ANNEX IX

FINANCIAL SERVICES

```
<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Insurance</td>
</tr>
<tr>
<td>II. Banks and other credit institutions</td>
</tr>
<tr>
<td>III. Stock exchange and securities</td>
</tr>
<tr>
<td>IV. Occupational Retirement Provisions</td>
</tr>
<tr>
<td>V. Provisions applying to all kinds of financial services</td>
</tr>
<tr>
<td>- Acts of which the Contracting Parties Shall Take Note</td>
</tr>
</tbody>
</table>
```

List provided for in Article 36(2)

INTRODUCTION

When the acts referred to in this Annex contain notions or refer to procedures which are specific to the Community legal order, such as:

- preambles;
- the addressees of the Community acts;
- references to territories or languages of the EC;
- references to rights and obligations of EC Member States, their public entities, undertakings or individuals in relation to each other; and
- references to information and notification procedures;

Protocol 1 on horizontal adaptations shall apply, unless otherwise provided for in this Annex.

SECTORAL ADAPTATIONS

Regarding exchange of information between the competent authorities of EC Member States envisaged in the acts included in this Annex, paragraph 7 of Protocol 1 shall apply for the purposes of this Agreement.

ACTS REFERRED TO

I. Insurance

(i) Non-life and life insurance. [1]


The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) The following shall be added in Article 8:

“(5) in Iceland, Viðlagatrygging Íslands.”

(b) Articles 57 to 63 regarding the prudential assessment of a proposed acquirer shall not apply where the proposed acquirer, as defined in the Directive, is situated or regulated outside the territory of the Contracting Parties.

(c) In Article 157(2), the words “and under Regulation (EC) No 593/2008” shall be deleted.

(d) Article 171 shall not apply. The following provision shall be applicable:

Each Contracting Party may, by means of agreements concluded with one or more third countries, agree to the application of provisions different from those provided for in Articles 162 to 170 of the Directive on the condition that its policy holders and insured persons are given adequate and equivalent protection. The Contracting Parties shall inform and consult each other prior to concluding such agreements. The Contracting Parties shall not apply to branches of insurance undertakings having their head of office outside the territory of the Contracting Parties provisions which result in more favourable treatment than that accorded to branches of insurance undertakings having their head of office within the territory of the Contracting Parties.

(e) Whenever the European Union negotiates with one or more third countries on the basis of Article 175, it shall endeavour to obtain equal treatment for the insurance and reinsurance undertakings of the EFTA States.

(f) As regards third-country treatment of insurance and reinsurance undertakings as described in Article 177, the following shall apply:

With a view to achieving a maximum degree of convergence in the application of a third-country regime for insurance and reinsurance undertakings, the Contracting Parties shall exchange information as described in Article 177(1) and consultations shall be held regarding matters referred to in Article 177(2) within the framework of the EEA Joint Committee and according to specific procedures to be agreed by the Contracting Parties.

(g) The text of Article 178 shall be replaced by the following:

“1. This Article shall apply to contracts referred to in paragraph 2, whether or not the risk covered is situated in the territory of a Contracting Party, and to all other insurance contracts covering risks situated inside the territory of the Contracting Parties. It shall not apply to reinsurance contracts.

2. An insurance contract covering a large risk as defined in Article 13(27) shall be governed by the law chosen by the parties.”

{1} Indent and words “as amended by” added by Decision No 82/2013 (OJ L 291, 31.10.2013, p. 43 and EEA Supplement No 61, 31.10.2013, p. 49), e.i.f. 4.5.2013.


{5} Indent added by Decision No 247/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.8.2019.
To the extent that the applicable law has not been chosen by the parties, the insurance contract shall be governed by the law of the country where the insurer has his habitual residence. Where it is clear from all the circumstances of the case that the contract is manifestly more closely connected with another country, the law of that other country shall apply.

3. The law governing a contract shall be chosen by the parties in accordance with the following provisions:

(a) The choice shall be made expressly or clearly demonstrated by the terms of the contract or the circumstances of the case. By their choice the parties can select the law applicable to the whole or to part only of the contract.

(b) The parties may at any time agree to subject the contract to a law other than that which previously governed it. Any change in the law to be applied that is made after the conclusion of the contract shall not prejudice its formal validity or adversely affect the rights of third parties.

(c) Where all other elements relevant to the situation at the time of the choice are located in a country other than the country whose law has been chosen, the choice of the parties shall not prejudice the application of provisions of the law of that other country which cannot be derogated from by agreement.

(d) Where all other elements relevant to the situation at the time of the choice are located in one or more Contracting Parties, the parties’ choice of applicable law other than that of a Contracting Party shall not prejudice the application of provisions of EEA law, where appropriate as implemented in the Contracting Party of the forum, which cannot be derogated from by agreement.

4. The existence and validity of the consent of the parties as to the choice of the applicable law shall be determined in accordance with the following provisions:

(a) The existence and validity of a contract, or of any term of a contract, shall be determined by the law which would govern it under this Article if the contract or term were valid.

Nevertheless, a party, in order to establish that he did not consent, may relay upon the law of the country in which he has his habitual residence if it appears from the circumstances that it would not be reasonable to determine the effect of his conduct in accordance with the law specified in subparagraph 1 of this letter.

(b) A contract concluded between persons who, or whose agents, are in the same country at the time of its conclusion is formally valid if it satisfies the formal requirements of the law which governs it in substance under the law of this Article or of the law of the country where it is concluded.

A contract concluded between persons who, or whose agents, are in different countries at the time of its conclusion is formally valid if it satisfies the formal requirements of the law which governs it in substance under this Article, or of the law of either of the countries where either of the parties or their agent is present at the time of conclusion, or of the law of the country where either of the parties had his habitual residence at that time.

A unilateral act intended to have legal effect relating to an existing or contemplated contract is formally valid if it satisfies the formal requirements of the law which governs or would govern the contract in substance under this Article, or of the law of the country where the act
was done, or of the law of the country where the person by whom it was done had his habitual residence at that time.

Notwithstanding subparagraphs 1 to 3 of this letter, a contract the subject matter of which is a right in rem in immovable property or a tenancy of immovable property shall be subject to the requirements of form of the law of the country where the property is situated if by that law:

(i) those requirements are imposed irrespective of the country where the contract is concluded and irrespective of the law governing the contract; and

(ii) those requirements cannot be derogated from by agreement.

(c) In a contract concluded between persons who are in the same country, a natural person who would have capacity under the law of that country may invoke his incapacity resulting from the law of another country, only if the other party to the contract was aware of that incapacity at the time of the conclusion of the contract or was not aware thereof as a result of negligence.

5. In the case of an insurance contract other than a contract falling within paragraph 2, only the following laws may be chosen by the parties in accordance with paragraph 3:

(a) the law of any Contracting Party where the risk is situated at the time of conclusion of the contract;

(b) the law of the country where the policy holder has his habitual residence;

(c) in the case of life assurance, the law of the Contracting Party of which the policy holder is a national;

(d) for insurance contracts covering risks limited to events occurring in one Contracting Party other than the Contracting Party where the risk is situated, the law of that Contracting Party;

(e) where the policy holder of a contract falling under this paragraph pursues a commercial or industrial activity or a liberal profession and the insurance contract covers two or more risks which relate to those activities and are situated in different Contracting Parties, the law of any of the Contracting Parties concerned or the law of the country of habitual residence of the policy holder.

Where, in the cases set out in points (a), (b) or (e) of this paragraph, the Contracting Party referred to grant greater freedom of choice of the law applicable to the insurance contract, the parties may take advantage of that freedom.

To the extent that the law applicable has not been chosen by the parties in accordance with this paragraph, such a contract shall be governed by the law of the Contracting Party in which the risk is situated at the time of conclusion of the contract.

6. The following additional rules shall apply to insurance contracts covering the risk for which a Contracting Party imposes an obligation to take out insurance:

(a) the insurance contract shall not satisfy the obligation to take out insurance unless it complies with the specific provisions relating to that insurance laid down by the Contracting Party that imposes the obligation. Where the law of the Contracting Party in which the risk is situated and the law of the Contracting Party imposing the obligation to take out insurance contradict each other, the latter shall prevail;
(b) by way of derogation from paragraphs 2 and 4, a Contracting Party may lay down that the insurance contract shall be governed by the law of the Contracting Party that imposes the obligation to take out insurance.

7. For the purposes of paragraph 4, third subparagraph, and paragraph 5, where the contract covers risks situated in more than one Contracting Party, the contract shall be considered as constituting several contracts each relating to only one Contracting Party.

8. For the purposes of this Article, the country in which the risk is situated shall be determined in accordance with Article 13(13) and, in the case of life insurance, the country in which the risk is situated shall be the country of the commitment within the meaning of Article 13(14).”

(h) The following shall be added in Annex III(A):

“(29) in the case of the Republic of Iceland: ‘Hlutafélag’;


(31) in the case of the Kingdom of Norway: ‘Aksjeselskaper’, ‘Gjensidige selskaper’.”

(i) The following shall be added in Annex III(B):

“(29) in the case of the Republic of Iceland: ‘Hlutafélög’;


(31) in the case of the Kingdom of Norway: ‘Aksjeselskaper’, ‘Gjensidige selskaper’.”

(j) The following shall be added in Annex III(C):

“(29) in the case of the Republic of Iceland: ‘Hlutafélög’;


(k) References to the powers of EIOPA under Articles 18 and 19 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council in the Directive shall be understood as referring, in the cases provided for in and in accordance with point 31h of this Annex, to the powers of the EFTA Surveillance Authority as regards the EFTA States.

