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DECISION OF THE EEA JOINT COMMITTEE
No 65/2005

of 29 April 2005

amending Annex IX (Financial services) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex IX to the Agreement was amended by Decision of the EEA Joint Committee No 43/2005 of 11 March 2005¹.
- (2) Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC², as corrected by OJ L 45, 16.2.2005, p. 18, is to be incorporated into the Agreement.
- (3) Directive 2004/39/EC repeals, with effect from 30 April 2006, Directive 93/22/EEC³, which is incorporated into the Agreement and which is consequently to be repealed under the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Annex IX to the Agreement shall be amended as follows:

1. The following indent shall be added in points 14 (Directive 2000/12/EC of the European Parliament and of the Council), 30 (Council Directive 85/611/EEC) and 30a (Council Directive 93/6/EEC):
 - ‘- **32004 L 0039**: Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 (OJ L 145, 30.4.2004, p. 1), as corrected by OJ L 45, 16.2.2005, p. 18.’

¹ OJ L 198, 28.7.2005, p. 45.

² OJ L 145, 30.4.2004, p. 1.

³ OJ L 141, 11.6.1993, p. 27.

2. The following point shall be inserted after point 30c (Directive 97/9/EC of the European Parliament and of the Council):

‘30ca. **32004 L 0039**: Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1), as corrected by OJ L 45, 16.2.2005, p. 18.

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptation:

As regards relations with third-country investment firms described in Article 15 of the Directive, the following shall apply:

1. with a view to achieving a maximum degree of convergence in the application of a third-country regime for investment firms, the Contracting Parties shall exchange information as described in Articles 15(1) and 15(4) and consultations shall be held regarding matters referred to in Article 15(2) and 15(3), within the framework of the EEA Joint Committee and according to specific procedures to be agreed by the Contracting Parties;
2. authorizations granted by the competent authorities of a Contracting Party to investment firms being direct or indirect subsidiaries of parent undertakings governed by the laws of a third country shall have validity in accordance with the provisions of this Directive throughout the territory of all Contracting Parties. However,
 - (a) when a third country imposes quantitative restrictions on the establishment of investment firms of an EFTA State or imposes restrictions on such investment firms that it does not impose on Community investment firms, authorizations granted by competent authorities within the Community to investment firms being direct or indirect subsidiaries of parent undertakings governed by the laws of that third country shall have validity only in the Community, except where an EFTA State decides otherwise for its own jurisdiction;
 - (b) where the Community has decided that decisions regarding authorizations of investment firms being direct or indirect subsidiaries of parent undertakings governed by the law of a third country shall be limited or suspended, any authorization granted by a competent authority of an EFTA State to such investment firms shall have validity only in its own jurisdiction, except where another Contracting Party decides otherwise for its own jurisdiction;

- (c) the limitations or suspensions referred to in subparagraphs (a) and (b) may not apply to investment firms or their subsidiaries already authorized in the territory of a Contracting Party;
3. whenever the Community negotiates with a third country on the basis of Articles 15(2) and 15(3), in order to obtain national treatment and effective market access for its investment firms, it shall endeavour to obtain equal treatment for the investment firms of the EFTA States.’
3. Point 30b (Council Directive 93/22/EEC) shall be deleted with effect from 30 April 2006.

Article 2

The texts of Directive 2004/39/EC, as corrected by OJ L 45, 16.2.2005, p. 18, in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on [30 April 2005](#), provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee*.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 29 April 2005.

*For the EEA Joint Committee
The President*

R. Wright

*The Secretaries
to the EEA Joint Committee*

Ø. Hovdkinn M. Brinkmann

* Constitutional requirements indicated.