

# FESE response to Commission consultation on a European Single Access Point

Brussels 12<sup>th</sup> March 2021

## General questions

**Q1.** Please rate the following characteristics of ESAP based on how relevant they are according to you:

(please rate each item from 1 to 5: “1”: fully disagree, “2”: somewhat disagree, “3”: neutral, “4”: somewhat agree, ”5”: fully agree and “no opinion”):

	1	2	3	4	5	No opinion
The information quality (accuracy and completeness) is most important					X	
The widest possible scope of the information is most important		X				
The timeliness of the information is most important			X			
The source of the information is a key element to know			X			
The immutability of the information is a key element					X	
ESAP should include information made public on a voluntary basis by non-listed companies of any size, including SMEs				X		
ESAP should include information made public on a voluntary basis by financial market actors					X	
Other aspects, if so which ones:					X	

Please specify what are the other aspects you referred to in your response to question 1:  
5000 character(s) maximum

With reference to “the widest possible scope of the information is most important”, the question of scope can be understood by the type of companies or by the type of disclosure of information that would fall under the ESAP initiative. Whilst we do not support the introduction of any new reporting requirements, should new requirements nevertheless be proposed these must be binding for both listed and non-listed companies. In addition, the set-up of the ESAP should follow a phased approach where the information collected could be expanded gradually over time to facilitate a permanent review regarding its efficiency and functionality and allow users and operators to integrate the ESAP according to their capacities. In this respect, while the legislative files covered in question 7 include

reporting requirements, not all of these would provide added value for investors and market participants and some would be of a supervisory nature.

As regards the timeliness of the information available, it needs to be seen in the context of the data to be displayed as well as the necessary processes behind required to make the data available on ESAP. We agree though, that taking necessary processes into account, the information available should be up-to-date, similar to FIRDS and FITR provided by ESMA.

**Q1.1** Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers:

5000 character(s) maximum

FESE welcomes the opportunity to respond to the Commission's consultation on a European Single Access Point (ESAP). Progressing on the CMU will be decisive in delivering the European Green Deal, Digital Agenda and supporting a healthy and sustainable post-pandemic recovery. An ESAP could facilitate further investor access to company information and, by improving company visibility, encourage investors to access smaller national capital markets and provide funding to SMEs.

While the idea for an ESAP is relatively new, other similar projects already exist. Notably the European Financial Transparency Gateway (EFTG) project (more information available [here](#)) where Officially Appointed Mechanisms (OAMs) that handle the financial documents received from European companies have worked on a more advanced ESAP system. Work is also ongoing to create a European business register. In preparing the proposal for an ESAP, an inventory of ongoing projects should take place to merge those that have a similar objective, where warranted.

FESE considers that an ESAP should include information already disclosed by companies listed on Regulated Markets and SME Growth Markets (SME GMs), as well as from non-listed companies. The ESAP would facilitate seamless access and availability of disclosed company data and serve as a basis for investors' assessments, supporting investment in listed companies and thereby promoting the Capital Markets Union. In addition, the ESAP could facilitate financial market participants' access to disclosures.

The ESAP should not introduce new mandatory disclosure requirements for companies. Companies should only have to report once and to one authority. Otherwise, the Commission's initiative would introduce considerable extra costs for companies in providing their information to the ESAP. The scope of the ESAP should be assessed very carefully to avoid introducing additional disincentives for companies to list on public markets as this would be contrary to the objectives of the Capital Market Union.

The ESAP should be strictly limited to the disclosure of company data that is already made publicly available by the company or its relevant NCA and serve as a basis for investors' assessments. Therefore, other sensitive company information, compiled and reported exclusively for clearly determined and legally mandated supervisory purposes (i.e. regulatory data), should not be integrated into a publicly accessible database like ESAP.

Regulatory data are very different in terms of purpose, scope, costs, recipients, standardisation, confidentiality etc. and may have been designed for a reason other than to match investors and issuers, which is the purpose of ESAP. As such, the inclusion of publicly available company data should be strictly limited to those for which there is a direct link that meets the ESAP objective of fostering better accessibility, comparability and usability of data for investors.

To increase integration but keep the project, efficient and manageable in terms of the administrative burden of data processing, the scope should be limited to entity-level, raw

data disclosures stemming from the Transparency Directive for issuers listed on Regulated Markets or, in the case of issuers on SME GMs, the relevant disclosure documentation required. We would also not object to the inclusion of information provided based on the Non-financial Reporting Directive and Prospectus Regulation.

On the condition that some harmonisation of information may be necessary, this should be done in a proportionate manner that does not negatively impact issuers, in particular SMEs, which may lack resources to report according to certain formats. It should, therefore, be considered that there is value added in pooling information in one place, even when the information may not be exactly the same. On the public markets, the vast majority of listed companies across Europe are in fact SMEs. A differentiation between SME GM and Regulated Market issuers will be necessary, where, while they are both required to disclose similar information, they are subject to different requirements. For example, we would not support issuers on SME GMs being subject to the same requirements as issuers on Regulated Markets under the Transparency Directive. The ESAP could also serve as a starting point for establishing a European database for SME-research.