(l) In Articles 52(3) and 77f(1), the words “, the EFTA Surveillance Authority, the Standing Committee of the EFTA States” shall be inserted after the words “the Council”.

(m) In Article 65a, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “EIOPA”.

In Article 70, references to "central banks of the European System of Central Banks (ESCB)" and "central banks of the ESCB" shall be understood to include, in addition to their meaning in the Directive, the national central banks of the EFTA States.

In Article 138(4), as regards the EFTA States, the word "EIOPA" shall read "the EFTA Surveillance Authority" and the words "as declared by EIOPA" shall read "as declared by the EFTA Surveillance Authority on the basis of drafts prepared by EIOPA".

Information originating in the EFTA States shall not be exchanged by EIOPA as part of cooperation arrangements concluded with third countries or their authorities pursuant to Articles 172(4)(e) or 260(5)(e) without the express agreement of the authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

In Article 308b(15), as regards the EFTA States, the words "23 May 2014" shall read "the date of entry into force of Decision of the EEA Joint Committee No 247/2018 of 5 December 2018".

1.a. {1}


1ab. {1b} 32015 D 2290: Commission Delegated Decision (EU) 2015/2290 of 12 June 2015 on the provisional equivalence of the solvency regimes in force in Australia, Bermuda, Brazil, Canada, Mexico and the United States and applicable to insurance and reinsurance undertakings with head offices in those countries (OJ L 323, 9.12.2015, p. 22), as corrected by OJ L 328, 12.12.2015, p. 126, as amended by:


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 85, as regards the EFTA States, the following paragraph shall be added:

“The supervisory authority may determine that other regional governments and local authorities, for which a credit assessment by a nominated ECAI is not available, shall be treated as exposures with a credit quality step one step higher than the credit quality step assigned from the rating of the central government of the jurisdiction in which they are established.”

(b) In Article 192(4), as regards the EFTA States, the following subparagraph shall be added:

“The supervisory authority may set a higher value than zero as a floor for the loss-given-default in order to ensure an overall capital charge for the mortgage loan exposure in line with the capital charge for such exposures held by credit institutions in accordance with Regulation (EU) No 575/2013.”

(c) In Article 288, the following paragraphs shall be added:

“In the case of the EFTA States, where the factors and criteria under this Article are being assessed, the EFTA Surveillance Authority shall, without undue delay, pass on to EIOPA all information necessary for it to prepare a draft for the EFTA Surveillance Authority.”


1e. (**) 32015 R 0462: Commission Implementing Regulation (EU) 2015/462 of 19 March 2015 laying down implementing technical standards with regard to the procedures for supervisory approval to establish special purpose vehicles, for the cooperation and exchange of information between supervisory authorities regarding special purpose vehicles as well as to set out formats and templates for information to be reported by special purpose vehicles in accordance with Directive 2009/138/EC of the European Parliament and of the Council (OJ L 76, 20.3.2015, p. 23).

1f. (**) 32015 R 0498: Commission Implementing Regulation (EU) 2015/498 of 24 March 2015 laying down implementing technical standards with regard to the supervisory approval procedure to use...

1g. (26)


1h. (26)


1i. (26)


1j. (26)


1k. (26)


1l. (26)


1m. (26)


1n. (26)


1o. (26)


The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In Article 1, as regards the EFTA States:

(i) point (a) shall not apply;

(ii) in point (b), the words “Union law” shall be replaced by “the EEA Agreement”.


---


[26] Indent added by Decision No 163/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.8.2019.

[31] Indent added by Decision No 164/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.8.2019.


[33] Indent and words “as amended by:” added by Decision No 163/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.8.2019.

[34] Indent added by Decision No 164/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.8.2019.


1zc. [*] 32017 R 0812: Commission Implementing Regulation (EU) 2017/812 of 15 May 2017 laying down technical information for the calculation of technical provisions and basic own funds for reporting with


2. [ ] (55)

3. [ ] (56)

(54) Point inserted by Decision No 17/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 9.2.2019.

(55) Point inserted by Decision No 17/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 9.2.2019.

(56) Point inserted by Decision No 17/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 9.2.2019.

(57) Point inserted by Decision No 124/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 1.6.2019.

(58) Point inserted by Decision No 124/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 1.6.2019.

(59) Point inserted by Decision No 186/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 11.7.2019.

(60) Point inserted by Decision No 258/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 26.10.2019.


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

Article 21(6) shall read as follows:

“...The appointment of a claims representative shall not in itself constitute the opening of a branch within the meaning of Article 1(b) of Directive 92/49/EEC and the claims representative shall not be regarded as an establishment within the meaning of Article 2(c) of Directive 88/357/EEC.”


(ANNEX IX – p. 12)


9. [ ] [69]

10. [ ] [70]

10a. [ ] [72]

11. [ ] [73]

12. [ ] [74]

12a. [ ] [75]

(iii) Supervision and accounts [76]


The provisions of the Directive shall, for the purpose of the present Agreement, be read with the following adaptations:

(a) in Article 2(1), "Article 58 of the Treaty" shall read "Article 34 of the EEA Agreement";

(b) Norway [7] shall adopt the laws, regulations and administrative provisions necessary for them to comply with this Directive before 1 January 1995;

(c) in Article 46(3) "the date of the notification of this Directive" shall read "the date of the decision by the EEA Joint Committee to include this Directive in the EEA Agreement", and the reference to "the date referred to in Article 70(1)" shall be understood to be the date by which the respective EFTA State must adopt the laws, regulations and administrative provisions necessary for it to comply with this Directive,

(d)[8] Liechtenstein shall adopt the laws, regulations and administrative provisions necessary for it to comply with this Directive before 1 January 1997.

12c. [ ] [8]

(iv) Other issues [82]

13. [ ] [83]

13a. [ ] [84]

13b. [ ] [85]

13c. [ ] [86]

---


Modalities for the association of the EFTA States in accordance with Article 101 of the Agreement:

Each EFTA State may, in accordance with Article 3 of Commission Decision 2004/9/EC, appoint persons to participate as observers in the meetings of the European Insurance and Occupational Pensions Committee.

The EC Commission shall, in due time, inform the participants of the dates of the meetings of the Committee and transmit to them the relevant documentation.


The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Directive, the EFTA States and their competent authorities, respectively.

(b) References to other acts in the Directive shall be considered relevant to the extent and in the form that those acts are incorporated into the Agreement.

(c) In the fourth subparagraph of Article 5(1), the second subparagraph of Article 8(3) and Article 9(2), the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “EIOPA”.

(d) In Articles 5(3) and 8(5), the words “, the EFTA Surveillance Authority” shall be inserted after the word “EIOPA”.


---


[32018 L 0411] Point inserted by Decision No 214/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.

[32017 R 1469] Point inserted by Decision No 304/2019 (OJ L 68, 5.3.2020, p. 52 and EEA Supplement No 14, 5.3.2020, p. 58), e.i.f. pending.

[32018 R 0541] Point inserted by Decision No 304/2019 (OJ L 68, 5.3.2020, p. 52 and EEA Supplement No 14, 5.3.2020, p. 58), e.i.f. pending.
I. Financial services

(i) Coordination of legislation on establishment and freedom to provide services


II. Banks and other credit institutions

(i) Coordination of legislation on establishment and freedom to provide services


The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Directive, the EFTA States and their competent authorities, respectively.

(b) References to “ESCB central banks” or to “central banks” shall be understood to include, in addition to their meaning in the Directive, the national central banks of the EFTA States.

(c) References to other acts in the Directive shall apply to the extent and in the form that those acts are incorporated into this Agreement.

(d) References to the powers of EBA under Article 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council in the Directive shall be understood as referring, in the cases provided for in and in accordance with point 31g of this Annex, to the powers of the EFTA Surveillance Authority as regards the EFTA States.

(e) In Article 2(5), the following point shall be inserted:

“(11a) In Iceland, the ‘Byggðastofnun’, the ‘Íbúðalánasjóður’ and the ‘Lánasjóður svetarfélagið off.’;”

(f) In Article 6, the following subparagraph is added to point (a):

“The competent authorities of the EFTA States cooperate with trust and full mutual respect, in particular when ensuring the flow of appropriate and reliable information between them and the parties to the ESFS and with the EFTA Surveillance Authority. Competent authorities of the EU Member States shall cooperate with the competent authorities of the EFTA States in the same manner.”

---

\[\text{[a]}\] Point and indent inserted by Decision No 304/2019 (OJ L 68, 5.3.2020, p. 52 and EEA Supplement No 14, 5.3.2020, p. 58), c.f.f. pending.


\[\text{[d]}\] Indent added by Decision No 165/2019 (OJ L [to be published and EEA supplement No [to be published]], c.f.f. pending.
Article 47(3) shall not apply as regards the EFTA States. An EFTA State may, through agreements concluded with one or more third countries, agree to apply provisions which accord to branches of a credit institution having its head office in a third country identical treatment on the territory of that EFTA State.

The Contracting Parties shall inform and consult each other prior to concluding agreements with third countries on the basis of Article 47(3) or the first paragraph of this point, as the case may be.

Whenever the European Union negotiates with one or more third countries towards the conclusion of an agreement on the basis of Article 47(3), and that such an agreement pertains to obtain national treatment or effective market access for branches of credit institutions having their head office in a Member State of the European Union in the third countries concerned, the European Union shall endeavour to obtain equal treatment for branches of credit institutions having their head office in an EFTA State.

Article 48 shall not apply. Where an EFTA State concludes an agreement with one or more third countries regarding the means of exercising supervision on a consolidated basis over institutions the parent undertakings of which have their head offices in a third country and institutions situated in third countries the parent undertakings of which, whether institutions, financial holding companies or mixed financial holding companies, have their head offices in that EFTA State, that agreement shall seek to ensure that EBA is able to obtain from the competent authority of that EFTA State the information received from national authorities of third countries in accordance with Article 35 of Regulation (EU) No 1093/2010.

