proposed approach for verifying the authenticity of electronic seals, it is essential to acknowledge a significant challenge. Collection bodies will need to navigate the diverse Qualified Electronic Signature (QES) formats required for each document type. Ideally, a uniform format would have been preferable, but we recognize that achieving technological feasibility in this regard may be complex.

<ESMA\_QUESTION\_ESAP\_5>

1. Do you agree that the format of rejection feedback to the submitting entities should be standardised?

<ESMA\_QUESTION\_ESAP\_6>

While we agree that standardization can simplify processes, we also recognize that the requirement to notify ESMA of rejections introduces complexity. Our perspective is that the feedback loop should remain exclusively between the entity and the collection body until approval. Subsequently, relevant data and QES can be transmitted to ESMA/ESAP. To distinguish between rejection and delay feedback, we propose an alternative approach: granting ESMA access to ESAP logs. This would allow ESMA to retrieve necessary information rather than relying on automatic notifications from collection bodies.

<ESMA\_QUESTION\_ESAP\_6>

1. Do you agree that the rejection feedback should be provided in a common format in accordance with ISO 20022 methodology?

<ESMA\_QUESTION\_ESAP\_7>

We recognize that ISO 20022 methodology is widely adopted and considered a best practice within the financial services industry. Consequently, it should be the preferred approach for delivering rejection feedback. Implementing this is a new requirement for Kneip and will necessitate further investigation.

<ESMA\_QUESTION\_ESAP\_7>

1. Do you agree that the rejection feedback should be provided within sixty minutes?

<ESMA\_QUESTION\_ESAP\_8>

While we acknowledge that immediate feedback may be achievable, we maintain that rejection feedback is not inherently time critical. In the context of Kneip acting as a delegated third party, we prioritize ensuring that all necessary data is in place before submission to ESAP. In such cases, the entity will receive information about any missing components, rather than an outright rejection, allowing for subsequent approval or verification.

<ESMA\_QUESTION\_ESAP\_8>

1. Do you agree that QES under ESAP should be in XAdES, CAdES or PAdES format?

<ESMA\_QUESTION\_ESAP\_9>

We concur with the proposal. We recognize the importance of adhering to industry standards. If XAdES, CAdES, and PAdES formats are widely accepted as best practices, we are committed to ensuring that Kneip implements the necessary adjustments to accommodate these formats effectively.

<ESMA\_QUESTION\_ESAP\_9>

1. Do you agree that there is no need to use ASiC format under ESAP?

<ESMA\_QUESTION\_ESAP\_10>

While acknowledging the potential efficiency gains associated with sealing and packaging multiple documents simultaneously, we concur that maintaining the granularity of a Qualified Electronic Signature (QES) for each individual document is essential. This approach ensures both transparency and accuracy throughout the process. Importantly, in the event of data or QES rejection, the impact would be limited to a single document rather than affecting the entire package.

<ESMA\_QUESTION\_ESAP\_10>

1. Do you agree that QES under ESAP should be at least at conformance level LT?

<ESMA\_QUESTION\_ESAP\_11>

We concur that QES should indeed meet at least the Long-Term Validation (LT) level. Furthermore, if it becomes feasible to proactively determine revocation based on the document type, it will significantly enhance the alignment of data and documents with the relevant regulatory framework. For instance, consider the case of a PRIIPs Key Information Document (KID), which should remain valid for a specific period (e.g., 12 months from the production date). In such scenarios, timely revocation of the QES ensures accuracy and compliance, prompting the creation of an updated document as needed.

<ESMA\_QUESTION\_ESAP\_11>

1. Do you agree with the requirement to include ISO 17442 LEI code as an attribute in the digital certificates whenever the information submitted to ESAP is accompanied by a QES?

<ESMA\_QUESTION\_ESAP\_12>

Certainly, we recognize the value of incorporating the ISO 17442 Legal Entity Identifier (LEI) code within every Qualified Electronic Seal (QES). This practice would enhance accountability and maintain consistency, ensuring a reliable audit trail. However, it’s essential to acknowledge that within our industry, companies may possess multiple LEIs based on factors such as the funds and underlying share classes domicile. Therefore, we kindly request clarification regarding the specific entity definition to determine the expected LEI.

<ESMA\_QUESTION\_ESAP\_12>

1. Are there any other characteristics of the QES that should be defined under ESAP?

<ESMA\_QUESTION\_ESAP\_13>

We have no further comments on QES currently.