**Q2.** Which channels do you use when searching for, retrieving or using companies' public information?

- Company's website
- Data aggregation service providers
- Stock Exchanges
- Public repositories or databases (OAMs, NCAs, ESAs)
- Other

**Q2.1** Please specify what are the other channel(s) you use when searching for, retrieving or using companies' public information:

5000 character(s) maximum

This question is more relevant for users than Exchanges, however, we note that users rely on National Competent Authorities (NCAs) to provide them with information from companies present in their relevant jurisdiction. It is worth noting that the availability and accessibility of information varies across different EU jurisdictions and that there could be a role for ESMA to harmonise this in an ESAP.

**Q3.** Would you say that the cost for retrieving and using companies' public information is?

- Immaterial
- Average
- High
- Don't know / no opinion / not relevant

**Q3.1** Please provide more information on your answer to question 3:

5000 character(s) maximum

N/A

**Q4.** In which electronic format is companies' public information provided by these channels?

- XBRL
- PDF
- XML
- HTML
- CSV, TXT
- Excel
- Formats enabling natural language processing
- Other
- Don't know / no opinion / not relevant

**Q4.1** Please specify in which other electronic format is companies' public information provided by these channels:

5000 character(s) maximum

On the condition that some harmonisation of information may be necessary, this should be done in a proportionate manner that does not negatively impact issuers, in particular SMEs, which may lack resources to report according to certain standards. It should, therefore, be considered that there is value added in pooling information in one place, even when the information may not be exactly the same. On the public markets, the vast majority of listed companies across Europe are in fact SMEs. A differentiation between SME GM and Regulated Market issuers will be necessary, where, while they are both required to disclose similar information, they are subject to different requirements. We would not support issuers on SME GMs being subject to the same requirements as issuers on Regulated Markets under the Transparency Directive.

We believe that the ESAP should not be restricted in terms of formats and that it would be helpful if it would allow for the submission and publication of information that may have a different format. Companies should not become subject to any additional reporting requirements and mandatory use of costly digital formats must be avoided. This would prevent increased costs of publication and allow for the sharing of research analysis on the ESAP.

It would be beneficial for the ESAP to have a role in converting existing disclosure formats (e.g. PDF) into machine-readable formats (i.e. XML, XHTML CSV, etc.) to facilitate users' readability and usability of the information. Although, FESE does not have a preference for a specific machine-readable format having more machine-readable formats available at the level of the ESAP (following the potential conversion work done at EU or NCA level) would provide a strong added value for the success of this initiative.

**Q5.** Do you encounter barriers or difficulties when accessing the information?

- Yes
- No
- Don't know / no opinion / not relevant

**Q6.** Do you encounter barriers or difficulties when using the information?

- Yes
- No
- Don't know / no opinion / not relevant

**Q6.1** Please describe the barriers or difficulties you encountered when using the information:

5000 character(s) maximum

Company information is in general easily available within local eco-systems, as institutional investors are familiar and know where to find information. However, for cross-border retail investors, it can be harder to find information as investors may not know where to look for it.

The language and format barriers are difficulties that users face when using the information. ESAP should address this whilst following a phased approach where the type of information collected from issuers could be expanded gradually over time to facilitate a permanent review regarding its efficiency and functionality and allow users and operators to integrate the ESAP according to their capacities. However, it is important that such an initiative does not introduce further requirements or cost for companies.

Regarding languages, while companies would likely benefit from disclosing information in English, in terms of visibility, official translations of legal information would entail costs notably when a company's disclosure information is qualitative in nature. For reasons of potential legal liability, automatic translations of qualitative information would not be a suitable alternative. Disclosing information in an additional language should be incentivised but not an obligation. The same approach should apply to voluntary information, meaning that companies should have a choice about which language to use when providing the information, whilst also having the choice, but not an obligation, to provide it in an additional language if they so wish.

While keeping in mind the need to have a cost-efficient set-up, we would see benefits in the ESAP having a role in translating quantitative information into an English machine-readable format to facilitate investors' comparisons of quantitative financial information (please see proposal regarding information to disclose under Question 8).

**Q7.** Should ESAP include information from the hereunder provided list of EU legislations in the financial area?

And if so, please specify whether the ESAP should embed this information immediately (as soon as the ESAP starts) or at a later stage (phasing in).

**Q7.1** The Transparency Directive (2004/109/EC) (e.g. annual/half yearly financial reports, acquisition or disposal of major holdings)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree

- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 1):

5000 character(s) maximum

We believe the ESAP should build on the experience of ESEF. However, one must take into account the recent amendments to the Transparency Directive within the Capital Markets Recovery package, granting EU Member States an option to delay the application of the ESEF requirements by one year.