In Article 53(2), the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted before the words “in accordance with this Directive”.

In Article 58(1)(d), the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

In Article 89(5), the words “future Union legislative acts for disclosure obligations” shall be replaced by the words “future legislative acts applicable pursuant to the EEA Agreement provide for disclosure obligations that”.

In Article 114(1), as regards Liechtenstein, the words “an ESCB central bank” shall be replaced by the words “the competent authority”.

In the second subparagraph of Article 117(1), the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “EBA”.

In Article 133(14) and (15), the words “or, as regards the EFTA States, the Standing Committee of the EFTA States” shall be inserted after the words “the Commission”.

In Article 151(1), as regards the EFTA States, the words “a decision of the EEA Joint Committee containing” shall be inserted after the words “in accordance with”.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be
understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) References to “ESCB central banks” or to “central banks” shall be understood to include, in addition to their meaning in the Regulation, the national central banks of the EFTA States.

(c) References to other acts in the Regulation shall apply to the extent and in the form that those acts are incorporated into this Agreement.

(d) References to the powers of EBA under Article 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council in the Regulation shall be understood as referring, in the cases provided for in and in accordance with point 31g of this Annex, to the powers of the EFTA Surveillance Authority as regards the EFTA States.

(e) In point (75) of Article 4(1), the words “Norway and” shall be inserted before the word “Sweden”.

(f) In Article 31(1)(b), as regards the EFTA States, the words “the Commission” shall read “the EFTA Surveillance Authority”.

(g) In paragraphs 1 and 2 of Article 80, the words “or, in case an EFTA State is concerned, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.

(h) In Articles 329(4), 344(2), 352(6), 358(4) and 416(5), as regards the EFTA States, the words “the decisions of the EEA Joint Committee containing” shall be inserted after the words “entry into force of”.

(i) In Article 395:

(i) in paragraphs 7 and 8, as regards the EFTA States, the words “the Council,” shall not apply;

(ii) as regards the EFTA States, the first subparagraph of paragraph 8 shall read as follows:

“The power to adopt a decision to accept or reject the proposed national measure referred to in paragraph 7 is conferred on the Standing Committee of the EFTA States.”;

(iii) the first sentence of the second subparagraph of paragraph 8 shall be replaced by the following:

“Within one month of receiving the notification referred to in paragraph 7, EBA shall provide its opinion on the points mentioned in that paragraph to the Council, the Commission and the Member State concerned or, where its opinion concerns national measures proposed by an EFTA State, to the Standing Committee of the EFTA States and the EFTA State concerned.”

(j) In Article 458:

(i) as regards the EFTA States, the first subparagraph of paragraph 2 shall read as follows:

“Where the authority determined in accordance with paragraph 1 identifies changes in the intensity of macroprudential or systemic risk in the financial system with the potential to have serious negative consequences to the financial system and the real economy in a specific EFTA State and which that authority considers would better be addressed by means of stricter national measures, it shall notify the Standing Committee of the EFTA States, the EFTA Surveillance Authority, the ESRB and EBA of that fact and submit relevant quantitative or qualitative evidence of all of the following;”;

(ii) as regards the EFTA States, the first subparagraph of paragraph 4 shall read as follows:

“The power to adopt an implementing act to reject the draft national measures referred to in point (d) of paragraph 2 is conferred on the Standing Committee of the EFTA States, acting on a proposal from the EFTA Surveillance Authority.”;

(iii) in the second subparagraph of paragraph 4, the following shall be added:

“Where their opinions concern draft national measures of an EFTA State, the ESRB and EBA shall provide their opinions to the Standing Committee of the EFTA States, the EFTA Surveillance Authority and the EFTA State concerned.”;

(iv) as regards the EFTA States, the third to eighth subparagraphs of paragraph 4 shall read as follows:

“Taking utmost account of the opinions referred to in the second subparagraph and if there is robust, strong and detailed evidence that the measure will have a negative impact on the internal market that outweighs the financial stability benefits resulting in a reduction of the macroprudential or systemic risk identified, the EFTA
Surveillance Authority may, within one month, propose to the Standing Committee of the EFTA States to reject the draft national measures. In the absence of an EFTA Surveillance Authority proposal within that period of one month, the EFTA State concerned may immediately adopt the draft national measures for a period of up to two years or until the macroprudential or systemic risk ceases to exist if that occurs sooner.

The Standing Committee of the EFTA States shall decide on the proposal by the EFTA Surveillance Authority within one month after receipt of the proposal and state its reasons for rejecting or not rejecting the draft national measures.

The Standing Committee of the EFTA States shall only reject the draft national measures if it considers that one or more of the following conditions are not complied with:

(a) the changes in the intensity of macroprudential or systemic risk are of such nature as to pose risk to financial stability at national level;

(b) Articles 124 and 164 of this Regulation and Articles 101, 103, 104, 105, 133, and 136 of Directive 2013/36/EU cannot adequately address the macroprudential or systemic risk identified, taking into account the relative effectiveness of those measures;

(c) the draft national measures are more suitable to address the identified macroprudential or systemic risk and do not entail disproportionate adverse effects on the whole or parts of the financial system in other Contracting Parties or in the EEA as a whole, thus forming or creating an obstacle to the functioning of the internal market;

(d) the issue concerns only one EFTA State; and

(e) the risks have not already been addressed by other measures in this Regulation or in Directive 2013/36/EU.

The assessment of the Standing Committee of the EFTA States shall take into account the opinion of the ESRB and EBA and shall be based on the evidence presented in accordance with paragraph 2 by the authority determined in accordance with paragraph 1.

In the absence of a decision of the Standing Committee of the EFTA States to reject the draft national measures within one month after receipt of the proposal by the EFTA Surveillance Authority, the EFTA State may adopt the measures and apply them for a period of up to two years or until the macroprudential or systemic risk ceases to exist if that occurs sooner."

(v) as regards the EFTA States, paragraph 6 shall read as follows:

“Where an EFTA State recognises the measures set in accordance with this Article, it shall notify the Standing Committee of the EFTA States, the EFTA Surveillance Authority, EBA, the ESRB and the Contracting Party to the EEA Agreement authorised to apply the measures.”

(k) In Article 467(2), as regards the EFTA States, the words “the Commission has adopted a regulation” shall read “the entry into force of a decision of the EEA Joint Committee containing a regulation adopted”.

(l) In Article 469a, as regards the EFTA States, the words “26 April 2019” shall read “the date of entry into force of Decision of the EEA Joint Committee No 16/2020 of 7 February 2020”.

(m) In Article 497, as regards the EFTA States:

(i) in paragraphs 1 and 2, the words “the decisions of the EEA Joint Committee containing” shall be inserted after the words “entry into force of the latest of”;

(ii) in paragraph 1, the words “have been adopted” shall read “apply in the EEA”.


---

\( ^{[99]} \) New adaptation (l) added by Decision No 16/2020 (OJ L [to be published and EEA supplement No [to be published]), c.l.f. pending.

\( ^{[100]} \) Old adaptation (l) renumbered as adaptation (m) by Decision No 16/2020 (OJ L [to be published and EEA supplement No [to be published]), c.l.f. pending.

\( ^{[101]} \) Point, 3 indents and adaptation text inserted by Decision No 80/2019 (OJ L [to be published and EEA supplement No [to be published]), c.l.f. 1.1.2020.
technical standards for Own Funds requirements for institutions (OJ L 74, 14.3.2014, p. 8), as amended by:


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 4(2), the following points shall be added:

"(t) in Liechtenstein: institutions registered as ‘Genossenschaft’ under the ‘Personen- und Gesellschaftsrechts (PGR) vom 20. Januar 1926’;
(u) in Norway: institutions authorised as ‘kredittforetak organisert som samvirkeforetak’ under the Act on Financial Undertakings and Financial Groups (’lov 10. april 2015 nr. 17 om finansforetak og finanskonsern’)."

(b) In Article 5(2), the following points shall be added:

"(g) in Norway: institutions authorised as ‘sparebank’ under the Act on Financial Undertakings and Financial Groups (’lov 10. april 2015 nr. 17 om finansforetak og finanskonsern’);
(h) in Iceland: institutions registered as ‘sparisjóður’ under the Icelandic Act on Financial Undertakings.”


- **32016 R 0313**: Commission Implementing Regulation (EU) 2016/313 of 1 March 2016 (OJ L 60, 5.3.2016, p. 5),
- **32016 R 0322**: Commission Implementing Regulation (EU) 2016/322 of 10 February 2016 (OJ L 64, 10.3.2016, p. 1), as corrected by OJ L 95, 9.4.2016, p. 17,


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In paragraphs 3 and 4 of Article 19, as regards the EFTA States, the words “upon its incorporation into the EEA Agreement” shall be inserted after the words “Regulation (EU) No 575/2013”.

(b) In the last sentence of paragraph 5 of Article 24, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “The Commission”.

---

<sup>[102]</sup> Point and 7 indents inserted by Decision No 80/2019 (OJ L [to be published] and EEA supplement No [to be published]), e.i.f. 1.1.2020.

<sup>[103]</sup> Indent added by Decision No 83/2019 (OJ L [to be published] and EEA supplement No [to be published]), e.i.f. 1.1.2020.

<sup>[104]</sup> Point and adaptation text inserted by Decision No 80/2019 (OJ L [to be published] and EEA supplement No [to be published]), e.i.f. 1.1.2020.


