

RegCORE – Client Alert

European Single Access Point (ESAP) takes shape with legislation published in the EU's Official Journal

January 2024

Capital Markets Union

European Single Access Point (ESAP) takes shape with legislation published in the EU's Official Journal

Dr. Michael Huertas

Tel.: +49 160 973 757-60
michael.huertas
@pwc.com

Contact the EU RegCORE Team

de_regcore@pwc.com

QuickTake

On 20 December 2023, the ESAP Regulation¹ along with the ESAP Omnibus Regulation² and the ESAP Omnibus Directive³ were published in the EU's Official Journal. This legislative package amends existing EU legislation in financial services, capital markets and sustainability to enable ESAP's functionality. The versions published in the Official Journal are substantially the same as those texts adopted by the Council of the EU on 27 November 2023 and enter into force on 9 January 2024. Member States have until 10 January 2026 to transpose the ESAP Omnibus Directive into national law, except for Article 3 (which relates to the EU's Transparency Directive, as amended), where the deadline is 10 July 2025. The majority of reporting via ESAP will commence in 2026 and then further rules coming online in 2028 and 2030. Between now and then, a number of implementing and regulatory technical standards will need to be consulted on. Firms will want to take preparatory action as soon as possible to become ESAP-compliant as well as to be positioned to use data made available in ESAP.

The ESAP legislative package, which is a core deliverable of the EU's Capital Markets Union efforts, aims to enhance transparency, comparability and accessibility of information for investors, issuers, supervisors and other stakeholders, as well as to support the development of the EU capital markets union, the EU green deal and the EU digital strategy. The ESAP platform is expected to become operational by 1 January 2026, subject to the adoption of delegated and implementing acts by the European Commission and the European Securities and Markets Authority (**ESMA**), which will specify further details on the technical and

¹ Available [here](#) and which establishes ESAP.

² Available [here](#) and which amends 21 existing EU Regulations' requirements to facilitate ESAP's functionality.

³ Available [here](#) and which amends 16 existing EU Directives' requirements to facilitate ESAP's functionality.

operational aspects of ESAP including as part of its Work Programme for 2024 and beyond as well as in its Data Strategy (2023-2028) (see standalone Client Alerts)

This Client Alert assesses the impact of ESAP on EU markets and steps that market participants will want to consider. This Client Alert should also be read with coverage from PwC Legal's EU RegCore on the EU's "Listing Act" available [here](#).

Everything you need to know about ESAP

ESAP aims to enable EU-wide access to information on entities' actions or products when that information relates to capital markets, financial services, or sustainable finance. In the EU there are approximately 200 public reporting obligations applicable to financial services firms and capital markets participants. Such public disclosure requirements were introduced successively over the past 30 years to ensure a high-level of investor protection, facilitate cross-border investments and to reduce information asymmetry in the Single Market but reporting of information both in content and where located was fragmented.

ESAP is a centralised platform, operated by ESMA and covering all such data in an accessible format, allowing any investor to examine and compare data, assisting in the decision-making process. Access to ESAP will be operated mainly free of charge⁴ and data is submitted by in-scope persons (also known as data preparers) to respective "Collection Bodies" which are ESMA, its sister authorities the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) as well as existing repositories (also known as Officially Appointed Mechanisms – OAMs), the national competent authorities (NCAs) making up the European System of Financial Supervision.

The obligation of a data preparer to submit information to a Collection Body arises when such information is required to be publicly disclosed under at least one EU financial markets legislation in scope of ESAP. Although such public data is already disclosed (thus ESAP imposes no new requirement(s)), the information will have to be processed twice and may be done so by Collection Bodies for different purposes. Reporting entities will need to consider whether they and respective other counterparties/clients have a valid legal entity identifier (LEI) given that ESAP places emphasis on this and that all data to be submitted to ESAP meets the technical requirements (data extractable/machine readable) with metadata and electronic seals. In some circumstances counterparty and/or client facing consent to submit such information to a Collection Body may be required from such financial services firms subject to an ESAP reporting requirement.

ESAP is conceptually comparable to similar international efforts such as EDGAR in the United States, EDINET in Japan, and SEDAR in Canada. In contrast to its international peers, ESAP however builds on the EU's commitment to the Green Deal and the Strategy for Financing the Transition to a Sustainable Economy as well as the EU's Digital Finance Strategy, notably which that information made public should be made available in standardised and machine-readable formats.