Please specify whether the information should be included immediately or at a later stage:

- Immediately
- At a later stage
- Don't know / no opinion / not relevant

**Q7.2** The Accounting Directive (2013/34/EU) (e.g. financial statements, management report, audit report)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 2):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.3** The Audit Directive (2014/56/EU) and Audit Regulation (537/2014/EU) (e.g. auditor transparency reports)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree

Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.3):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.4** The Non-Financial Reporting Directive (NFRD) (2014/95/EU) (e.g. non-financial statement)

Fully disagree

Somewhat disagree

Neutral

Somewhat agree

Fully agree

Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 4):

5000 character(s) maximum

The review of the Non-Financial Reporting Directive (NFRD) and European Financial Reporting Advisory Group's (EFRAG) work towards a potential non-financial reporting standard will be key when it comes to increasing both availability and quality of information. When setting up the ESAP, it will be of major importance to consider the ongoing review of NFRD and ensure consistency across pieces of legislation.

We believe that digitisation could help to expand and improve reporting. The handling of science-based targets, climate stress tests, scenario analyses and disclosure by financial institutions of the compatibility of their portfolios with the reduction targets of the Paris Agreement on Climate Change will possibly be easier. This kind of forward-looking and quantitative sustainability data may serve to provide improved assessments of the risks and opportunities associated with companies and their external effects on the environment.

FESE believes that digitisation is key to enabling a broad and efficient use of non-financial data provided under the NFRD. Potential users of such non-financial data would not be able to gather such data from classic, non-digital sources like annual reports - at least not in an efficient and reliable way.

From a report users' perspective there are (in part considerable) obstacles to obtaining sustainability data, which should be addressed to make it easier for them to sort through and process relevant sustainability data. At the same time, there should be no disproportionate burden on report preparers. Companies should not be forced to publish in costly digital formats in ESAP where such an obligation is not required by the relevant reporting legislation.

We recommend the incremental introduction of a standardised, digitised and machine-readable reporting formats for fulfilling investors' needs in respect to finding and

comparing ESG data available across the EU. This should apply to both listed and non-listed companies with more than 500 employees, that would be in scope of the new NFRD disclosure obligations. This would serve to match sustainability and financial reporting, in respect of the formats used, and improve the flow of information between companies and financial market players/databases. In the long term, this would make sustainability data a standard component of companies' (financial) reporting.

We support the inclusion of NFRD data in the ESAP from the beginning of its set-up, provided that sufficient time would be given to allow large companies with more than 500 employees to adapt to new reporting standards, taking into account the upcoming NFRD review which is likely to introduce new reporting requirements.

Please specify whether the information should be included immediately or at a later stage:

- Immediately
- At a later stage
- Don't know / no opinion / not relevant

**Q7.5** The Prospectus Regulation (2017/1129/EU) (e.g. Prospectus, Universal Registration Document, SME Growth Markets-information)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 5):

5000 character(s) maximum

Please see our response to Q1.1. We believe it would make sense to build on the experience of the Prospectus Register. Investors will benefit from learning about new issues as soon as possible to be able to participate in them. In a second stage, it could also be considered to include information disclosed by companies on SME GMs. It is important that the information is up to date and that the ESAP includes the prospectus that is required from a listed company, one year following the approval of the relevant NCA, and that it is published for the required ten years.

As a general remark, it is important that the delay in the information that is disclosed to the users of ESAP are aligned with the required delays that are laid down in the relevant directives and regulations. For example, ESAP has to make sure that a company's annual report remains published for the required period of five years (or longer).

It is important to consider that information provided in this context is more extensive than just the prospectus itself, as companies make additional disclosures and e.g. incorporate information by reference. For the ESAP to provide value, it would therefore need to provide and remove information as efficiently as under systems currently in place.

Please specify whether the information should be included immediately or at a later stage:

- Immediately
- At a later stage
- Don't know / no opinion / not relevant

**Q7.6** The Shareholders Rights Directive (2007/36/EC) and (2017/828/EU) (e.g. Remuneration Report)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 6):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.7** The Market Abuse Regulation (596/2014/EU) and Market Abuse Directive (2014/57/EU) (e.g. inside information)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 7):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.8** The Resolution and Recovery of Credit institutions and Investment firms Directive (BRRD) (2014/59/EU) (e.g. information on the group financial support agreement)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 8):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.9** The Covered Bonds Directive (2019/2162) (e.g. information on the cover pool)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 9):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.10** The Capital Requirements Directive (CRD) (2013/36/EU) and Capital Requirements Regulation (CRR) (575/2013/EU) (e.g. prudential information, stress test results)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 10):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.11** The Credit Ratings Regulation (1060/2009/EU) (e.g. transparency report)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 11):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.12** The Central Securities Depositories Regulation (909/2014/EU) (e.g. governance arrangements)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 12):

5000 character(s) maximum

Information required under CSDR is provided to NCAs who are responsible for assessing Central Securities Depositories' compliance with CSDR. The supervision by NCAs targets stability and resilience of capital markets.

We do not consider that ESAP should include information stemming from CSDR as disclosures regarding the internal governance arrangement of CSDs would not serve as a useful basis for investors in their investment decision, as investors are searching for information about companies.