<ESMA\_QUESTION\_ESAP\_13>

1. Do you agree with the proposed approach to the open standard licences which shall be applied by collection bodies to the datasets to be made available to ESAP? If not, why not and what alternative approach would you suggest?

<ESMA\_QUESTION\_ESAP\_14>

While we appreciate the concept of applying open standard licenses to the datasets intended for ESAP, we harbour reservations regarding the unrestricted reuse of data, especially for commercial purposes. It is imperative that relevant terms and conditions are thoughtfully applied to prevent unauthorized editing or misuse, which could potentially harm the reputation of the involved entities. We advocate for a diligent and responsible use of this data by all users.

<ESMA\_QUESTION\_ESAP\_14>

1. Do you agree with the proposed characteristics of the API for data collection? If not, what alternative characteristics would you recommend?

<ESMA\_QUESTION\_ESAP\_15>

We concur with the proposed characteristics of the API for data collection. At Kneip, we are already equipped to provide data via API and can promptly notify ESAP of any changes or new data (Deltas), aligning with the specified requirements.

<ESMA\_QUESTION\_ESAP\_15>

1. Do you agree with the proposed approach to the format, list and characteristics of the metadata? If not, what alternative approach would you recommend?

<ESMA\_QUESTION\_ESAP\_16>

While we acknowledge the importance of using metadata to ensure consistency and machine readability, we have reservations regarding the extensive amount of metadata expected. Embedding identical metadata in every document appears overly burdensome. Specifically, if the ISO 17442 Legal Entity Identifier (LEI) code is designated for use in the Qualified Electronic Signature (QES), we recommend that the LEI be the sole metadata item present in all documents produced by the entity. For reporting financial data and documentation related to financial products, other metadata elements may be excluded. These measures should be limited to entity-level documents. Additionally, an alternative method should be established for updating other essential data mandated by ESMA, EBA, and EIOPA, such as entity size. Lastly, it’s worth noting that only the producer of a PDF can embed metadata, and when embedded, this takes precedence over any additional metadata files. Consequently, collection bodies may face limitations in independently supplying this information.

<ESMA\_QUESTION\_ESAP\_16>

1. Do you agree with the proposed approach with regards to time limits? If not, what alternative approach would you suggest?

<ESMA\_QUESTION\_ESAP\_17>

While we appreciate the need for timely reporting, we recommend reconsidering the requirement for collection bodies to transmit documents to ESAP within a strict 60-minute window upon receipt. Instead, we propose favouring the second scenario outlined in section 83. Under this approach, content would be verified before submission to ESAP, either concurrently with its public release or within the same 60-minute timeframe. Our document production process involves filing with relevant National Competent Authorities (NCAs) once approval is granted by the respective countries. This workflow relies on alignment between the controls exercised by NCAs and ESAP. Any deviation by ESAP beyond NCA parameters introduces potential risks to the overall process, necessitating document refiling. In extreme cases, conflicting controls could lead to a deadlock situation. Therefore, ESAP must ensure that its controls remain consistent with, and do not exceed, those of the NCAs.

<ESMA\_QUESTION\_ESAP\_17>

1. [for users of information only] Do you currently access price and time-sensitive information via the Officially Appointed Mechanisms or other (private or public) databases? If so, which ones? If not, how do you access such information?

<ESMA\_QUESTION\_ESAP\_18>

At present, we do not have any additional comments on this matter.

<ESMA\_QUESTION\_ESAP\_18>

1. Do you expect that a maximum time delay of sixty minutes between when information is available at the level of the collection body and when it is available on ESAP will diminish the usefulness of ESAP? If so, what maximum time delay would you consider acceptable?

<ESMA\_QUESTION\_ESAP\_19>

While we acknowledge that imposing a maximum time limit of sixty minutes can enhance data and document accuracy within the market, we recognize the investor’s perspective. Investors often seek real-time information on their preferred platforms to make informed decisions before executing trades. Therefore, striking a balance between timely availability and accuracy remains crucial. The value of ESAP lies in bridging this gap effectively.

<ESMA\_QUESTION\_ESAP\_19>

1. Do you agree with the indicative list of formats and characteristics proposed? If not, what alternative formats or characteristics would you recommend?

<ESMA\_QUESTION\_ESAP\_20>

We concur with the proposed list of formats.