The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In point (c) of Article 10(2), as regards the EFTA States, the word “EBA” shall read “EFTA Surveillance Authority”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In Article 1(b), the words “, EFTA States” shall be inserted after the words “non-euro Member States”.


---

(***) Point inserted by Decision No 08/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(***) Point and adaptation text inserted by Decision No 08/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(***) Point inserted by Decision No 08/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(***) Point inserted by Decision No 08/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(***) Point inserted by Decision No 08/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(***) Point inserted by Decision No 08/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(***) Point inserted by Decision No 08/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(***) Point inserted by Decision No 08/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(***) Point inserted by Decision No 08/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(***) Point inserted by Decision No 08/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(***) Point and indent inserted by Decision No 08/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.


The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In Article 1(6):

(i) The words “on or after 1 January 2011 and before 1 January 2014” shall be replaced by “during the three years prior to the date of entry into force of Decision of the EEA Joint Committee No 79/2019 of 29 March 2019”;

(ii) The words “31 December 2013” shall be replaced by “the date of entry into force of Decision of the EEA Joint Committee No 79/2019 of 29 March 2019”.


14ar. (\[122\]) 32014 R 1030: Commission Implementing Regulation (EU) No 1030/2014 of 29 September 2014 laying down implementing technical standards with regard to the uniform formats and date for the disclosure of the values used to identify globally systemically important institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 284, 30.9.2014, p. 14), as amended by:


14au. (\[126\]) 32015 R 0233: Commission Implementing Regulation (EU) 2015/233 of 13 February 2015 laying down implementing technical standards with regard to currencies in which there is an extremely narrow

---

(\[118\]) Point inserted by Decision No 81/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(\[119\]) Point and adaptation text inserted by Decision No 81/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(\[120\]) Point and indent inserted by Decision No 81/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(\[121\]) Point inserted by Decision No 82/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(\[122\]) Point and indent inserted by Decision No 82/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(\[123\]) Point and 2 indents inserted by Decision No 82/2019 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 1.1.2020.

(\[124\]) Indent added by Decision No 17/2020 (OJ L [to be published and EEA supplement No [to be published]], e.i.f. 8.2.2020.


14azc. (131) 32016 R 1799: Commission Implementing Regulation (EU) 2016/1799 of 7 October 2016 laying down implementing technical standards with regard to the mapping of credit assessments of external credit assessment institutions for credit risk in accordance with Articles 136(1) and 136(3) of Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 275, 12.10.2016, p. 3), as amended by:


technical standards for additional liquidity outflows corresponding to collateral needs resulting from the impact of an adverse market scenario on an institution's derivatives transactions (OJ L 33, 8.2.2017, p. 14).


The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

(a) In Articles 10(1)(c), 11(1)(c), 16(1)(c) and 17(1)(c), as regards the EFTA States, the words “applicable Union” shall read “legislation applicable pursuant to the EEA Agreement”.


---

[137] Point inserted by Decision No 82/2019 (OJ L [to be published and EEA supplement No [to be published]), c.i.f. 1.1.2020.
[138] Point inserted by Decision No 83/2019 (OJ L [to be published and EEA supplement No [to be published]), c.i.f. 1.1.2020.
[139] Point inserted by Decision No 83/2019 (OJ L [to be published and EEA supplement No [to be published]), c.i.f. 1.1.2020.
[140] Point inserted by Decision No 83/2019 (OJ L [to be published and EEA supplement No [to be published]), c.i.f. 1.1.2020.
[141] Point inserted by Decision No 83/2019 (OJ L [to be published and EEA supplement No [to be published]), c.i.f. 1.1.2020.
[142] Point inserted by Decision No 83/2019 (OJ L [to be published and EEA supplement No [to be published]), c.i.f. 1.1.2020.
[143] Point inserted by Decision No 80/2019 (OJ L [to be published and EEA supplement No [to be published]), c.i.f. 1.1.2020.
[144] Point inserted by Decision No 80/2019 (OJ L [to be published and EEA supplement No [to be published]), c.i.f. 1.1.2020.
[145] Point inserted by Decision No 80/2019 (OJ L [to be published and EEA supplement No [to be published]), c.i.f. 1.1.2020.
standards on the information to be notified when exercising the right of establishment and the freedom to provide services (OJ L 309, 30.10.2014, p. 1).


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Articles 3(4) and 23(4), the following point shall be added:

“(c) the EFTA Surveillance Authority, for the purpose of enabling it to carry out its duties under Directive 2013/36/EU, Regulation (EU) No 575/2013, and under Regulation (EU) No 1093/2010.”

(b) In Article 13(1), as regards the EFTA States, the words “national or Union law” shall read “national law or legislation applicable pursuant to the EEA Agreement”.

(c) In Article 22(1), the words “or, as regards the EFTA States, of the EEA Agreement and national law” shall be inserted after the words “applicable Union and national law”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In point (i) of Article 2(c), as regards the EFTA States, the words “the annual average rate of change for the Union” shall read “the annual average rate of change for the EEA”.


14i. (150) 32014 R 0604: Commission Delegated Regulation (EU) No 604/2014 of 4 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to quantitative and appropriate qualitative criteria to identify categories of staff whose professional activities have a material impact on an institution’s risk profile (OJ L 167, 6.6.2014, p. 30), as amended by:


The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

---

(146) Point and adaptation text inserted by Decision No 80/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(147) Point inserted by Decision No 80/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(148) Point and adaptation text inserted by Decision No 81/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(149) Point inserted by Decision No 81/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(150) Point and indent inserted by Decision No 81/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(151) Point and adaptation text inserted by Decision No 81/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(152) Indent and words “, as amended by:” added by Decision No 17/2020 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 8.2.2020.
(a) In Article 2, as regards the EFTA States, the words “Union law” shall be replaced by “legislation applicable pursuant to the EEA Agreement”.

(b) In the first paragraph of Article 5, as regards the EFTA States, the words “by 31 July 2014” shall read “within six months after the date of entry into force of Decision of the EEA Joint Committee No 79/2019 of 29 March 2019”.


14m. (156) 32016 R 2070: Commission Implementing Regulation (EU) 2016/2070 of 14 September 2016 laying down implementing technical standards for templates, definitions and IT-solutions to be used by institutions when reporting to the European Banking Authority and to competent authorities in accordance with Article 78(2) of Directive 2013/36/EU of the European Parliament and of the Council (OJ L 328, 2.12.2016, p. 1), as amended by:


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In Articles 12(1) and 16(a), the words “or, as regards the EFTA States, national law or the EEA Agreement” shall be inserted after the words “national or Union law”.


----

(153) Point inserted by Decision No 81/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(154) Point inserted by Decision No 82/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(155) Indent and words “as amended by:” added by Decision No 83/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(156) Point inserted by Decision No 82/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(157) Indent and words “as amended by:” added by Decision No 83/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(158) Indent added by Decision No 17/2020 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 8.2.2020.

(159) Point inserted by Decision No 82/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(160) Point and adaptation text inserted by Decision No 83/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(161) Point inserted by Decision No 83/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.

(162) Point inserted by Decision No 83/2019 (OJ L [to be published and EEA supplement No [to be published]), e.i.f. 1.1.2020.


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

In Article 18(4), as regards the EFTA States:

(i) the words “13 January 2018” shall read “the date of entry into force of Decision of the EEA Joint Committee No 165/2019 of 13 June 2019”;

(ii) the words “until 13 July 2018” shall read “until six months after the date of entry into force of Decision of the EEA Joint Committee No 165/2019 of 13 June 2019”;

(iii) the words “by 13 July 2018” shall read “within six months following the date of entry into force of Decision of the EEA Joint Committee No 165/2019 of 13 June 2019”.

15a. [ ]

16. [ ]

16a. [ ]


\[16^{a}\] New point 15 inserted by Decision No 120/2010 (OJ L 58, 3.3.2011, p. 77 and EEA Supplement No 12, 3.3.2011, p. 20), e.i.f. 1.11.2012.

\[16^{b}\] Indent and words “., as amended by:” added by Decision No 165/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.


\[16^{g}\] Indent and words, “as amended by” added by Decision No 50/2010 (OJ L 181, 15.7.2010, p. 18 and EEA Supplement No 37, 15.7.2010, p. 23), e.i.f. 1.2.2012.


\[17^{b}\] Indent added by Decision No 92/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.1.2020.


Modalities for the association of the EFTA States in accordance with Article 101 of the Agreement:

Each EFTA State may, in accordance with Article 3 of Commission Decision 2004/10/EC, appoint persons to participate as observers in the meetings of the European Banking Committee.

The EC Commission shall, in due time, inform the participants of the dates of the meetings of the Committee and transmit to them the relevant documentation.


The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Directive, the EFTA States and their competent authorities, respectively.

(b) References to other acts in the Directive shall apply to the extent and in the form that those acts are incorporated into this Agreement.

(c) Article 4(36) shall read as follows:

“‘micro-enterprise’ means an enterprise, which, at the time of conclusion of the payment service contract, is any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity. The category of micro, small and medium-sized enterprises (SMEs) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million. Within the SME category, a microenterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.”

(d) In Article 26(1), the words “the central banks of the EFTA States and the EFTA Surveillance Authority” shall be inserted after the word “EBA”.

(e) In Article 27:

(i) in paragraph 1, the words “request its assistance” shall be replaced by the words “request the assistance of EBA or the EFTA Surveillance Authority, as the case may be;”;

(ii) in the first sentence of paragraph 2, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “EBA”.

(f) In Article 30(3), the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “EBA”.

(g) In Article 96(2), the words “and the national central banks of the EFTA States” shall be inserted after the words “members of the European System of Central Banks”.

