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 | European Association of Credit Rating Agencies (“EACRA”) |
| Activity | Associations, professional bodies, industry representatives |
| Are you representing an association? |[x]
| Country / Region | France |

# 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>

As no room is foreseen for an introductory comment, we are using this space to do so.

According to the ESAP Regulation, credit rating agencies are required to report a high number of information to ESAP. The ESAP will also include two existing databases maintained by ESMA, namely the Central Repository of Ratings and the European Rating Platform. With regard to the latter, given that the text of the ESAP Regulation is not unambiguous, we want to stress here that “credit ratings which are exclusively produced for and disclosed to investors for a fee” (so called investor-pays ratings) in accordance with article 11a of the CRA Regulation shall not be displayed at the European Rating Platform and should therefore not be available at ESAP.

Additionally, we would like to recall that according to recital 31 of Regulation 462/2013 amending the CRA Regulation, “the European Rating Platform should help smaller and new credit rating agencies to gain visibility”. We are of the opinion that the current design of the European Rating Platform has fundamentally failed to reach this target and therefore recommend that database should be re-designed to tackle this issue but also to increase the user experience and the user friendliness.

<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>

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<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>

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<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>

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<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>

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<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>

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<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>

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

<ESMA\_QUESTION\_ESAP\_8>

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<ESMA\_QUESTION\_ESAP\_8>

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

<ESMA\_QUESTION\_ESAP\_9>

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<ESMA\_QUESTION\_ESAP\_9>

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

<ESMA\_QUESTION\_ESAP\_10>

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<ESMA\_QUESTION\_ESAP\_10>

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

<ESMA\_QUESTION\_ESAP\_11>

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<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>

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<ESMA\_QUESTION\_ESAP\_12>

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

<ESMA\_QUESTION\_ESAP\_13>

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<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>

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<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>

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<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>

Credit Rating Agencies are required to submit to ESAP not only information relating to themselves but also information relating to other entities (e.g. the rated entities).

In order to avoid problems in matching the information received from the several entities subject to ESAP reporting, we recommend that, when reporting information relating to other entities, credit rating agencies (and other entities) only submit item b) and d) of the entity to which the information relates and do not report items j), k), l). We believe that the entity to which the information relates is best placed to provide these 3 items.

<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>

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<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>

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<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>

No, we don’t think that a time delay of 60 minutes will modify the usefulness of ESAP as a central European database.

We propose that ESAP, when a user is searching for specific information, displays a link to the relevant page of the OAM where the information could be found in case of real urgency.

<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>

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<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>

We welcome that the information at ESAP shall be publicly available. With regard to the empowerment allowing ESMA to charge fees for specific services, we would appreciate if these services were well identified and that only for these services an authentication for the users is required. Similar to the requirement applied to ESMA supervised entities, the pricing should be based on costs and non-discriminatory.

We also welcome that a search engine shall be available. Based on the experience with the European Rating Platform, we recommend that the search for specific entities should not exclusively be based on the LEI but should allow a screening across several entities (eg to allow for peer group information). In case the search triggers a high number of entities, filters to narrow down the search should be available.

With respect the download of information, we would appreciate if the information could be made available as Excel files (or csv files) so that ESAP users could easily treat the information thereafter. Based on the experience with the Central Repository of Ratings, we recommend that information relating to one search should be downloadable at once and not require multiple downloads. Ideally, the ESAP users could define the format of the download themselves.

With regard to the modification of the API, we agree that this should be governed by ESMA’s processes and procedures and propose that public consultations should be held. Additionally, before implementing any changes at ESAP, ESMA should inform the public on these changes and clarify the new functionalities.

<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>

While the LEI is now widely implemented, not all entities have yet such a LEI. As an example, credit rating agencies may rate ring-fenced projects, separate business lines within a company (eg in the insurance segment) or micro to small corporates, which do not have (separate) LEIs.

As an alternative (or additional) identifier, you may consider the VAT identifier, which is most likely wider spread than the LEI (especially at SMEs).

<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>

With respect to the items relating to the CRA Regulation (page 40 and 41 of the consultation paper), we propose the following two clarifications:

* The title “ratings calendar” (in accordance with Art 8a(3) of CRAR) should be modified into “sovereign ratings calendar).
* The title “registered CRAs” relates to two different articles in CRAR. We recommend to split this item into two sections to 1) “CRAs market shares” in accordance with Art 8d (2) of CRAR and 2) “registered CRAs” in accordance with Art 18(3) of CRAR.

Additionally, we recommend to clarify which information should be provided by whom, as some information streams directly from ESMA, other information comes directly form CRAs and finally some information is provided by CRAs but is treated by ESMA in order to display results. Such a clarification will assist ESAP users in knowing the source of the information.

<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 would prefer if information at national level should be captured by certain specific types of information. In order to ensure transparency towards ESAP users, we recommend to provide users with a guide on what additional information is available in each country.

<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>

T With respect to Credit Rating Agencies, we agree that ESAP does not define separate categories of sizes for these. Given the limited number of Credit Rating Agencies registered or certified with ESMA, we think that ESAP users should easily find information relating to specific agencies.

<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>

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<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>

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<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>

Credit Rating Agencies report to ESMAs RADAR system (which is thereafter used for ERP and CEREP) their ratings according to specific categories of asset classes and sub-asset classes. In the corporate market segment, only three broad categories are foreseen (banks, insurances and non-financial corporates). At this stage, Credit Rating Agencies therefore do no use the NACE industry classification to report their ratings. Given that ESAP has the target to centralize reported information without creating new reporting requirements, we believe that Credit Ratings should not be mandated to use the NACE classification when reporting their ratings. As mentioned already in our response to Question 16, Credit Rating Agencies shall only state the entity to which the information relates.

With regard to Credit Ratings Agencies, we agree that these should be listed separately in the list of financial entities. Given that ESG Rating agencies shall equally report to the ESAP, we propose to include these also.

<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>

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<ESMA\_QUESTION\_ESAP\_29>