<ESMA\_QUESTION\_ESAP\_20>

1. Do you agree with the proposed characteristics of the API for data publication? If not, what alternative characteristics would you recommend?

<ESMA\_QUESTION\_ESAP\_21>

While we concur with the proposed API characteristics from a professional standpoint, we raise a valid concern regarding the intended audience. It is essential to recognize that the public may not possess the technical expertise required to effectively utilize an API for data search and retrieval. Therefore, we recommend developing a user-friendly interface to enhance the overall user experience and ensure broader accessibility.

<ESMA\_QUESTION\_ESAP\_21>

1. Do you agree with the proposal to specify that the legal entity identifier should be the ISO 17442 LEI code? If not, what other identifier would you suggest and why?

<ESMA\_QUESTION\_ESAP\_22>

We concur with the proposed approach.

<ESMA\_QUESTION\_ESAP\_22>

1. Do you agree with the proposed approach with regards to types of information? If not, what additional/ alternative type of information do you recommend?

<ESMA\_QUESTION\_ESAP\_23>

We concur with the proposed approach.

<ESMA\_QUESTION\_ESAP\_23>

1. Do you think that information required at national level pursuant to Article 3(1) of the Transparency Directive (so-called gold plating) should be captured by certain specific types of information? Or would you prefer such information be captured by one generic category, namely “Additional regulated information required to be disclosed under the laws of a Member State”?

<ESMA\_QUESTION\_ESAP\_24>

We believe that, for optimal user experience, it is advisable to maintain granularity by categorizing specific types of information rather than relying solely on a generic category. When information is grouped together, there arises a need to establish a mechanism for confirming the inclusion of underlying documents. Additionally, considering the term “informed users,” it becomes evident that a management report inherently encompasses sustainability reports and disclosures related to Taxonomy Regulation article 8. However, expecting the public to possess this nuanced understanding may be unrealistic.

<ESMA\_QUESTION\_ESAP\_24>

1. Do you agree with the proposed approach with regards to the categories of the size of the entities? If not, what alternative approach would you suggest and why?

<ESMA\_QUESTION\_ESAP\_25>

While we concur with the proposed approach, we note that there has been no mention of incorporating a search-by-name functionality. From a user perspective, it is essential to enable searches for specific entities of interest, rather than merely providing a list filtered by size. Additionally, this consideration intersects with the LEI question—determining which entity should be listed. Given the varying document manufacturers across different fund domiciles, addressing these nuances becomes crucial.

<ESMA\_QUESTION\_ESAP\_25>

1. Do you agree that it would be disproportionate to the purpose of the ESAP search function to introduce new categories by size for reporting regimes where currently no size category is foreseen in level one legislation? If not, for what additional categories of entities would you add a size category and on the basis of what thresholds?

<ESMA\_QUESTION\_ESAP\_26>

We concur with the proposed approach.

<ESMA\_QUESTION\_ESAP\_26>

1. Do you think it would be useful to leverage on the thresholds introduced by DORA for the classification by size of at least some entities in scope of ESAP, such as IDD intermediaries and PRIIS manufacturers? If not, why not? If yes, are there other entities in scope of ESAP for which you think the thresholds defined in DORA would be applicable and/or useful?

<ESMA\_QUESTION\_ESAP\_27>

Acknowledging that DORA has already established clear thresholds, we recommend adopting these as best practice within the ESAP framework. Specifically, aligning the classification of entities—such as IDD intermediaries and PRIIPs manufacturers—according to the DORA-defined categories (“microenterprises,” “small enterprises,” “medium-sized enterprises,” and “large”) ensures comprehensive coverage. By leveraging these thresholds, we promote consistency and facilitate a robust assessment across all relevant entities.

<ESMA\_QUESTION\_ESAP\_27>

1. Do you agree with proposed approach with regards to the categorisation of industry sectors? If not, what approach would you suggest and why?

<ESMA\_QUESTION\_ESAP\_28>

For financial entities, we concur that aligning our classification with the standards set by ESMA and EMIR represents the most prudent approach. By adopting a consistent framework, we enhance clarity, comparability, and regulatory compliance across the industry.

<ESMA\_QUESTION\_ESAP\_28>

1. Do you think additional or fewer sectors would be appropriate for the ESAP search function? If so, which ones would you propose to add and/or remove?

<ESMA\_QUESTION\_ESAP\_29>

At present, we do not have any additional comments on this matter.

<ESMA\_QUESTION\_ESAP\_29>