

Yolanda Azanza and Gabriel Salarich

## Regulation (EU) 2023/2859 establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability

### 1. Introduction

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On 20 December 2023, Regulation (EU) 2023/2859 of the European Parliament and of the Council of 13 December 2023 establishing a European single access point (“**ESAP**”) providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability (the “**Regulation**”) was published in the Official Journal of the European Union.

The purpose of this new Regulation is the creation and implementation of ESAP, a platform that will provide centralised access to financial and non-financial information to be provided, firstly, by entities on a mandatory basis under existing EU legislation, and, secondly, by entities that choose to make such information available voluntarily in order to increase their visibility to potential investors.

Specifically, the requirements established in the Regulation cover a total of 19 Regulations and 16 Directives which, as of 20 December, already provide for mandatory disclosure requirements. Accordingly, the Regulation does not create any new disclosure requirements in terms of content.

The Regulation also forms part of the European Union’s (the “**EU**”) action plan for a Capital Markets Union proposed by the European Commission in 2020 (the “**Action Plan**”). Specifically, the creation of ESAP is the first of the milestones provided for in the Action Plan.

It is worth mentioning that ESAP closely resembles other international platforms, in particular, the US EDGAR (*Electronic Data Gathering, Analysis and Retrieval system*), which has been in operation for more than 20 years.

### 2. Main aspects of the Regulation

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Some of the most relevant aspects of the Regulation are set out below:

#### 2.1. Objective scope:

ESAP seeks to become a platform that provides centralised, structured and simple access to public information published by entities in relation to financial services, capital markets, sustainability and diversity (but not including commercial information).

#### 2.2. Subjective scope:

Entities that are required to provide certain information under the provisions of the EU legislation listed in the Regulation itself (or any subsequent legally binding EU legislation that so provides) must provide such information to designated collection bodies, which shall make the information available to ESAP in an automated manner.

From 10 January 2030, any entity governed by the law of a Member State will be able to make the information referred to in the previous paragraph accessible on ESAP voluntarily. Thus, the Regulation seeks to increase the opportunities for the growth, visibility of and innovation by small and medium-sized enterprises (SMEs) and for them to also have access to potential funding. Accordingly, SMEs will be able to benefit from ESAP by ensuring that the information disclosed is provided voluntarily, and in a uniform and comparable format to that which is required by law.

In any case, the responsibility for the accuracy and completeness of the information shall remain with the submitting entity itself.

### **2.3. Establishment and functioning of ESAP:**

The European Securities and Markets Authority (“**ESMA**”) is entrusted with the establishment and functioning of ESAP. To collect the information, ESMA will use collection bodies appointed for this purpose by each Member State. For information submitted by entities voluntarily, the designated collection body shall be that of the Member State in which the entity has its registered office.

These bodies shall ensure appropriate levels of authenticity, availability, integrity and non-repudiation of the information submitted, which shall be verified by the use of a qualified electronic seal.

### **2.4. Sustainable Finance:**

For the green transition of the EU economy to succeed through sustainable finance, among other factors, investors must be able to access information related to the sustainability of companies so that they are better informed when making investment decisions. Accordingly, public access to financial and non-financial information on companies should be improved and an effective means of doing so at EU level is through ESAP, which will provide electronic public access to all relevant information.

Similar to the level of detail of the other information to be provided on ESAP, requirements specifying the format and metadata for corporate sustainability-related information will be established through implementing technical standards.

### **2.5. Access and comparability of information:**

ESMA shall ensure that ESAP has at least, and among other features, the following functionalities: (i) a web portal with a user-friendly interface; (ii) a search function in all official EU languages; (iii) a translation, download and notification service; and (iv) the presentation of information submitted on a voluntary basis (so that it can be distinguished from information submitted on a mandatory basis).

It should be possible to include historical information on ESAP in order to increase its availability and comparability. Accordingly, the Regulation provides that the historical information to be disclosed on a mandatory basis should cover information that has been made public no more than 5 years in advance. Furthermore, the information accessible on ESAP should be digitally usable so that specific data can be easily identified, recognised and extracted.

### **2.6. Free of charge:**

As a general criterion, it is foreseen for information to be offered to users free of charge and on a non-discriminatory basis. However, the Regulation also anticipates the possibility of imposing fees for specific services, in particular those involving high maintenance or support costs due to searches for and downloads of very large volumes of information, or a high frequency of access to information accessible on ESAP.

### 3. Timeframe of the Regulation

While the Regulation will enter into force 20 days after its publication in the Official Journal of the European Union (i.e. 9 January 2024), the obligations arising from the Regulation will be implemented progressively and the launch of ESAP is not expected to take place until the summer of 2027. In any case, it is anticipated that draft implementing technical standards for the Regulation will be developed.

### CONTACTS



**Yolanda Azanza**  
Partner, Capital Markets  
yazanza@perezllorca.com  
T. +34 91 423 66 63



**Gabriel Salarich**  
Counsel, Capital Markets  
gsalarich@perezllorca.com  
T. +34 91 410 10 77

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