ESAP will therefore provide public access to:

1. **Mandatory information** – i.e., such information that companies and other entities must disclose to the public under certain EU Regulations and Directives that are set out in the Annex to the ESAP Regulation. Information required to be provided by issuers of securities in scope of the Transparency Directive and the Prospectus Regulation as well as ESG⁵ information from the Taxonomy Regulation

⁴ By way of derogation, ESMA may charge fees for specific services that involve searches for a "very large volume of information or for frequently updated information" – all such terms being at present undefined. Those fees shall not exceed the cost incurred by ESMA for the provision of the service. Eventually, the regulation also gives a list of users that will always benefit, due to their role, of a free access. They are EU institutions, agencies and bodies, (national) competent authorities, members of the European Statistical System or of the European System of Central Banks and the resolution authorities.

⁵ Gathering corporate and sustainability data in one place supports the European Green Deal and encourages investments in sustainable firms and products. Examples of how this could boost green investments:

- **Reporting and reducing greenwashing risk:** stakeholders and investors will have access to fully analysable data (including voluntary data uploaded by EU companies) to assess their own and other entities' ESG risks, dependencies, opportunities, and impacts, helping them report, benchmark, and market themselves.
- **Making publicly accessible information easy to access will simplify ESG due diligence:** which was previously housed in many sources with hurdles to access and download prices. ESAP will reduce time, cost, and error in various situations,

will need to be reported as soon as ESAP becomes operational, other information will, by ESMA's acknowledgement, become reportable swiftly thereafter – see table below;

2. **Voluntary information** – i.e., information that EU companies and entities may choose to make accessible to ESAP on a voluntary basis that is referred to in the Annex to the ESAP Regulation or in further legally binding EU acts providing access to information on ESAP. Voluntary information must be clearly distinguishable from mandatory information and are subject to a disclaimer that states that such information may not necessarily meet all requirements for mandatory information and may not be updated over time; and
3. **Historical information** – and may be made available by Collection Bodies (but not NCAs) to ESAP from the date of application of the requirement to submit information to ESAP. Historical information in this context means the mandatory information that was made public no earlier than five years before the date of application of the requirement to submit that information to ESAP.

ESMA is required to maintain a list of Collection Bodies responsible for accepting information disclosed to EAP and to publish such list on the ESAP portal. As at the date of this Client Alert, the following represents the scope of mandatory information and respective types of Collection Bodies as well as the phased timeline by which such information is to be available on ESAP:

Part A: EU Regulations (each as amended)	Relevant entity	Information to be available on ESAP from
1. Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1). (CRA Regulation)	ESMA to publish credit ratings submitted to it on a European rating platform which may be fulfilled by ESAP	1 January 2026
	Credit Rating Agencies with respect to relevant data via ESMA as Collection Body	10 January 2028
2. Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps (OJ L 86, 24.3.2012, p. 1). (Short Selling Regulation)	Relevant persons caught by Short Selling Regulation submitting information via Collection Body	10 July 2026
3. Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1). (EuVECA Regulation)	ESMA, as Collection Body, drawing information submitted to it by respective NCA	10 January 2028
4. Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18). (EuSEF Regulation)	ESMA, as Collection Body, drawing information submitted to it by respective NCA	10 January 2028
5. Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).	CRR institutions via EBA as Collection Body	10 January 2030

including mergers and acquisitions, capital markets issuance, lending, and other sustainable or non-sustainable activities; and

- **Increasing the integrity of ESG ratings:** following the European Commission's work on the transparency and integrity of ESG rating activities, ESAP is expected to give stakeholders better access to information and serve as a source of information and input data for ESG rating providers, reducing estimations and improving ESG ratings.

(CRR)		
6. Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC (OJ L 158, 27.5.2014, p. 77).	Audit firms that are legal persons (must have an LEI by 9 January 2030) and must designate at least one Collection Body and notify ESMA thereof	10 January 2030
7. Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1). (MAR)	Member States must designate at least one Collection Body and notify ESMA thereof	10 January 2028
8. Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84). (MiFIR)	ESMA as Collection Body	10 January 2030
9. Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (OJ L 352, 9.12.2014, p. 1). (PRIIPs Regulation)	PRIIPs manufacturers that are legal persons shall be required to obtain an LEI. By 9 January 2028 for the purposes of making the key information document (KID) accessible on ESAP, Member States shall designate at least one Collection Body by 9 January 2028. For other reporting requirements, the relevant (national) competent authority shall be the Collection Body	10 January 2028
10. Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds (OJ L 123, 19.5.2015, p. 98). (ELTIF Regulation)	ESMA, as Collection Body, drawing information submitted to it by respective NCA	10 January 2030
11. Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1). (SFTR)	ESMA as Collection Body, including drawing information submitted to it by respective (national) competent authority	10 January 2030
12. Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p. 1). (Benchmarks Regulation)	ESMA as Collection Body, including drawing information submitted to it by respective (national) competent authority	10 January 2028
13. Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12). (Prospectus Regulation)	Relevant (national) competent authority	10 July 2026

14. Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (OJ L 169, 30.6.2017, p. 8). (MMF Regulation)	ESMA as Collection Body, including drawing information submitted to it by respective (national) competent authority	10 January 2030
15. Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (OJ L 198, 25.7.2019, p. 1). (PEPP Regulation)	By 9 January 2028 Member States shall designate at least one Collection Body and notify ESMA thereof. For other reporting requirements EIOPA shall be the Collection Body and/or other (national) competent authorities	10 January 2028
16. Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 5.12.2019, p. 1). (IFR)	EBA as Collection Body	10 January 2030
17. Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1). (SFDR)	By 9 January 2028 Member States shall designate at least one Collection Body and notify ESMA thereof	10 January 2028
18. Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40). (MiCAR)	By 9 January 2030 Member States shall designate at least one Collection Body and notify ESMA thereof. For other reporting requirements ESMA shall be the Collection Body and/or other (national) competent authorities	10 January 2030
19. Regulation (EU) 2023/2631 of European Parliament and of the Council of 22 November 2023 on European Green Bonds and optional disclosures for bonds marketed as environmentally sustainable and for sustainability-linked bonds (OJ L, 2023/2631, 30.11.2023, EL: http://data.europa.eu/eli/reg/2023/2631/oj). (GBR)	By 9 January 2030 Member States shall designate at least one Collection Body and notify ESMA thereof. For other reporting requirements ESMA shall be the Collection Body and/or other (national) competent authorities	10 January 2030
Part B: EU Directives (each as amended)	Relevant entity	Information to be available on ESAP from
20. Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1). (FICOD)	Relevant (national) competent authority	10 January 2030
21. Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids (OJ L 142, 30.4.2004, p. 12). (Takeover Directive)	By 9 January 2030 Member States shall designate at least one Collection Body and notify ESMA thereof. For other reporting requirements the relevant (national) competent authorities supervising a bid shall be the Collection Body	10 January 2030

22.	Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38). (Transparency Directive)	The OAMs and any (national) competent authority appointed pursuant to the Transparency Directive	10 July 2026
23.	Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).	Respective public registers	10 January 2030
24.	Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies (OJ L 184, 14.7.2007, p. 17). (Shareholder Rights Directive)	Member States shall require that institutional investors, asset managers, proxy advisors and companies obtain a LEI. By 9 January 2030, Member States shall designate at least one Collection Body and notify ESMA thereof	10 January 2030
25.	Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (OJ L 302, 17.11.2009, p. 32). (UCITS Directive)	NCA or respective competent authority as Collection Body	10 January 2028
26.	Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (OJ L 335, 17.12.2009, p. 1). (Solvency II Directive)	All insurance and reinsurance undertakings must obtain a LEI. By 9 January 2030, Member States shall designate at least one Collection Body and notify ESMA thereof. For all other reporting requirements, EIOPA shall be the Collection Body drawing upon information notified by the (national) competent authorities	10 January 2030
27.	Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1) (AIFMD) .	ESMA, as Collection Body	10 January 2030
28.	Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).	OAMs. By 9 January 2028, Member States shall designate at least one Collection Body and notify ESMA thereof	10 January 2028
29.	Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338)	The respective (national) competent authority or designated authority	10 January 2030

(CRD).		
30. Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190) (BRRD).	By 9 January 2030, Member States shall designate at least one Collection Body and notify ESMA thereof. For all other relevant information, the (national) competent authority and/or resolution authority shall be the Collection Body	10 January 2030
31. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349). (MIFID II)	All investment firms, market operators and issuers must obtain a LEI. By 9 January 2030, Member States shall designate at least one Collection Body and notify ESMA thereof. For all other relevant information, ESMA, the public register or the (national) competent authority shall be the Collection Body	10 January 2030
32. Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19). (IDD)	The (national) competent authority as Collection Body	10 January 2030
33. Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (OJ L 354, 23.12.2016, p. 37). (IORPs Directive)	By 9 January 2030, Member States shall designate at least one Collection Body and notify ESMA thereof	10 January 2030
34. Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU (OJ L 314, 5.12.2019, p. 64). (IFD)	By 9 January 2030, Member States shall designate at least one Collection Body and notify ESMA thereof	10 January 2030
35. Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision and amending Directives 2009/65/EC and 2014/59/EU (OJ L 328, 18.12.2019, p. 29). (Covered Bonds Directive)	By 9 January 2030, Member States shall designate at least one Collection Body and notify ESMA thereof	10 January 2030

Collection Bodies are empowered to reject and/or remove information submitted by reporting entities where the information is manifestly inappropriate, abusive or outside the scope of ESAP disclosure obligations.