(h) In Article 109, as regards the EFTA States:

(i) in paragraphs 1 and 3, the words “13 January 2018” shall read “the date of entry into force of Decision of the EEA Joint Committee No 165/2019 of 13 June 2019”;
in paragraph 1, the words “by 13 July 2018” shall read “within six months following the date of entry into force of Decision of the EEA Joint Committee No 165/2019 of 13 June 2019”;

(iii) in paragraph 3, the words “until 13 January 2019” shall read “until one year after the date of entry into force of Decision of the EEA Joint Committee No 165/2019 of 13 June 2019”;

(iv) in paragraph 3, the words “by 13 January 2019” shall read “within one year following the date of entry into force of Decision of the EEA Joint Committee No 165/2019 of 13 June 2019”;

(v) in paragraph 5, the words “by 13 January 2020” shall read “within two years following the date of entry into force of Decision of the EEA Joint Committee No 165/2019 of 13 June 2019”.


(ii) Prudential requirements and regulations

17. [178]

18. [179] [180]

19. [181]


The transitional arrangements set out in the Annexes to the Act of Accession of 16 April 2003 for Estonia (Annex VI, Chapter 2, Point 1), Latvia (Annex VIII, Chapter 2, Point 1), Lithuania (Annex IX, Chapter 3, Point 1) and Slovenia (Annex XIII, Chapter 3, Point 2) shall apply.


[177] Point inserted by Decision No 165/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. pending.


The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)”, “resolution authorities” and “competent authorities” shall be understood to include, in addition to their meaning in the Directive, the EFTA States, their resolution authorities and their competent authorities, respectively.

(b) References to the powers of EBA under Article 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council in the Directive shall be understood as referring, in the cases provided for in and in accordance with point 31g of this Annex, to the powers of the EFTA Surveillance Authority as regards the EFTA States.

(c) In point (28) of Article 2(1), the words “Article 107(1) TFEU” shall be replaced by the words “Article 61(1) of the EEA Agreement”.

(d) References to the “Union State aid framework” as defined in point (53) of Article 2(1) shall be understood as referring to the State aid framework established by Chapter 2 of Part IV of the EEA Agreement, including the relevant Annexes and Protocols to the EEA Agreement and, as regards the EFTA States, the relevant provisions of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

(e) Articles 68(6) and 93 shall not apply.

(f) In paragraphs 1 and 4 of Article 84 and in the first paragraph of Article 128, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “EBA”.

(g) In Article 94(1), as regards the EFTA States, the words “as referred to in Article 93(1)” shall not apply.

(h) In Article 97:

(i) in paragraph 1, as regards the EFTA States, the words “as referred to in Article 93(1)” and “provided for in Article 93(1)” shall not apply;

(ii) in the first subparagraph of paragraph 4, the following shall be added:

“The conclusion of such cooperation arrangements shall not be mandatory for competent authorities and resolution authorities of the EFTA States.”.

(i) In Article 102(1), as regards the EFTA States, the words “31 December 2024” shall read “31 December 2027”.

(j) In Article 130, as regards the EFTA States, the words “from 1 January 2016” shall read “within one year of the date of entry into force of Decision of the EEA Joint Committee No 21/2018 of 9 February 2018.


[186] Indent and words “, as amended by:” above, added by Decision No 305/2019 (OJ L 68, 5.3.2020, p. 54 and EEA Supplement No 14, 5.3.2020, p. 60, e.i.f. pending.

[187] Point, indent and adaptation texts inserted by Decision No 237/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.
The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 4(2), as regards the EFTA States, the words “31 December 2024” shall read “31 December 2027”.

(b) As regards the EFTA States, except for Liechtenstein, the text of Article 20 (1)-(4) shall read as follows:

“Transitional provisions

1. Where the information required by a specific indicator as referred to in Annex II is not included in the applicable supervisory reporting requirement referred to in Article 14 for the reference year, that risk indicator shall not apply until that supervisory reporting requirement becomes applicable. The weight of other available risk indicators shall be rescaled proportionally to their weight as provided for in Article 7 so that the sum of their weights is 1. In the year of entry into force of Decision of the EEA Joint Committee No 237/2019 of 27 September 2019, where any of the information required in Article 16 is not available to the deposit guarantee scheme within six months of the entry into force of that Decision for the purposes of the calculation the annual target level referred to in Article 4(2) or of the basic annual contribution of each institution referred to in Article 5, following a notification by the deposit guarantee scheme, the relevant credit institutions shall provide the resolution authorities with that information by that date. By way of derogation from Article 13(1), with regards to the contributions to be paid in the year of entry into force of Decision of the EEA Joint Committee No 237/2019 of 27 September 2019 the resolution authorities shall notify each institution of its decision determining the annual contribution to be paid by them at the latest within nine months of the entry into force of Decision of the EEA Joint Committee No 237/2019 of 27 September 2019.

2. By way of derogation from Article 13(4), and with regards to the contributions to be paid in the year of entry into force of Decision of the EEA Joint Committee No 237/2019 of 27 September 2019, the amount due under the decision referred to in Article 13(3) shall be paid by 31 December of that year or within one month after the notification of that decision, whichever date is later.

3. By way of derogation from Article 14(4), and with regards to the information to be provided to the resolution authority in the year of entry into force of Decision of the EEA Joint Committee No 237/2019 of 27 September 2019 the information referred to in that paragraph shall be provided at the latest within six months of the entry into force of Decision of the EEA Joint Committee No 237/2019 of 27 September 2019.

4. By way of derogation from Article 16(1), the deposit guarantee schemes shall provide the resolution authority by 1 September of the year following the year of entry into force of Decision of the EEA Joint Committee No 237/2019 of 27 September 2019 with the information about the amount of covered deposits as of 31 July of that year, unless the information has been provided by the deposit guarantee schemes within the timeframe set out in Article 16(1).”

(c) As regards the EFTA States, Article 20(5) shall read as follows:

“5. Without prejudice to Article 10 of this Regulation, the EFTA States may, until 31 December 2026, allow institutions whose total assets are equal to or less than EUR 3 000 000 000 to pay a lump-sum of EUR 50 000 for the first EUR 300 000 000 of total liabilities, less own funds and covered deposits. For the total liabilities less own funds and covered deposits above EUR 300 000 000, those institutions shall contribute in accordance with Articles 4 to 9 of this Regulation.”

(d) As regards the EFTA States, the second paragraph of Article 21 shall read as follows:

“It shall apply from 1 January of the year following the year of entry into force of Decision of the EEA Joint Committee No 237/2019 of 27 September 2019.”


[189] Point inserted by Decision No 237/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.
a framework for the recovery and resolution of credit institutions and investment firms (OJ L 144, 1.6.2016, p. 11).


19bd. (189) 32016 R 1075: Commission Delegated Regulation (EU) 2016/1075 of 23 March 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges (OJ L 184, 8.7.2016, p. 1), as corrected by OJ L 205, 30.7.2016, p. 27.

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In point (d) of Article 22(7), as regards the EFTA States, the words “upon incorporation into the EEA Agreement” shall be inserted after the words “Article 45(2) of Directive 2014/59/EU”.

(b) In Article 43, as regards the EFTA States, the words “Union law” and “applicable Union law” shall read “the EEA Agreement”.

(c) In Articles 70(4), 74(1)(c), 80(2)(e), 84(1)(c), 90(1)(e), 95(1)(c), and 105(4)(c), the words “and, where applicable, to provisions of the EEA Agreement” shall be inserted after the words “national law”.

(d) In Articles 74(2)(c), 84(2)(c), and 95(2)(c), as regards the EFTA States, the words “Union and national law” shall read “provisions of the EEA Agreement and national law”.

(e) In Articles 75(1)(c), 85(1)(c), and 96(1)(c), the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “the EBA”.


---

(189) Point inserted by Decision No 237/2019 (OJ L [to be published] and EEA Supplement No [to be published]), c.e.f. pending.

(190) Point and adaptation text inserted by Decision No 237/2019 (OJ L [to be published] and EEA Supplement No [to be published]), c.e.f. pending.

(191) Point inserted by Decision No 237/2019 (OJ L [to be published] and EEA Supplement No [to be published]), c.e.f. pending.

(192) Point inserted by Decision No 237/2019 (OJ L [to be published] and EEA Supplement No [to be published]), c.e.f. pending.

(193) Point inserted by Decision No 19/2019 (OJ L [to be published] and EEA Supplement No [to be published]), c.e.f. 1.1.2020.

(194) Point inserted by Decision No 19/2019 (OJ L [to be published] and EEA Supplement No [to be published]), c.e.f. 1.1.2020.
iii) Supervision and accounts


- **[203]** Commission Delegated Regulation (EU) 2016/778 of 2 February 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to the circumstances and conditions under which the payment of extraordinary ex post contributions may be partially or entirely deferred, and on the criteria for the determination of the activities, services and operations with regard to critical functions, and for the determination of the business lines and associated services with regard to core business lines (OJ L 131, 20.5.2016, p. 41).


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

Article 3 shall not apply.

23. | ] [\[226]\]

23a. | ] [\[227]\]


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

(a) Point (d) of Article 3(4) shall be replaced by the following:

“fraud affecting the Union’s financial interests, where it is at least serious, as defined below:

(i) in respect of expenditure, any intentional act or omission relating to:

– the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Union or budgets managed by, or on behalf of, the European Union,

---


\[228\] Words "and Switzerland" deleted by the Adjusting Protocol.

\[229\] This date, introduced by EEA Council Decision No 1/95, replaces former date.