The ESAP should be strictly limited to the disclosure of company data that is already made publicly available by the company or its relevant NCA and serve as basis for investors' assessments. Therefore, other sensitive company information, compiled and reported exclusively for clearly determined and legally mandated supervisory purposes (i.e. regulatory data), should not be integrated into a publicly accessible database like ESAP.

Regulatory data are very different in terms of purpose, scope, costs, recipients, standardisation, confidentiality etc. and may have been designed for a reason other than to match investors and issuers, which is the purpose of the ESAP. As such, the inclusion of publicly available data should be strictly limited to those for which there is a direct link that meets the ESAP objective of fostering better accessibility, comparability and usability of data for investors.

**Q7.13** The Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation (1286/2014/EU) (e.g. key information document)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 13):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.14** The Regulation on European Long-term Investment Funds (ELTIF) (2015/760/EU) (e.g. fund-related information)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 14):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.15** The European Market Infrastructure Regulation (EMIR) (648/2012/EU) (e.g. prices and fees of services provided, risk management model)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.15):

5000 character(s) maximum

The added value that would be created by adding EMIR information to ESAP is unclear.

The ESAP should be strictly limited to the disclosure of company data that is already made publicly available by the company or its relevant NCA and serve as basis for investors' assessments. Therefore, other sensitive company information, compiled and reported exclusively for clearly determined and legally mandated supervisory purposes (i.e. regulatory data), should not be integrated into a publicly accessible database like ESAP.

Regulatory data are very different in terms of purpose, scope, costs, recipients, standardisation, confidentiality etc. and may have been designed for a reason other than to match investors and issuers, which is the purpose of ESAP. As such, the inclusion of publicly available company data into the ESAP should be strictly limited to those for which there is a direct link that meets the ESAP objective of fostering better accessibility, comparability and usability of data for investors.

**Q7.16** The Financial Conglomerates Directive (FICOD) (2011/89/EU) (e.g. corporate structure of the conglomerate)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.16

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.17** The Directive of Prudential Supervision of Investment Firms (IFD) (2019/2034/EU) and the Regulation of Prudential Requirements of Investment Firms (IFR) (2019/2033/EU) (e.g. aggregated information on high-earners, remuneration arrangements)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.17):

5000 character(s) maximum

The added value that would be created by adding IFR/IFD information to ESAP is unclear. The ESAP should be strictly limited to the disclosure of company data that is already made publicly available by the company or its relevant NCA and serve as basis for investors' assessments. Therefore, other sensitive company information, compiled and reported exclusively for clearly determined and legally mandated supervisory purposes (i.e. regulatory data), should not be integrated into a publicly accessible database like ESAP. Regulatory data are very different in terms of purpose, scope, costs, recipients, standardisation, confidentiality etc. and may have been designed for a reason other than to match investors and issuers, which is the purpose of ESAP. As such, the inclusion of publicly available company data into the ESAP should be strictly limited to those for which there is a direct link that meets the ESAP objective of fostering better accessibility, comparability and usability of data for investors.

**Q7.18** The Directive on the Activities and Supervision of Institutions for Occupational Retirement Provision (IORP) (2016/2341/EU) (e.g. remuneration policy)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.18):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.19** The Pan-European Personal Pension Products Regulation (PEPP) (2019/1238/EU) (e.g. key information document)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.19):

5000 character(s) maximum

Please see response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.20** The Regulation on Wholesale Energy Market Integrity and Transparency (REMIT) (1348/2014/EU) (e.g. inside information)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.20):

5000 character(s) maximum

The added value that would be created by adding REMIT information to ESAP is unclear. The ESAP should be strictly limited to the disclosure of company data that is already made publicly available by the company or its relevant NCA and serve as basis for investors' assessments. Therefore, other sensitive company information, compiled and reported exclusively for clearly determined and legally mandated supervisory purposes (i.e. regulatory data), should not be integrated into a publicly accessible database like ESAP.

Regulatory data are very different in terms of purpose, scope, costs, recipients, standardisation, confidentiality etc. and may have been designed for a reason other than to match investors and issuers, which is the purpose of ESAP. As such, the inclusion of publicly available data should be strictly limited to those for which there is a direct link that meets the ESAP objective of fostering better accessibility, comparability and usability of data for investors.

**Q7.21** The Securities Financing Transactions Regulation (SFTR) (2015/2365/EU) (e.g. aggregate positions)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 1):

5000 character(s) maximum

The added value that would be created by adding SFTR information to ESAP is unclear.

The ESAP should be strictly limited to the disclosure of company data that is already made publicly available by the company or its relevant NCA and serve as basis for investors' assessments. Therefore, other sensitive company information, compiled and reported exclusively for clearly determined and legally mandated supervisory purposes (i.e. regulatory data), should not be integrated into a publicly accessible database like ESAP.