ESAP includes the following base features for users:

- a web portal with a user-friendly interface in all of the EU's official languages to enable access to the ESAP's information;
- an API that allows easy access to the ESAP's information;
- a search tool in all of the EU's official languages;
- information display functionality with embedded machine translation for information retrieved;
- download functionality, including for large quantities of data; and

- a notification service that alerts users when new information in ESAP becomes accessible.

Research in ESAP may be carried out using criteria relating to the entity that contributed the information (name, Legal Entity Identifier, size) or to the information itself (type, date of submission).

It is anticipated that the sheer volume of data on ESAP as well as the logic behind the search functionality will yield numerous benefits for data users be it both investors (retail and institutional) and/or their advisors. This is particularly in areas where ESAP's bringing together of existing patchwork of commercial registers, agencies and other authorities collecting information has been historically burdensome and costly. ESAP could accelerate the due diligence process for a number of transaction types such as but not limited to M&A by collating corporate, financial and sustainability information in a centralised manner, thereby lowering the barriers for entry for investors and companies across the EU. Equally, comprehensive and consistent data could improve investor and company decisions, since cross-border visibility could improve financing and capital raising decisions.

Open data and (re-)use of data reported to ESAP: the impact on firms and documentation

Unless the position is clarified in implementing and/or regulatory technical standards, concerns may remain on which parties have liability for information available on ESAP. Data preparers are expected to continue to take such responsibility for such data as is currently the case under existing EU Regulations and Directives. However, once such data is submitted to ESAP, it is not definitively clear where the liability rests, in particular on data integrity as a result of collection of the data (including across multiple Collection Bodies) and/or ESAP's publication process.

Another issue is that ESAP changes how data is disclosed. In a number of instances, data to date has been published on password-protected websites hosted by financial market participants, in particular where confidentiality and data protection laws of relevant jurisdictions and obligations owed to clients warrant such an approach. As noted in the Impact Assessment accompanying the ESAP legislative package open data is specifically acknowledged as an issue: "The ESAP will contain information that is of high value for users in the financial services and capital markets area. Many end users will re-use information in a way or another, for personal consumption or commercial purposes (...) Determining rights on data use and reuse is necessary to ensure uniform application and user rights. This is key to enable legally sound use and re-use on a pan-Union basis. The ESAP should aim to ensure fair, proportionate and non-discriminatory conditions for the re-use of such information."

While Collection Bodies will be required to control that the (re-)use of information meets the open data licensing rules in the ESAP Regulation, ESMA is also required to ensure that such (re-)use does not infringe rights of the data owners.

The impact of the ESAP on financial services firms' policies and procedures as well as counterparty and client-facing documentation may vary depending on the scope, design and implementation of ESAP, in particular as a number of implementing and regulatory technical standards are still subject to consultation and legislative proposals following 9 January 2024. However, some possible implications that firms will want to forward-plan for are:

- Financial services firms may need to review and update their policies and procedures for data collection, processing, reporting and disclosure to ensure compliance with the ESAP requirements and standards, as well as to leverage the benefits of the ESAP for their own business intelligence, risk management and product development. For example, firms may need to adopt common data formats, taxonomies and identifiers, align their reporting cycles and frequency with the ESAP, and ensure the quality, accuracy and completeness of the information they provide or use from the ESAP.
- Financial services firms may also need to review and update their counterparty and client-facing documentation to reflect the availability and use of the ESAP as a source of information and due diligence. For example, firms may need to inform and educate their (non-EEA) counterparties and clients about the ESAP and its features, benefits and limitations, as well as to incorporate references, links or disclaimers to the ESAP in their contracts, agreements, terms and conditions, disclosures, marketing materials and other communications. Firms may also need to monitor and address any potential legal, regulatory or contractual issues arising from the ESAP, such as data protection, liability, confidentiality, consent, jurisdiction or dispute resolution.
- Financial services firms may also experience some opportunities and challenges arising from the ESAP in terms of their competitive position, market access and innovation potential. For example,

firms may benefit from the ESAP by accessing more comprehensive, comparable and reliable information on companies across the EU, which may enable them to improve their analysis, valuation, pricing, product design and client service. However, firms may also face increased competition, scrutiny and expectations from their counterparties and clients, as well as from regulators and supervisors, who may also use the ESAP as a tool for market oversight, enforcement and policy making. Moreover, firms may need to adapt and innovate their business models, processes and systems to cope with the increased volume, variety and velocity of data and information available from the ESAP, as well as to leverage new technologies, such as artificial intelligence, blockchain or cloud computing, that may facilitate or disrupt the ESAP.