-- non-disclosure of information in violation of a specific obligation, with the same effect,
-- the misapplication of such funds for purposes other than those for which they were originally granted;

(ii) in respect of revenue as defined in Council Decision of 29 September 2000 on the system of the European Communities’ own resources\[214\] any intentional act or omission relating to:
-- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Union or budgets managed by, or on behalf of, the European Union,
-- non-disclosure of information in violation of a specific obligation, with the same effect,
-- misapplication of a legally obtained benefit, with the same effect.

Serious fraud shall be considered to be fraud involving a minimum amount not to be set at a sum exceeding Euro 50 000."\[215\]


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

By way of derogation from Articles 4 and 6, as regards transfers of funds in Swiss Francs in Liechtenstein and from and to Liechtenstein within its Currency Union with Switzerland, the information required by Articles 4 and 6 shall be collected and made available when requested by the payment service provider of the payee within three working days, but need not be transferred immediately with the transfers of funds as foreseen in Articles 4 and 6. This derogation shall be applicable for a transitional period expiring on 31 December 2022.


23c.\[220\] 32008 D 0961: Commission Decision 2008/961/EC of 12 December 2008 on the use by third countries’ issuers of securities of certain third country’s national accounting standards and

---


\[216\] Point inserted by Decision No 249/2018 (OJ L [to be published] and EEA Supplement No 17, 28.2.2019, p. 3), e.i.f. 1.8.2019.

\[217\] Indent and words “as amended by:" added by Decision No 251/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.8.2019.

\[218\] Indent and words “as amended by:" added by Decision No 251/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.8.2019.

\[219\] Indent added by Decision No 252/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.8.2019.


23d. [ ] [223]

23e. [ ] [224]

III. Stock exchange and securities

(i) Stock exchange listing and transactions

24. [225]


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

(a) Article 41 of the Directive shall not apply.

(b) With regard to the EFTA States, the dates referred to in Article 90 of the Directive shall be the following:

Iceland: 1 January 1994,

Liechtenstein: 1 January 1997,

25. [ ] [\textsuperscript{229}]

26. [ ] [\textsuperscript{230}]

27. [ ] [\textsuperscript{231}]

28. [ ] [\textsuperscript{232}]

29. [ ] [\textsuperscript{233}]

29a. [\textsuperscript{234}]


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) References to other acts in the Regulation shall be considered relevant to the extent and in the form that those acts are incorporated into the Agreement.

(c) References to “members of the ESCB” shall be understood to include, in addition to their meaning in the Regulation, the national central banks of the EFTA States.

(d) In Article 13:
   (i) in the second subparagraph of paragraph 6, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
   (ii) in paragraph 10, the words “and to the EFTA Surveillance Authority” shall be inserted after the words “the Commission”;
   (iii) in paragraph 11, as regards the EFTA States, the words “2 July 2014” shall read “the date of entry into force of Decision of the EEA Joint Committee No 259/2019 of 25 October 2019”.

(e) In Article 22, the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(f) In paragraphs 1 and 2 of Article 24, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(g) In Article 25:
   (i) in the first and fourth subparagraph of paragraph 1, in paragraph 5, and in the second subparagraph of paragraph 7, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
   (ii) as regards the EFTA States, the second subparagraph of paragraph 1 shall not apply;


(ii) in paragraph 7, as regards the EFTA States, the words “Article 258 TFEU” shall be replaced by the words “Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”.


29ag. 32016 R 0522: Commission Delegated Regulation (EU) 2016/522 of 17 December 2015 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council as regards an exemption for certain third countries public bodies and central banks, the indicators of market manipulation, the disclosure thresholds, the competent authority for notifications of delays, the permission for trading during closed periods and types of notifiable managers’ transactions (OJ L 88, 5.4.2016, p. 1), as amended by:


---


\(^{239}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

\(^{240}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

\(^{241}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

\(^{242}\) Point and indent inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.


29aq.\(^{[251]}\) **32017 R 1158**: Commission Implementing Regulation (EU) 2017/1158 of 29 June 2017 laying down implementing technical standards with regards to the procedures and forms for competent authorities exchanging information with the European Securities Market Authority as referred to in Article 33 of

---

\(^{[249]}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

\(^{[244]}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

\(^{[245]}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

\(^{[246]}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

\(^{[247]}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

\(^{[248]}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

\(^{[249]}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

\(^{[250]}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

\(^{[251]}\) Point inserted by Decision No 306/2019 (OJ L 68, 5.3.2020, p. 55 and EEA Supplement No 14, 5.3.2020, p. 61), e.i.f. pending.

29b. [ ] [231]

29ba. [ ] [234]

29bb. [ ] [235]

29bc. [ ] [236]


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) References to other acts in the Regulation shall be considered relevant to the extent and in the form that those acts are incorporated into the Agreement.

c) In Article 9(3), the words “or the date of entry into force of Decision of the EEA Joint Committee No 84/2019 of 29 March 2019, whichever is the later” shall be inserted after the words “21 July 2019”.

d) In Article 22(11), the words “Union law” shall be replaced by “the EEA Agreement”.

e) In the second sentence of Article 33(5) the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(f) In Article 34(1), as regards the EFTA States, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

g) In Article 35(2), the words “laid down by Union” shall be replaced by “of the EEA Agreement”.

(h) In the second sentence of Article 37(3) the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

---


(i) In Article 38(2)(d), the words “Union law” shall read “provisions of the EEA Agreement”.

(j) In Article 46(3), the words “or the date of entry into force of Decision of the EEA Joint Committee No 84/2019 of 29 March 2019, whichever is the later” shall be inserted after the words “21 July 2019”.

(k) In Article 49(2) and (3), the words “or the date of entry into force of Decision of the EEA Joint Committee No 84/2019 of 29 March 2019, whichever is the later” shall be inserted after the words “21 July 2019”.

(l) In Article 49(2), the words “21 July 2018” and the words “20 July 2017” shall read “the date of entry into force of Decision of the EEA Joint Committee No 84/2019 of 29 March 2019”.


29c. [ ] [284]


[284] The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In the second sentence of paragraph 2a and in paragraphs 2b and 3 of Article 25, the words “and the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

(b) In Article 25(2a), as regards the EFTA States, the words “Article 258 of the Treaty on the Functioning of the European Union (TFEU)” shall read “Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”.


[269] Insert added by Decision No 92/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.1.2020.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) Unless otherwise provided for in this Agreement, the European Securities and Markets Authority (ESMA) and the EFTA Surveillance Authority shall cooperate, exchange information and consult each other for the purposes of the Regulation, in particular prior to taking any action.

(c) In the third subparagraph of Article 23(4), the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

(d) In Article 28:

(i) in the first subparagraph of paragraph 1, the words “or, as regards the EFTA States, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) in the second subparagraph of paragraph 1, in paragraphs 2, 3, 5, 6, 8, 10 and 11, and in point (b) of paragraph 7, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iii) in paragraph 3, the words “without issuing the opinion” shall be replaced by the words “without ESMA issuing the opinion”;
(iv) in paragraph 4, the following subparagraph shall be added:

“In cases regarding the EFTA States, before preparing a draft in accordance with Article 9(5) of Regulation (EU) No 1095/2010 in view of a decision on the part of the EFTA Surveillance Authority under paragraph 1, ESMA shall consult the ESRB and, where appropriate, other relevant authorities. It shall transmit the observations received to the EFTA Surveillance Authority.”;

(v) in paragraph 7, the words “any decision” shall read “each of its decisions”; (vi) in paragraph 7, the words “. The EFTA Surveillance Authority shall publish on its website notice of each of its own decisions to impose or renew any measure referred to in paragraph 1. A reference to the publication of the notice by the EFTA Surveillance Authority shall be posted on ESMA’s website” shall be inserted after the words “paragraph 1”;

(vii) in paragraph 9, the words “or, as regards measures taken by the EFTA Surveillance Authority, when the notice is published on the website of the EFTA Surveillance Authority,” shall be inserted after the words “ESMA website”.

(e) In Article 31, the words “; the Standing Committee of the EFTA States” shall be inserted after the word “authorities”.

(f) In Article 32, as regards the EFTA States, the words “; the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(g) In Article 36, as regards the EFTA States, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(h) In Article 37(3), the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “required by ESMA”.

(i) In Article 46, as regards the EFTA States:

(i) paragraph 1 shall not apply;

(ii) in paragraph 2, the words “25 March 2012” shall read “the date of entry into force of Decision of the EEA Joint Committee No 204/2016 of 30 September 2016”.


29fb. Commission Implementing Regulation (EU) No 827/2012 of 29 June 2012 laying down implementing technical standards with regard to the means for public disclosure of net position in shares, the format of the information to be provided to the European Securities and Markets Authority in relation to net short positions, the types of agreements, arrangements and measures to adequately ensure that shares or sovereign debt instruments are available for settlement and the dates and period for the determination of the principal venue for a share according to Regulation (EU) No 236/2012 of the European Parliament and of the Council on short selling and certain aspects of credit default swaps (OJ L 251, 18.9.2012, p. 11).


(ii) Undertakings for Collective Investment in Transferable Securities (UCITS)


The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) References to the powers of ESMA under Articles 17 and 19 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council in the Directive shall be understood as referring, in the cases provided for in and in accordance with point 31i of this Annex, to the powers of the EFTA Surveillance Authority as regards the EFTA States.

(b) In Articles 1(6), 7(1) and 50(1), as regards the EFTA States, the words “Community law” shall read “the EEA Agreement”.

(c) In Article 66(3), as regards the EFTA States, the words “Community law” shall read “provisions of the EEA Agreement”.