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**Q7.22** The Solvency II Directive (2009/138/EC) (e.g. solvency and financial condition report)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 22):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.23** The Short Selling Regulation (236/2012/EU) (e.g. net short position)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7. 23):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.24** The Take-Over Bid Directive (2004/25/EC) (e.g. Information in the management report on companies' capital and shareholders, voting rights, governance...)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.24):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.25** The Directive of Markets in Financial Instruments (MIFID) (2014/65/EU) and Regulation of Markets in Financial Instruments (MIFIR) (600/2014/EU) (e.g. volume and price of certain transactions)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.25):

5000 character(s) maximum

The added value that would be created by adding MiFID II/MiFIR information to ESAP is unclear. The ESAP should be strictly limited to the disclosure of company data that is already made publicly available by the company or its relevant NCA and serve as basis for investors' assessments. Therefore, other sensitive company information, compiled and reported exclusively for clearly determined and legally mandated supervisory purposes (i.e. regulatory data), should not be integrated into a publicly accessible database like ESAP.

Regulatory data are very different in terms of purpose, scope, costs, recipients, standardisation, confidentiality etc. and may have been designed for a reason other than to match investors and issuers, which is the purpose of ESAP. As such, the inclusion of publicly available company data into the ESAP should be strictly limited to those for which there is a direct link that meets the ESAP objective of fostering better accessibility, comparability and usability of data for investors.

FESE questions why the Commission refers to "volume and price of certain transactions" when referring to MIFID II with no reference to the disclosure obligations related to SME Growth Markets. The Commission should ensure that the recent amendments to SME Growth Markets (Regulation 2019/2115), related to the companies' disclosure of information, be taken onboard by the Commission and the creation of the ESAP. This should also apply to the amendments that were introduced in the scope of the Prospectus regulation.

In addition, the inclusion of this voluminous data would greatly increase the size of the database and consequently, the costs of use and maintenance. In line with our general approach outlined in Q12, we would instead suggest that the ESAP includes the requisite application programming interface (API) information enabling users to connect to nationally maintained and publicly accessible databases. The ESAP should provide rules that standardise API specifications.

At this stage it is unclear what the benefits of including information on secondary markets in ESAP are. At best this information would appear redundant with the information already provided in Best Execution reports (MiFID II, RTS27) for instance. At worse, it would appear misleading to publish certain transactions lacking a meaningful flagging in terms of ownership for instance. We would also underline that even if only certain transactions were to be selected this would require most likely a daily update of the information which would require a daily connection to the ESAP to receive the information.

**Q7.26** The Regulation on European Venture Capital Funds (EuVECA) (345/2013/EU) (e.g. fund-related information)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.26):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.27** The Regulation on European social entrepreneurship funds (EuSEF) (346/2013/EU) (e.g. fund-related information)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.27):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.28** The Regulation on Money Market Funds (2017/1131/EU) (e.g. prospectus)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree

Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.28):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.29** The Directive on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (2009/65/EC) (e.g. key investor information)

Fully disagree

Somewhat disagree

Neutral

Somewhat agree

Fully agree

Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.29):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.30** The Directive on Alternative Investment Fund Managers (AIFM) (2011/61/EU) (e.g. investment strategy and objectives of the fund)

Fully disagree

Somewhat disagree

Neutral

Somewhat agree

Fully agree

Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.30):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.31** The Regulation on EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks (EU 2019/2089) (e.g. information on measurable carbon emission reduction)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.31):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.32** Information on sustainability risks and impacts disclosed pursuant to the Regulation (EU) 2019/2088 on sustainability-related disclosure and The Taxonomy Regulation (2020/852/EU) (e.g. sustainability risks integration policies)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree
- Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.32:

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

**Q7.33** The EU Emissions Trading System (EU ETS)

- Fully disagree
- Somewhat disagree
- Neutral
- Somewhat agree
- Fully agree

Don't know/ no opinion/ not relevant

Please explain your position providing your arguments, and where appropriate, concrete examples and data to support your answers to question 7.33):

5000 character(s) maximum

Please see our response to Q1.1 and Q7.34 as regards the importance of keeping in mind the added value of certain data and overall purpose of the ESAP.

#### **Q7.34. Other**

Yes

No

Please specify from what are other EU legislation(s) in the financial area should ESAP include information, and explain your position providing your arguments, and where appropriate, concrete examples and data to support your answer:

5000 character(s) maximum

The ESAP should be strictly limited to the disclosure of company data that is already made publicly available by the company or its relevant NCA and serve as basis for investors' assessments. Therefore, other sensitive company information, compiled and reported exclusively for clearly determined and legally mandated supervisory purposes (i.e. regulatory data), should not be integrated into a publicly accessible database like ESAP.

Regulatory data are very different in terms of purpose, scope, costs, recipients, standardisation, confidentiality etc. and may have been designed for a reason other than to match investors and issuers, which is the purpose of ESAP. As such, the inclusion of publicly available company data into the ESAP should be strictly limited to those for which there is a direct link that meets the ESAP objective of fostering better accessibility, comparability and usability of data for investors.

