

# 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](http://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](#)'.

## **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).

## 1 General information about respondent

Name of the company / organisation	Moody's
Activity	Financial Services
Are you representing an association?	<input checked="" type="checkbox"/>
Country / Region	Choose an item.

## 2 Questions

- Q1. 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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ESAP\_1>

- Q2. 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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ESAP\_2>

- Q3. 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>

- Q4. 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>

**Q5. 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>

**Q6. Do you agree that the format of rejection feedback to the submitting entities should be standardised?**

<ESMA\_QUESTION\_ESAP\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ESAP\_6>

**Q7. 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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<ESMA\_QUESTION\_ESAP\_7>

**Q8. 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>

**Q9. 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>

**Q10. 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>

**Q11. 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>

**Q12. 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>

**Q13. 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>

**Q14. 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>

We agree that collection bodies should not be able to assert intellectual property (IP) rights resulting from the receipt of information from information providers. Information such as credit ratings, as protected intellectual property, should have the necessary IP protections evident across the distribution chain from provision to the collection body as well as from the collection body on to ESAP. Such protection would be consistent with the current practice for the submission of information onto the European Ratings Platform.

As an electronic platform, ESAP is subject to a number of threats and vulnerabilities from both an information technology and intellectual property perspective. The Regulations, however, are silent on measures that would protect CRA information, intellectual property and ensure appropriate use of credit rating information provided on the ESAP. To address this, we would recommend that the information providers right to protect their intellectual property should be included in the relevant RTS.

In addition to protecting the existing IP of CRAs, we would also expect the continuation of technological safeguards against the harmful onward use of credit rating information. This is important to protect the ESAP from cyber-attack, hacking and manipulation (including of credit rating information) as well as protecting investors and users of ESAP from the proliferation of third-party unauthorised databases created from ESAP-posted credit rating information. These databases will inevitably become out of date as



soon as they are created, because they will not be updated in a timely fashion like the ESAP, leading to market confusion.

Moody's remains supportive of free access to credit rating information for investors who are searching for particular credit ratings, so as to inform a particular investment decision, as well as regulatory reporting purposes, provided this is done by the entity required to provide the regulatory reporting and only for those credit ratings linked to the exposures on which it is required to report. We do not support an approach that provides unlimited access to CRA intellectual property where that access is only to further those entities' commercial purposes.

While we acknowledge the desire to create unrestricted access and for information to be downloaded in data extractable format, we firmly believe that the ESAP should have reasonable protections against infringement of IP rights and harmful practices causing market damage and confusion.

<ESMA\_QUESTION\_ESAP\_14>

**Q15. 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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ESAP\_15>

**Q16. 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>

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<ESMA\_QUESTION\_ESAP\_16>

**Q17. 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>

**Q18. [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>

**Q19. 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>

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<ESMA\_QUESTION\_ESAP\_19>

**Q20. 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>

As the format for provision of information between collection bodies and ESAP will affect the format used by information providers, we would strongly recommend that where information providers are currently providing information in machine readable format, such as the provisions of credit rating information on to the ERP that these formats be retained. This is important to reduce the operation and technological cost and burden of information providers.

<ESMA\_QUESTION\_ESAP\_20>

**Q21. 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>

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<ESMA\_QUESTION\_ESAP\_21>

**Q22. 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>

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<ESMA\_QUESTION\_ESAP\_22>

**Q23. 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>

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<ESMA\_QUESTION\_ESAP\_23>

**Q24. 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>

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<ESMA\_QUESTION\_ESAP\_24>

**Q25. 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>

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<ESMA\_QUESTION\_ESAP\_25>

**Q26. 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>

**Q27. 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>

**Q28. 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>

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<ESMA\_QUESTION\_ESAP\_28>

**Q29. 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>