(d) In the first subparagraph of Article 101(2a), the words “and the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

(e) In Article 102:

(i) in paragraph 2, as regards the EFTA States, the words “Union legislation” shall read “provisions of the EEA Agreement”;


[280] Indent added by Decision No 92/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.1.2020.

in paragraph 2, the words “and the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;

(ii) in point (d) of paragraph 5, the words “the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(f) In Article 23(4), as regards the EFTA States, the words “18 March 2016” shall read “the date of entry into force of Decision of the EEA Joint Committee No 20/2018 of 9 February 2018” and the words “before 18 March 2018” shall read “within two years of the date of entry into force of Decision of the EEA Joint Committee No 20/2018 of 9 February 2018”.

(g) In Article 99:

(i) in paragraph 2, the words “and the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;

(ii) in paragraph 6, as regards the EFTA States, the words “17 September 2014” shall read “the date of entry into force of Decision of the EEA Joint Committee No 20/2018 of 9 February 2018”;

(iii) in paragraph 6, as regards the EFTA States, the words “the relevant Union law” shall read “the relevant provisions of the EEA Agreement”.

30a. [ ]


---


master-feeder structures and notification procedure (OJ L 176, 10.7.2010, p. 28), as corrected by OJ L 179, 14.7.2010, p. 16.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In the second subparagraph of Article 10(1), as regards the EFTA States, the words “which apply in the EEA” shall be inserted after the words “implementing acts adopted by the Commission pursuant to Article 107(4) of Regulation (EU) No 575/2013 of the European Parliament and of the Council”.


\(\text{[\text{iii}} \text{Investment services} \text{]}\)

\text{31.} [ ]

\text{31a.} [ ]

\text{31b.} [ ]

\text{31ba.} [ ]

\text{31b.} [ ]

\text{31ba.} [ ]

\text{31b.} [ ]
The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Directive, the EFTA States and their competent authorities, respectively.

(b) References to members of the ESCB shall be understood to include, in addition to their meaning in the Directive, the national central banks of the EFTA States.

(c) References to other acts in the Directive shall be considered relevant to the extent and in the form that those acts are incorporated into the Agreement.

(d) In Article 3(2), as regards the EFTA States, the words “2 July 2014” shall read “the date of entry into force of Decision of the EEA Joint Committee No 78/2019 of 29 March 2019” and the words “3 July 2019” shall read “five years thereafter”.

(e) In Article 16(11), as regards the EFTA States, the words “2 July 2014” shall read “the date of entry into force of Decision of the EEA Joint Committee No 78/2019 of 29 March 2019”.

(f) In Article 41(2), the word “Union” shall be replaced by the word “EEA”.

(g) In Article 57:

(i) in the second subparagraph of paragraph 5, the words “it shall take action” shall be replaced by the words “ESMA or, as the case may be, the EFTA Surveillance Authority shall take action”;

(ii) in paragraph 6, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(h) In points (f) and (g) of Article 70(6), as regards the EFTA States, the words “2 July 2014” shall read “the date of entry into force of Decision of the EEA Joint Committee No 78/2019 of 29 March 2019”.

(i) In Article 79:

(i) in the second subparagraph of paragraph 1, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) in the fifth subparagraph of paragraph 1, the words “, the EFTA Surveillance Authority” shall be inserted after the words “the Commission, ESMA”.

(j) In Articles 81(5), 82(2) and 87(1), the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(k) In Article 86, the words “ESMA, which” shall be replaced by the words “ESMA. ESMA or, as the case may be, the EFTA Surveillance Authority”.

(l) In Article 95(1), as regards the EFTA States, the words “3 January 2018” shall read “the date of entry into force of Decision of the EEA Joint Committee No 78/2019 of 29 March 2019”.


---


---


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) References to members of the ESCB shall be understood to include, in addition to their meaning in the Regulation, the national central banks of the EFTA States.

(c) Unless otherwise provided for in this Agreement, the European Banking Authority (EBA) or the European Securities and Markets Authority (ESMA), as the case may be, and the EFTA Surveillance Authority shall cooperate, exchange information and consult each other for the purposes of the Regulation, in particular prior to taking any action.

(d) References to other acts in the Regulation shall be considered relevant to the extent and in the form that those acts are incorporated into the Agreement.

(e) References to the powers of ESMA under Article 19 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council in the Regulation shall be understood as referring, in the cases provided for in and in accordance with point 31i of this Annex, to the powers of the EFTA Surveillance Authority as regards the EFTA States.

(f) In point (e) of Article 1(1):
   (i) as regards the EFTA States, the words “competent authorities, ESMA and EBA” shall read “competent authorities and the EFTA Surveillance Authority”;
   (ii) the words “or, as regards the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “powers of ESMA”.

(g) In Article 4:
   (i) in paragraph 4, the words “and to the EFTA Surveillance Authority” shall be inserted after the words “the Commission”;
   (ii) in paragraph 7, the words “or, as regards waivers granted by competent authorities of the EFTA States, before the date of entry into force of Decision of the EEA Joint Committee No 78/2019 of 29 March 2019” shall be inserted after the words “3 January 2018”.

(h) In Articles 7(1), 9(2), 11(1) and 19(1), the words “and to the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.

(i) In Article 36(5):
   (i) in the first and second sentences, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;
   (ii) the words “and shall include in the list all notifications received by the EFTA Surveillance Authority” shall be inserted after the words “ESMA shall publish a list of all notifications that it receives”.

(j) In Article 37(2):
   (i) as regards the EFTA States, the words “3 January 2018” shall read “the date of entry into force of Decision of the EEA Joint Committee No 78/2019 of 29 March 2019”;
   (ii) the words “Article 101 and 102 TFEU” shall be replaced by the words “Articles 53 and 54 of the EEA Agreement”.

(k) In Article 40:
   (i) as regards the EFTA States, in paragraphs 1 to 4, 6 and 7, the word “ESMA” shall read “the EFTA Surveillance Authority”;
   (ii) as regards the EFTA States, in paragraph 2, the words “Union law” shall read “the EEA Agreement”;
   (iii) in paragraph 3, the words “after consulting the public bodies” shall be replaced by the words “after consultation by ESMA of the public bodies”;

(iv) in paragraph 3, the words “without issuing the opinion” shall be replaced by the words “without ESMA issuing the opinion”;

(v) in paragraph 5, the words “any decision to take any action” shall be replaced by the words “each of its decisions to take action”;

(vi) in paragraph 5, the words “. The EFTA Surveillance Authority shall publish on its website notice of each of its own decisions to take any action under this Article. A reference to the publication of the notice by the EFTA Surveillance Authority shall be posted on ESMA’s website” shall be inserted after the words “this Article”.

(l) In Article 41:

(i) as regards the EFTA States, in paragraphs 1 to 4, 6 and 7, the word “EBA” shall read “the EFTA Surveillance Authority”;

(ii) as regards the EFTA States, in paragraph 2, the words “Union law” shall read “the EEA Agreement”;

(iii) in paragraph 3, the words “without issuing the opinion” shall be replaced by the words “without EBA issuing the opinion”;

(iv) in paragraph 5, the words “any decision to take any action” shall be replaced by the words “each of its decisions to take action”;

(v) in paragraph 5, the words “. The EFTA Surveillance Authority shall publish on its website notice of each of its own decisions to take any action under this Article. A reference to the publication of the notice by the EFTA Surveillance Authority shall be posted on EBA’s website” shall be inserted after the words “this Article”.

(m) In Article 45:

(i) in the paragraph 1, the words “or, as regards the EFTA States, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) in paragraphs 2, 4, 5, 8 and 9 and in the first subparagraph of paragraph 3, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iii) in the second and third subparagraphs of paragraph 3, the words “or, as the case may be, preparing drafts for the EFTA Surveillance Authority,” shall be inserted after the words “before taking any measure”;

(iv) in paragraph 6, the words “any decision” shall read “each of its decisions”;

(v) in paragraph 6, the words “. The EFTA Surveillance Authority shall publish on its website notice of each of its own decisions to impose or renew any measure referred to in paragraph 1(c). A reference to the publication of the notice by the EFTA Surveillance Authority shall be posted on ESMA’s website” shall be inserted after the words “paragraph 1(c)”;

(vi) in paragraph 7, the words “on the ESMA website or, as regards measures taken by the EFTA Surveillance Authority, when the notice is published on the website of the EFTA Surveillance Authority,” shall be inserted after the words “when the notice is published”.


31bad. [32016 R 0824]: Commission Implementing Regulation (EU) 2016/824 of 25 May 2016 laying down implementing technical standards with regard to the content and format of the description of the


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) References to other acts in the Regulation shall be considered relevant to the extent and in the form that those acts are incorporated into the Agreement.

(b) In paragraph 3 of Article 10, the words “, Icelandic króna” shall be inserted after the word “Polish złoty”

(c) In paragraphs 5 and 6 of Article 50, the words “Union legislation” shall be replaced by the words “provisions of the EEA Agreement”.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) References to other acts in the Regulation shall be considered relevant to the extent and in the form that those acts are incorporated into the Agreement.

(b) In Articles 19 and 22 the words “or as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.


(c) In Article 20, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “EBA”.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In Article 7, the words “Union law” shall be replaced by “the EEA Agreement”.


---


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Articles 16, 17, 18 and 20(1), as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.

(b) In Article 20(2) the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(c) In Article 20(3) the words “or, as regards the EFTA states, the EFTA Surveillance Authority on the basis of a draft prepared by ESMA” shall be inserted after the word “ESMA”.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

References to members of the ESCB shall be understood to include, in addition to their meaning in the Regulation, the national central banks of the EFTA States.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) References to members of the ESCB shall be understood to include, in addition to their meaning in the Regulation, the national central banks of the EFTA States.