Please specify whether the information should be included immediately or at a later stage:

Immediately

At a later stage

Don't know / no opinion / not relevant

#### **The usability and accessibility**

**Q8.** In order to improve the digital use and searchability of the information, for which of the hereunder information would you support the use of structured data formats, such as ESEF (XHTML and iXBRL), XML, etc., allowing for machine readability?

Listed companies' half yearly financial reports

Financial statements

Management report

Payments to governments

- Audit report
- Total number of voting rights and capital
- Acquisition or disposal of issuer's own shares
- Home Member State
- Acquisition or disposal of major holdings
- Inside information
- Prospectuses
- Net short position details
- Fund-related information
- Key Information Document
- Public disclosure resulting from prudential requirements
- Remuneration policies
- Corporate structure of the conglomerate
- Governance arrangements
- Covered bonds - related information
- Solvency and financial condition report
- Sustainability - related information
- Other

Please specify for what other information you would support the use of structured data formats allowing for machine readability:

5000 character(s) maximum

We would like to stress that ESAP should reserve flexibility for companies to publish their information in any format they are already required and used to report in, to avoid imposing an additional burden. The ESAP should not be limited to costly digital formats but allow as many formats as suitable for reporting and publishing of announcements by companies.

In general, we believe the ESAP should include information that is machine readable based on existing reporting requirements. In a second stage, a testing period and impact assessment could be undertaken of the ESAP (including a cost and benefits analysis).

**Q9.** Which of the following machine-readable formats would you find suitable?

(please rate as follow 1 (not at all suitable) 2 (rather not suitable) 3 (neutral) 4 (somewhat suitable) 5 (highly suitable) Don't know/No opinion/Not applicable

	1	2	3	4	5	Don't know/No opinion/Not applicable
ESEF (XHTML files + inline XBRL tagging requirements)				X		
XML files				X		
CSV files				X		
Excel				X		
Formats enabling natural language processing					X	
Other:						

**Q9.1** Please explain your position providing your arguments, and where appropriate, concrete examples and evidence to support your answers:

5000 character(s) maximum

FESE believes the ESAP should not be limited to costly digital formats but allow as many formats as suitable for reporting and publishing of announcements by companies.

The ESAP should not only be a repository but also a database which converts available information into all of the above machine-readable formats to facilitate accessibility and usability of information for ESAP users. As reporting formats are adapted to different users and investors and there are different parameters and business operations making it difficult to find the 'right one'.

This set up would allow for comparability of information, which would be beneficial, notably for retail investors.

The ESAP should offer this under a common language processing system that is customary in the sphere of international finance. Other formats enabling natural language processing of quantitative information would include JSON; PDF; XHTML, provided the language specifications are accessible to non-expert users.

**Q10.** How should the information be accessible in ESAP?

Through Application Programming Interfaces (APIs)

Bulk download

Web portals

Other

Don't know / no opinion / not relevant

Please specify how else should the information be accessible in ESAP:

5000 character(s) maximum

FESE believes that a web portal should be preferred as it is the easiest way to access data from a user perspective. It also allows access for any type of users.

We would suggest that the ESAP includes the requisite application protocol interface (API) information, enabling users to connect to nationally maintained and publicly accessible databases. The ESAP should provide rules that standardise API specifications.

**Q11.** To what extent should the language barrier be tackled?

For the following features of the ESAP (web portal, metadata, taxonomy/labels, and content/data), which of the following language arrangements would you favour?

**a) Portals / search tools:**

- in a language that is customary in the sphere of international finance
- in multiple or all EU languages
- Don't know / no opinion / not relevant

**b) Metadata (where variable text):**

- in original language
- in a language that is customary in the sphere of international finance
- in multiple or all EU languages
- Don't know / no opinion / not relevant

**c) Taxonomy / labels (if any):**

- in original language
- in a language that is customary in the sphere of international finance
- in multiple or all EU languages
- Don't know / no opinion / not relevant

**d) Content / data:**

- in original language
- in a language that is customary in the sphere of international finance
- in multiple or all EU languages
- Don't know / no opinion / not relevant

## Infrastructure and data governance (collection of data + validation of data)

Q12. Should specific categories of stakeholders be involved in the governance of ESAP?

- EU authority (ESMA, European Commission etc.) or a consortium of EU authorities. If, so which ones
- National Competent Authorities
- Investors
- Reporting companies
- Other

Please specify which EU authority should be involved in the governance of ESAP:

5000 character(s) maximum

In view of fostering supervisory convergence and integrated capital markets, FESE considers that ESMA should be entrusted with the supervision and maintenance of the ESAP. However, reporting requirements should remain under the supervision of the respective National Competent Authority (NCA). This way ESMA can set the requirements for reporting to become more standardised so that the data can easily flow through to the central database, while ensuring the local NCAs continue to be involved which is important for the local ecosystem. This is in line with the recommendation by the High Level Forum on the Capital Market Union in its Final Report that existing national and EU registers and databases of company data should be interconnected (p.12).

