



– Consultation response –

The European Single Access Point (ESAP) for financial and non-financial information publicly disclosed by companies

Brussels, 12 March 2021 | Europex welcomes the opportunity to contribute to the present consultation and expresses its general support for the Commission's good intention to facilitate the access and comparability of publicly disclosed financial and non-financial company information in the EU through the introduction of a harmonised European Single Data Access Point (ESAP).

As for the scope of the initiative, however, we believe that further reflection and analysis are needed in order to design a useful and manageable tool that can add true value for stakeholders and investors of all sizes. At a very minimum, this requires that the scope and the objective need to match and that the estimated benefits of the initiative are to outweigh its anticipated implementation and maintenance costs.

In the following, we highlight two major points for further consideration:

I. The proposed scope of the ESAP is too broad and needs to be further refined

In our understanding, the Commission's objective is to improve the accessibility and comparability of publicly disclosed financial and non-financial company information with the aim to facilitate investment decisions by notably small and medium-sized investors. We believe that the scope of legislative acts currently under consultation (33 EU legislative acts spanning across the financial services, environmental and energy sectors) is too broad and lacks a clear explanation on how the respective acts can contribute to the aim set by the Commission in this initiative.

As stated in the public consultation document, it is important that the Commission accurately determines if, how and to what extent each of the respective acts can potentially contribute to the set target. At this stage, there seems to be a large discrepancy between the rather focused policy objective, which we support, and the great variety of data which is currently being considered under this initiative but may not be relevant to achieve the desired outcome. Consequently, Europex strongly disagrees that the widest possible scope of the information is most important. On the contrary, it is the *relevance* of such data that should be prioritised. The Commission should therefore conduct a refined selection of data that is to be included in the ESAP, prioritising information that will secure the Commission's objective and address the most urgent and most relevant shortcomings.

From a commodity trading perspective, it is unclear to what extent the data that EU legislative acts such as REMIT, MiFID II/MiFIR, MAR, EMIR, PRIIPS and the EU ETS require to be reported and/or maintained can help small or medium-sized investors make better informed decisions. The unique characteristics of energy commodity markets and their participants render the data that is offered by energy exchanges in this area – which is already reported via many regulated reporting streams – of little purpose to small and medium-sized investors and stakeholders seeking to access and compare public data.

It is important to note that energy commodity derivatives, emission allowances and other commodity derivatives are primarily used for hedging purposes by companies with an underlying physical business, and not by retail consumers for investment purposes. Energy/commodity market participants have been trading professionally to hedge their commercial or investment risks for years, through which they have gained the necessary expertise. In some Member States, in order to conduct such a trading activity – even though it is ancillary to their main business, market participants are required to employ professional traders, which are licensed by either national competent authorities or respective energy exchanges. Hence, treating such entities as retail investors with limited experience in dealing with financial instruments, regardless of whether they are natural persons or companies, does not seem pertinent.

In addition, the data collected through REMIT, MiFID II / MiFIR, MAR, EMIR, BMR and the EU ETS is already centralised via the EU agencies ESMA and ACER, trade repositories, NCAs and other well-established platforms (such as Inside Information Platforms for inside-information disclosure purposes under REMIT) and is sought in these places by those in need of the information, i.e. professional energy traders.

Hence, including such commodity trading data in the ESAP would clearly go significantly beyond the Commission's fundamental objective to ease stakeholders' access to public information and remove significant obstacles for SMEs. It would add no value for stakeholders and require a complex and significant data infrastructure which would come at a very considerable cost.

Against this background, we urge the Commission to reconsider the inclusion of the following instruments under the proposed scope of the ESAP:

- The Market Abuse Regulation (MAR) (596/2014/EU) and Market Abuse Directive (MAD) (2014/57/EU);
- The European Market Infrastructure Regulation (EMIR) (648/2012/EU);
- The Regulation on Wholesale Energy Market Integrity and Transparency (REMIT) (1348/2014/EU);
- The Directive of Markets in Financial Instruments (MiFID) (2014/65/EU) and Regulation of Markets in Financial Instruments (MiFIR) (600/2014/EU);
- The Key Information Documents for Packaged Retail and Insurance- based Investment Products (PRIIPs) Regulation (1286/2014/EU); and
- The EU Emissions Trading System (EU ETS).

II. A comprehensive study assessing the feasibility and economic impact of the ESAP should be undertaken

We believe it is vital to conduct a comprehensive feasibility study that considers the technical, financial, organisational and maintenance implications as well as the economic impact of requesting such reporting activities under each of the 33 listed legislative acts before moving ahead with a legislative proposal. This would also help determine what type of data would be relevant to serve the Commission's objective to deliver a more accessible and centralised EU data point for stakeholders and investors to benefit from. In addition, a cost-benefit analysis that determines the expected costs and benefits of establishing the ESAP should be conducted. The costs of introducing the ESAP should be proportionate to its overall benefits, and it must be ensured that the ESAP does not place any undue additional burden on firms with existing reporting obligations.

About

Europex is a not-for-profit association of European energy exchanges with 29 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

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