

**DECISION OF THE EEA JOINT COMMITTEE**  
**No 383/2021**

**of 10 December 2021**

**amending Annex IX (Financial services) to the EEA Agreement**

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area (“the EEA Agreement”), and in particular Article 98 thereof,

Whereas:

- (1) Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures<sup>1</sup>, as corrected by OJ L 212, 3.7.2020, p. 20, is to be incorporated into the EEA Agreement.
- (2) Annex IX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Point 14 (Directive 2013/36/EU of the European Parliament and of the Council) of Annex IX to the EEA Agreement shall be amended as follows:

1. The following indent is added:
  - ‘- **32019 L 0878**: Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 (OJ L 150, 7.6.2019, p. 253), as corrected by OJ L 212, 3.7.2020, p. 20.’
2. Adaptation (n) is deleted. Adaptation (o) is renumbered as adaptation (s). Adaptations (l) and (m) are renumbered as adaptations (n) and (o), respectively. Adaptations (g) to (k) are renumbered as adaptations (h) to (l).
3. The following adaptation is inserted after adaptation (f):
  - ‘(g) In Article 21a(9), the words “or, in the case of mixed financial holding companies established in the EFTA States, to the EFTA Surveillance Authority” shall be inserted after the words “Regulation (EU) No 1094/2010 of the European Parliament and of the Council.”’
4. The following adaptation is inserted after adaptation (l):
  - ‘(m) In points (a) and (b) of Article 109(4), as regards the EFTA States, the words “other Union legal acts” shall read “the EEA Agreement”.’
5. The following adaptations are inserted after adaptation (o):

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<sup>1</sup> OJ L 150, 7.6.2019, p. 253.

(p) In Articles 129(2), 130(2) and 134(2), the words “or, in case of a notification from an EFTA State, to the EFTA Surveillance Authority” shall be inserted after the word “Commission”.

(q) In Articles 131, as regards the EFTA States:

(i) the text of paragraph 5a shall read as follows:

“Subject to the authorisation of the Standing Committee of the EFTA States referred to in the third subparagraph of this paragraph, the competent authority or the designated authority may require each O-SII, on a consolidated, sub-consolidated or individual basis, as applicable, to maintain an O-SII buffer higher than 3 % of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013. That buffer shall consist of Common Equity Tier 1 capital.

Within six weeks of receipt of the notification referred to in paragraph 7 of this Article, the ESRB shall provide the Standing Committee of the EFTA States with an opinion as to whether the O-SII buffer is deemed appropriate. EBA may also provide the Standing Committee of the EFTA States with its opinion on the buffer.

Within three months of the ESRB forwarding the notification referred to in paragraph 7 to the Standing Committee of the EFTA States, the Standing Committee of the EFTA States, taking into account the assessment of the ESRB and EBA, if relevant, and if it is satisfied that the O-SII buffer does not entail disproportionate adverse effects on the whole or parts of the financial system of other EEA Contracting Parties or of the EEA as a whole forming or creating an obstacle to the proper functioning of the internal market, shall adopt a decision authorising the competent authority or the designated authority to adopt the proposed measure.”

(ii) in paragraphs 7 and 12, the words “or, in case of a notification from a competent or designated authority in an EFTA States, to the Standing Committee of the EFTA States,” shall be inserted after the word “Commission”.

(r) In Article 133:

(i) in paragraph 9, the following shall be inserted after the word “Commission”:

“or, in the case of a notification from a competent authority or a designated authority in an EFTA State, to the Standing Committee of the EFTA States”.

(ii) in paragraph 11, as regards the EFTA States, the words “Commission’s opinion” shall read “opinion of the Standing Committee of the EFTA States”.

(iii) in the first and second subparagraphs of paragraph 11 and the first and third subparagraphs of paragraph 12, as regards the EFTA States, the word “Commission” shall read “Standing Committee of the EFTA States”.

(iv) the third and fourth subparagraphs of paragraph 11 shall be replaced by the following:

“Where an institution to which one or more systemic risk buffer rates apply is a subsidiary the parent of which is established in another Member State, the competent authority or the designated authority shall request in the notification submitted in accordance with paragraph 9 a recommendation by the Commission or, in the case of a parent established in an EFTA State, by the Standing Committee of the EFTA States and the ESRB.

The Commission or the Standing Committee of the EFTA States, as the case may be, and the ESRB shall each provide its recommendation within six weeks of receipt of the notification.”

- (v) in the fifth subparagraph of paragraph 11 and the second subparagraph of paragraph 12, the words “or the Standing Committee of the EFTA States, as the case may be,” shall be inserted after the word “Commission”.
- (vi) in the third subparagraph of paragraph 12, as regards the EFTA States, the word “act” shall read “decision”.

6. The following adaptation is inserted after adaptation (s):

- ‘(t) As regards the EFTA States, the first paragraph of Article 159a shall read as follows:

“Parent financial holding companies and parent mixed financial holding companies already existing on the date of entry into force of Decision of the EEA Joint Committee No 383/2021 of 10 December 2021 shall apply for approval in accordance with Article 21a by a date designated under national law, within a maximum of two years of the entry into force of Decision of the EEA Joint Committee No 383/2021 of 10 December 2021. If a financial holding company or mixed financial holding company fails to apply for approval by the date designated under national law, appropriate measures shall be taken pursuant to Article 21a(6).”

#### Article 2

The text of Directive (EU) 2019/878, as corrected by OJ L 212, 3.7.2020, p. 20 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 11 December 2021, provided that all the notifications under Article 103(1) of the EEA Agreement have been made\*, or on the day of the entry into force of Decision of the EEA Joint Committee No 301/2021 of 29 October 2021<sup>2</sup>, whichever is the later.

#### 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*.

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\* Constitutional requirements indicated.

<sup>2</sup> OJ L ...

Done at Brussels, 10 December 2021.

*For the EEA Joint Committee  
The President*

*Rolf Einar Fife*

*The Secretaries  
To the EEA Joint Committee*

*Hege M. Hoff*

*Mikołaj Karłowski*

*Not yet published*