If the NCAs' supervisory databases are leveraged for non-financial information, they will need to be adapted accordingly to ensure supervision of companies' compliance with the disclosure framework. There are certain structures already in place for listed companies which can be used as a model for the information provided by non-listed companies, such as the Officially Appointed Storage Mechanisms under the Transparency Directive, but these structures may not be suitable straight off for the broader scope of companies within the NFRD.

We would like to stress that establishing the ESAP should not create additional reporting requirements for listed companies. The purpose should instead be to gather information, which is already reported, in one place to improve its accessibility for investors. This should be done by creating reporting channels between NCAs and the ESAP. Companies should only have to report once and to one authority. We would therefore suggest that the ESAP includes the requisite application protocol interface (API) information enabling users to connect to nationally maintained and publicly accessible databases. The ESAP should provide rules that standardise API specifications.

Please specify which national competent authorities should be involved in the governance of ESAP:

5000 character(s) maximum

The National Competent Authorities which are tasked with the supervision of the companies under regulations and national laws implementing the EU Directives, based on which the information to be included in the ESAP is provided, should be involved. The IT

infrastructure of the ESAP should ensure interconnectedness of the existing European and national registers.

OAMs or other authorities/bodies should be allowed to check the correct application of data fields entered by issuers, in line with their respective competences, and to ensure compliance with format requirements (XBRL or other) whenever applicable.

Please specify what other category(ies) of stakeholders should be involved in the governance of ESAP:

5000 character(s) maximum

Depending on the final design and scope, trading venues (in particular Regulated Markets and SMEs GM) should be involved in the implementation of ESAP in an advisory capacity. We also believe that a wide range of user representatives, including retail investors, should be involved in the set-up of ESAP to enable them to provide input on the presentation of information, languages and formats that will be made accessible to them. To enhance efficiency and innovation within the sustainable investment market, the set-up of the ESAP should be done in collaboration with data providers, building on their expertise within the field.

**Q13.** Considering the point in time at which a company makes public some information that is legally required, what would be the ideal timing for the information to be available on the ESAP?

5000 character(s) maximum

Ideally, the information should be available the same day via the ESAP. The disclosure of this information should be made available across all channels at the same time.

**Q14.** Should the integrity of the information and the credibility of the source of data used be ensured, when it is made accessible in ESAP?

- By electronic seals or electronic signatures embedded at source
- By the ESAP platform
- By other means/trust services
- Don't know / no opinion / not relevant

**Q15.** Should the information in ESAP be subject to quality checks?

- Yes
- No
- Other
- Don't know / no opinion / not relevant

**Q16.** Should a quality check be needed, what would need to be checked?

- Compliance with IT formats
- Certain key tests (matching figures, units, ...)
- Use of a correct taxonomy
- Completeness
- Availability of metadata
- Other
- Don't know / no opinion / not relevant

**Targeted questions regarding entities with no access to capital markets (non-listed entities), including SMEs**

**Q17** Should it be possible for companies other than those with securities listed on EU regulated markets to disclose information on ESAP on a voluntary basis?

- Yes
- No

**Q17.1** If you replied yes to question 17, please specify, which type of entities should be allowed to disclose data on a voluntary basis in the ESAP?

- Companies with securities listed on a SME growth-market
- Companies with securities listed on other non-regulated markets
- Pre-IPO companies not yet listed on an exchange
- Any unlisted companies
- Other entities

Please specify what other entities should be allowed to disclose data on a voluntary basis in the ESAP:

5000 character(s) maximum

FESE considers that the ESAP should require information to be disclosed by companies with more than 500 employees, whether they are listed or unlisted. If additional disclosure requirements were to be introduced (not replacing existing ones), we would not want any additional burdens to be put on listed companies alone. This would further increase the public-private information gap and would be contrary to the Capital Markets Union project.

SMEs (companies with less than 500 employees) should have the possibility to disclose their data on a voluntary basis in the ESAP. The ESAP would facilitate access and availability of data about companies and serve as a basis for investors' assessments, potentially informing their decisions. SMEs would benefit from pooling the information they disclose at a one-stop-shop: Their visibility would be increased and barriers to access

capital reduced, overall ensuring and increasing their competitiveness. The ESAP could also serve as a starting point for establishing a European database for SME-research.

On condition that some harmonisation of information may be necessary, this should be done in a proportional manner that does not negatively impact issuers, in particular SMEs, which may lack resources to report according to certain standards. It should, therefore, be considered that there is value added in pooling information in one place, even when the information may not be exactly the same. On the public markets, the vast majority of listed companies across Europe are in fact SMEs. A differentiation between SME GM and Regulated Market issuers will be necessary, where, while they are both required to disclose similar information, they are subject to different requirements. We would not support issuers on SME GMs being subject to the same requirements as issuers on Regulated Markets under the Transparency Directive as the approach needs to be tailored to the different markets.

