



# Implications for the EEA of EU post-crisis reform

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# Outline

- Current structure of EU decision making within Financial Services and EEA participation in it
- 2 EU initiatives with particular importance for the EEA:
  - New EU Architecture for Financial Supervision
    - EU process
    - EEA EFTA Input
    - Status and challenges
  - Revised Deposit Guarantee Scheme
    - EU Process
    - Importance and implications for the EEA



# Current EU decision making process within Financial Services

4 level Lamfalussy approach:

- |         |  |
|---------|--|
| Level 1 | Co-decision between Council and European Parliament:<br>Framework Directives and Regulations |
| Level 2 | Commission Comitology Committees:<br>Adoption of Implementing measures                       |
| Level 3 | Committees of Supervisors:<br>Issue advice to the Commission on implementing measures        |
| Level 4 | Commission:<br>Enforce legislation through infringement procedures                           |



# EEA EFTA participation in current EU decision making process

## **Level 2: EEA EFTA Finance Ministries observers in Commission Comitology Committees:**

- European Banking Committee (EBC)
- European Insurance and Occupational Pensions Committee (EIOPC)
- European Securities Committee (ESC)
- European Financial Conglomerates Committee (EFCC)

+ participation of experts in relevant underlying working groups

## **Level 3: EEA EFTA Financial Surveillance Authorities observers in advisory committees:**

- Committee of European Banking Supervisors (CEBS)
- Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS)
- Committee of European Securities Regulators (CESR)



# EFTA WG on Financial Services

- Follow EU decision shaping from pre-pipeline to adopted legal acts
- Assess EEA relevance of new EU legal acts
- Identify need for and prepare EFTA comments
- Assist in the incorporation of EU legal acts into the EEA Agreement
- Experts from Finance Ministries, Financial Supervisory Authorities and Central Banks
- Currently chaired by the Norwegian "Kredittilsyn"
- Meets 3 times a year internally and with the Commission
- Serviced by Officer in EFTA Secretariat



# Proposal for a New EU Architecture for Financial Supervision

- EU Systemic Risk Board (ESRB) - Macro prudential level
  - A new level of supervision under the European Central Bank
  - Advisory board aiming to safe-guard financial stability for the EU economy
- 3 EU Supervisory Authorities (ESAs) - Micro prudential level
  - Former level 3 Committees transformed into EU Authorities with increased powers and resources
  - Strengthening of supervision of individual firms operating cross border



# EU process towards final adoption of legal acts establishing the new Architecture

## **COMMISSION PREPARATORY STAGE "Pre-pipeline"**

- Feb 09: Report by De Larosière high-level group on Financial Supervision
- Mar 09: Commission Communication "Driving European Recovery"
- May 09: Commission Communication "European Financial Supervision"
- Sep 09: Commission adopts Proposals for 5 Regulations

## **CO-DECISION BETWEEN COUNCIL AND EUROPEAN PARLIAMENT (EP) "Pipeline"**

- Oct – Dec 09: Council discussions – agreement on compromise
- **TODAY**
- Dec – May10: European Parliament discussions towards final EP agreement

## **ADOPTED EU REGULATIONS "Adopted aquis"**

- Jun 10?: Final adoption by EP and Council
- Sep 10?: Publication in EU Official Journal – EEA process for incorporation starts
- 2011?: Entry into force



# EEA EFTA input to the process

- Main focus:
  - Ensure that the final EU legal acts include provisions allowing the EEA EFTA States' relevant authorities to participate in the new architecture.
- Action taken:
  - Pre-pipeline :
    - Presentation by the Commission and exchange of views in EFTA Consultative Committee
    - 2 EFTA Comments submitted
  - Pipeline:
    - Presentations by the Commission and exchange of views between EU and EFTA in Joint EEA Committee and in EFTA WG
    - Discussions held and still ongoing with EU officials on all levels through EFTA and by the EEA EFTA Delegations on bilateral basis
- Action yet to be taken:
  - Need for EFTA Comment to the ECON Parliamentary Committee?





# EU Systemic Risk Board

## Status and challenges

### Status:

- In Commission Proposal from September 2009 EEA EFTA States are mentioned in the explanatory memorandum but not in the regulation itself
- In Council compromise text from October 2009 an article (12 a) allowing for limited EEA participation was included in Council compromise text.
- Will it stay in the final text?

### Challenges:

- Legislative proposals handled within the Commission by the Directorate for Economic and Financial Affairs outside the traditional Commission structure for EEA relevant legislation
- A new layer of supervision under the European Central Bank (ECB) and by EU Central Banks with no former tradition of formal EEA cooperation
  - Understanding for the need for EEA EFTA participation difficult to establish
- ESRB will have no legal personality and no formal powers to make binding decisions → **No challenge as such to the scope of the EEA Agreement**



# 3 New EU Supervisory Authorities Status and Challenges

## Status:

- In Commission Proposals from September 2009 provisions allowing for EEA participation included but with restrictions

## Challenges:

- The new system of Financial Supervision with three ESAs is a continuation and enforcement of current Level 3 Committees with active EEA EFTA participation
- Unproblematic to establish understanding for the need of EEA EFTA participation in the new ESAs
- Increased powers to the ESAs to make binding decisions on individual firms (details of these powers depending on final EU agreement and adoption)
- Implementation a potential challenge to the scope of the EEA Agreement



# EU Deposit Guarantee Schemes (DGS)

- DGS Directive 1994:
  - Principle of minimum harmonisation:
    - Minimum coverage €20 000,
    - Payout delay ~ 4 months
- Revised DGS Directive adopted March 2009:
  - A quick fix to safeguard confidence in the banking system and avoid a "run"
  - Principle of maximum harmonisation:
    - Coverage fixed at €100 000 by end 2010
    - Payout delay 1 month
  - Maximum harmonisation applied to avoid distortion of competition and complicated "topping up" arrangements
- In-depth Review ongoing
  - Conclusions expected 1st quarter 2010



# EU process towards adoption of Reviewed DGS Directive

- 7 October 2008: Council Recommendation to review the DGS
- 15 October 2008: Commission adopt Proposal for a reviewed DGS concerning coverage and payout delay
- Final EU adoption 11 March 2009
  - Extreme speed of EU decision making
  - Small window for EEA EFTA input



# Importance and implications of revised DGS Directive for EEA EFTA

- Banking crisis revealed weaknesses in the EU and EEA Deposit Guarantee Schemes established under the '94 DGS Directive
- Norway currently has a DGS coverage of 2 million NOK ~ €230000.
  - Discussions ongoing as to whether this coverage can be upheld under the new directive
- Coverage level not a problem for Iceland and Liechtenstein



# Concluding remarks

- Increased EU regulatory activity within Financial Services
  - Substantial volume of legal acts to be incorporated into the EEA Agreement and implemented nationally in the years to come
- EEA EFTA participation in New EU Architecture for Financial Supervision
  - Participation seems ensured
  - Current EEA cooperation within Financial Supervision expected not to be weakened under the new structure
  - Extended powers of new ESAs to make binding decisions on individual firms might challenge the scope of the EEA Agreement.
- Revised DGS Directive
  - Shows EU's capability of fast decision making and the challenge of a decreased "window" for EEA input
  - Maximum harmonisation a challenge for Norway



Thank you for your attention