Given the above, financial services firms may also want to assess whether ESAP could lead to increased litigation risks. While the information made available on ESAP should already be public in most instances, having current and historical data centralised and accessible, in a machine readable format, in one place may increase the likelihood of individual as well as, following recent EU legislation, collective action i.e., mass claims against firms, their financial products and services as well as activity (including misstatement/omissions of information), including when it comes to ESG and other corporate social responsibility obligations and thus relevant levels of compliance. Litigants may find it easier to collect data-based evidence forming the basis of claims, especially where such claims are directed against more than just one entity. Notably, data mining may reveal patterns and trends that could support new claims from the private sector as well as regulator-led action where large amounts of data are accessible for various entities.

Outlook

While the ESAP legislative package marks a welcome (if perhaps somewhat overdue) first step in the delivery of ESAP “1.0”, market participants, both those that deliver information into ESAP and those that use such information will want to remain alert to future further improvements to how ESAP is intended to operate (and whether public-sector sponsored but private sector operating existing repositories that will continue to play a vital role outside ESAP’s current scope, such as the European DataWarehouse, are better able to deliver) and what ESMA plans for ESAP to further cover both in terms of data and from what sources.

Investors (institutional and retail) should benefit from ESAP in having relevant information one location, notwithstanding this potential increase in litigation and/or regulatory risk. Indeed, data preparers may find it easier having a single publication format across all Member States and a single location/process to upload such data (albeit they may need to adjust their rules and processes).

Whether there will, at some point, be an “official extract from ESAP” makes the legal consequences and evidence value of ESAP uncertain. An official ESAP extract might be useful as evidence before authorities, local courts, or Member State notaries but absent that, ESAP is set to enhance the EU’s Capital Market Union efforts in increasing trust in data across the market much in the same way as EDGAR has achieved the same in the US since the 1990’s.

Accordingly, while not all affected market participants may be thoroughly excited by ESAP, they nevertheless may want to take early pre-emptive action to ensure their respective policies and procedures as well counterparty and client-facing documentation are capable of meeting ESAP’s requirements as well on-going compliance with the EU’s other relevant transparency and reporting regimes.

About us

PwC Legal is assisting a number of financial services firms and capital markets participants in forward planning for changes stemming from relevant related developments. We have assembled a multi-disciplinary and multijurisdictional team of sector experts to support clients navigate challenges and seize opportunities as well as to proactively engage with their market stakeholders and regulators. PwC Legal, working together with PwC has more than 150 capital markets multi-jurisdictional qualified lawyers and numerous multi-disciplinary capital markets focused professionals advising issuers and investors across the EEA-30.

Moreover, we have developed a number of RegTech and SupTech tools for supervised firms, including PwC Legal’s [Rule Scanner](#) tool, backed by a trusted set of managed solutions from PwC Legal Business Solutions, allowing for horizon scanning and risk mapping of all legislative and regulatory developments as

well as sanctions and fines from more than 1,500 legislative and regulatory policymakers and other industry voices in over 170 jurisdictions impacting financial services firms and their business, in particular as it impacts capital markets activity across all asset classes and transaction types.

In leveraging our Rule Scanner technology, we offer a further solution for clients to digitise financial services firms' relevant internal policies and procedures, create a comprehensive documentation inventory with an established documentation hierarchy and embedded glossary that has version control over a defined backward plus forward looking timeline to be able to ensure changes in one policy are carried through over to other policy and procedure documents, critical path dependencies are mapped and legislative and regulatory developments are flagged where these may require actions to be taken in such policies and procedures.

If you would like to discuss any of the developments mentioned above, or how they may affect your business more generally, please contact any of our key contacts or PwC Legal's RegCORE Team via de_regcore@pwc.com or our [website](#).

Dr. Michael Huertas

Tel.: +49 160 973 757-60

michael.huertas@pwc.com