The submission of voluntary information to ESAP should be made as soon as it is made publicly available, provided that it is made on a periodic basis and submission gaps are avoided. Otherwise, there could be a risk of companies choosing what type of information to disclose through ESAP which could lead to false interpretations of their performance by users that would exclusively rely on information provided by ESAP. For example, companies could be selective regarding what annual reports to show in ESAP, e.g. by only showing years of good performance rather than those with bad performance. This type of outcome should be avoided.

**Q18.** What type of information should be disclosed on a voluntary basis in the ESAP?

- A set of predefined key financial information, allowing to compare data
- Any financial information that the issuer would be willing to render public via ESAP
- A set of predefined key sustainable related information, allowing to compare the data
- Any sustainability related information that the issuer would be willing to render public via ESAP
- Other

**Q19.** As regards frequency of the submission of the voluntary information to ESAP, when should it occur?

- Following predefined periodic submission dates (if, so please specify frequency)
- On an ongoing basis as soon as available
- Don't know / no opinion / not relevant

**Q20.** In which language should entities with no access to capital markets be able to encode the voluntary information?

- National language
- A language that is customary in the sphere of international finance
- Any language
- Other

Please explain what you mean by 'other' in your answer to question 20:

5000 character(s) maximum

As this question is about language, we would like to clarify our answer in relation to Q11 which is about to what extent the language barrier should be tackled overall (but lacks a comment section). While companies would likely benefit from disclosing information in a language that is customary in the sphere of international finance, meaning English, in terms of visibility, official translations of legal information would entail costs. For reasons of potential legal liability, automatic translations of qualitative information would not be a suitable alternative. We therefore consider that disclosing information in an additional language should be a possibility but not an obligation. The same approach should apply to voluntary information, meaning that companies should have a choice about the language the information is provided in and then be given the choice (not obligatory) of also providing it in an additional language.

While keeping in mind the need to have a cost-efficient set-up, we would see benefits with the ESAP having a role in translating quantitative information into an English machine-readable format to facilitate investors' comparisons of information (please see our proposal regarding information to disclose on question 8).

**Q21.** Should filings done on a voluntary basis by SMEs and non-listed companies follow all the rules of the ESAP as regards for instance identification, data structuring and formats, quality checks, etc.?

- Yes
- No
- Don't know / no opinion / not relevant

Please explain your answer to question 21:

5000 character(s) maximum

FESE believes filings done by non-listed companies and SMEs should follow all the rules of the ESAP. This should be done for purposes of comparability.

If any new reporting requirement is introduced it must be binding for both listed and non-listed companies and must be useful predominantly for investors. This is key to ensure there is an added value and that new reporting requirements do not simply come on top of currently existing ones but rather replace requirements currently in place, to avoid any unnecessary additional costs.

We would not support issuers on SME GMs being subject to the same requirements as issuers on Regulated Markets under the Transparency Directive. The approach needs to be tailored to the different markets. In addition, we would emphasise that companies are of varying sizes from the largest blue chips to SMEs. On the public markets, the vast majority of listed companies across Europe are in fact SMEs. Based on this, alleviated rules for structuring and publishing in ESAP should be allowed for SMEs.

SMEs would benefit from pooling information they disclose at a one-stop-shop as their visibility would be increased and barriers to access capital reduced. This would help ensuring and increasing their competitiveness. A Single Access Point could also serve as a starting point for the establishment of a European database for SME-research.

## Costs and benefits

**Q22.** Do you expect that costs of introducing ESAP be proportionate to its overall benefits?

- Not at all
- To some extent
- To a reasonable extent
- To a very great extent
- No opinion

**Q23.** As a user, can you give an estimation of your yearly cost for retrieving and using companies' public information?

5000 character(s) maximum

N/A
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**Q24.** As a user, how large share of these costs do you expect to save through the use of ESAP?

- 10 %
- 20 %
- 30 %
- 40 %
- More than 50 %
- Other
- Don't know / no opinion / not relevant

**Q25.** Should the user have access for free to all data in the ESAP (based e.g. on an open data policy approach)?

- Yes
- No
- Don't know / no opinion / not relevant

**Q26.** Assuming that development and maintenance costs will arise, how do you think the ESAP should be funded?

- By EU funds
- By national funds
- By users (i.e. usage fees)
- By preparers (i.e. uploading fee)
- Other (please explain)

**Q27.** What would be the main benefits for entities with no access to capital markets to disclose this information publicly in ESAP?

- Get more visibility and attract a broader range of investors
- Get more transparency on ESG data (easily retrievable)
- Other
- Don't know/no opinion/not relevant

Please specify what else would be the main benefits for entities with no access to capital markets to disclose this information publicly in ESAP:

5000 character(s) maximum

We reiterate that any potential new reporting requirement in relation to the ESAP would lower the attractiveness of raising capital through capital markets and create an unlevel playing field between listed and similar non-listed companies which would be contrary to the Capital Market Union targets, i.e. strengthening of the capital market-based investment and financing for the real economy. For the reasons given above, any such requirement would therefore have to apply equally to relevant non-listed companies.

**Additional information**

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below.

N/A