(b) In Annex II, the entry for Liechtenstein shall be replaced by the following:

<table>
<thead>
<tr>
<th>LI</th>
<th>Liechtenstein</th>
<th>CONCAT</th>
</tr>
</thead>
</table>

---


31baz. [32017 R 0981]: Commission Implementing Regulation (EU) 2017/981 of 7 June 2017 laying down implementing technical standards with regard to standard forms, templates and procedures for supervision or reception of fees, commissions or any monetary or non-monetary benefits (OJ L 148, 10.6.2017, p. 3).

31baz. [32017 R 0988]: Commission Implementing Regulation (EU) 2017/988 of 6 June 2017 laying down implementing technical standards with regard to standard forms, templates and procedures for cooperation arrangements in respect of a trading venue whose operations are of substantial importance in a host Member State (OJ L 149, 13.6.2017, p. 3).


---


31bazza. 32017 D 2238: Commission Implementing Decision (EU) 2017/2238 of 5 December 2017 on the equivalence of the legal and supervisory framework applicable to designated contract markets and swap...


The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Directive, the EFTA States and their competent authorities, respectively.

(b) Unless otherwise provided for in this Agreement, the European Securities and Markets Authority (ESMA) and the EFTA Surveillance Authority shall cooperate, exchange information and consult each other for the purposes of the Directive, in particular prior to taking any action.

---


(c) References to other acts in the Directive shall apply to the extent and in the form that those acts are incorporated into this Agreement.

(d) References to the powers of ESMA under Article 19 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council in the Directive shall be understood as referring, in the cases provided for in and in accordance with point 31i of this Annex, to the powers of the EFTA Surveillance Authority as regards the EFTA States.

(e) As regards the EFTA States, Article 4(1)(an) shall read as follows:

‘“securitisation special purpose entities’ means entities whose sole purpose is to carry on a securitisation or securitisations within the meaning defined below, and other activities which are appropriate to accomplish that purpose.

For the purposes of this Directive, ‘securitisation’ means a transaction or scheme whereby an entity that is separate from the originator or insurance or reinsurance undertaking and is created for or serves the purpose of the transaction or scheme issues financing instruments to investors, and one or more of the following takes place:

(a) an asset or pool of assets, or part thereof, is transferred to an entity that is separate from the originator and is created for or serves the purpose of the transaction or scheme, either by the transfer of legal title or beneficial interest of those assets from the originator or through sub-participation;

(b) the credit risk of an asset or pool of assets, or part thereof, is transferred through the use of credit derivatives, guarantees or any similar mechanism to the investors in the financing instruments issued by an entity that is separate from the originator and is created for or serves the purpose of the transaction or scheme;

(c) insurance risks are transferred from an insurance or reinsurance undertaking to a separate entity that is created for or serves the purpose of the transaction or scheme, whereby the entity fully funds its exposure to such risks through the issuance of financing instruments, and the repayment rights of the investors in those financing instruments are subordinated to the reinsurance obligations of the entity;

Where such financing instruments are issued, they do not represent the payment obligations of the originator, or insurance or reinsurance undertaking;”

(f) In Article 7(5), the following subparagraph shall be added:

“ESMA shall include in the central public register referred to in the second subparagraph, under the same conditions, information on AIFMs authorised by the competent authorities of an EFTA State under this Directive, AIFs managed and/or marketed in the EEA by such AIFMs and the competent authority for each such AIFM.”

(g) In Article 9(6) and in Article 21(6)(b), (7) and (17)(b), the words “Union law” shall be replaced by the words “the EEA Agreement”.

(h) In Article 21(3)(c), as regards the EFTA States, the words “21 July 2011” shall read “the date of entry into force of Decision of the EEA Joint Committee No 202/2016 of 30 September 2016”.

(i) In Article 43:

(i) in paragraph 1, the words “of Union law” shall read “applicable pursuant to the EEA Agreement”;

(ii) in paragraph 2, as regards the EFTA States, the words “by 22 July 2014” shall read “within eighteen months of the date of entry into force of Decision of the EEA Joint Committee No 202/2016 of 30 September 2016”.

(j) In Article 47:
(i) in the second subparagraph of paragraph 1 and in paragraphs 2, 8 and 10, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) in paragraph 3, the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iii) as regards the EFTA States, in paragraphs 4, 5 and 9, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iv) in paragraph 7, the following subparagraph shall be added:

“In cases regarding the EFTA States, before preparing a draft in accordance with Article 9(5) of Regulation (EU) No 1095/2010 in view of a decision on the part of the EFTA Surveillance Authority under paragraph 4, ESMA shall consult, where appropriate, the ESRB and other relevant authorities. It shall transmit the observations received to the EFTA Surveillance Authority.”.

(k) In Article 50, as regards the EFTA States:

(i) in paragraph 1, the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) in the first subparagraph of paragraph 4, the words “, the EFTA Surveillance Authority” shall be inserted after the words “one another”.

(l) In Article 61, as regards the EFTA States, the words “22 July 2013” and “22 July 2017” shall read “eighteen months after the date of entry into force of Decision of the EEA Joint Committee No 202/2016 of 30 September 2016”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, references to “EU” or “Union” Member States and competent authorities shall be understood to include, in addition to their meaning in the Delegated Regulation, the EFTA States and their competent authorities, respectively.

(b) In Articles 15, 84, 86 and 99, the words “Union law” shall be replaced by the words “the EEA Agreement”.

(c) In Article 55, as regards the EFTA States, the words “1 January 2011” shall read “the date of entry into force of Decision of the EEA Joint Committee No 202/2016 of 30 September 2016” and the words “31 December 2014” shall read “twelve months after the date of entry into force of Decision of the EEA Joint Committee No 202/2016 of 30 September 2016”.

(d) In Article 114(3), the words “Union legislation” shall be replaced by the words “legislation applicable pursuant to the EEA Agreement”.


The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Implementing Regulation, the EFTA States and their competent authorities, respectively.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Delegated Regulation, the EFTA States and their competent authorities, respectively.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the term “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) Unless otherwise provided for in this Agreement, the European Securities and Markets Authority (ESMA) and the EFTA Surveillance Authority shall cooperate, exchange information and consult each other for the purposes of the Regulation, in particular prior to taking any action. This includes, in particular the duty to pass to each other, without undue delay, the information needed for each body to carry out its duties under this Regulation, such as the preparation of drafts by ESMA as set out in point (d). This extends to, amongst others, information received by either body as a result of applications for registration or replies to requests for information submitted to market operators, or obtained by either body during investigations or on-site inspections.

Without prejudice to Article 109 of this Agreement, ESMA and the EFTA Surveillance Authority shall pass to the other body any application, information, complaint or request which fall within the competence of that body.

In case of disagreement between ESMA and the EFTA Surveillance Authority with regard to the administration of the provisions of the Regulation, the Chairperson of ESMA and the College of the EFTA Surveillance Authority shall, taking into account the urgency of the matter, without undue delay convene a meeting to find consensus. Where such consensus is not found, the Chairperson of ESMA or the College of the EFTA Surveillance Authority may request that the Contracting Parties refer the matter to the EEA Joint Committee which shall deal with it in accordance with Article 111 of this Agreement which shall apply mutatis mutandis. In accordance with Article 2 of Decision of the EEA Joint Committee No 1/94 of 8 February 1994 adopting the Rules of Procedure of the EEA Joint Committee (OJ L 85, 30.3.1994, p. 60), a Contracting Party may request immediate organisation of meetings in urgent circumstances. Notwithstanding this paragraph, a Contracting Party may at any time refer the matter to the EEA Joint Committee at its own initiative in accordance with Articles 5 or 111 of this Agreement.

(c) References to “members of the ESCB” or to “central banks” shall be understood to include, in addition to their meaning in the Regulation, the national central banks of the EFTA States, except as regards Liechtenstein for which such references shall not apply.

(d) Decisions, interim decisions, notifications, simple requests, revocations of decisions and other measures of the EFTA Surveillance Authority under Articles 56(2), 58(1), 61(1), 62(3), 63(4), 64(5), 65(1), 66(1), 71 and 73(1) shall, without undue delay, be adopted on the basis of drafts prepared by ESMA at its own initiative or at the request of the EFTA Surveillance Authority.


\[\text{(c)}\] Indent added by Decision No 83/2019 (OJ L [to be published] and EEA Supplement No 17, 28.2.2019, p. 3), e.i.f. 1.1.2020.

\[\text{(d)}\] Indent added by Decision No 83/2019 (OJ L [to be published] and EEA Supplement No 17, 28.2.2019, p. 3), e.i.f. 1.1.2020.

In Articles 4(2)(a) and 7(5) and in Article 11(6) and (10), the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

In Article 6(2)(c), the words “in the Union and, where it differs, in the EFTA States” shall be inserted after the words “takes effect”.

In Articles 9(1) and 11(3), as regards the EFTA States, the words “16 August 2012” shall read “the date of entry into force of Decision of the EEA Joint Committee No 206/2016 of 30 September 2016.”

In Article 12(2), as regards the EFTA States, the words “By 17 February 2013” shall read “Within six months of the date of entry into force of Decision of the EEA Joint Committee No 206/2016 of 30 September 2016.”

In Article 17:

(i) in paragraph 4 and in the first subparagraph of paragraph 5, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;

(ii) in paragraph 5, the words “Union law” shall be replaced by the words “the EEA Agreement”.

In Articles 18 and 25, the words “Union currencies” shall be replaced by the words “official currencies of Contracting Parties to the EEA Agreement”.

In Article 55(1), the words “or, in the case of a trade repository established in an EFTA State, with the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”.

In Article 56:

(i) in paragraph 1, the words “or, in the case of a trade repository established in an EFTA State, to the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”;

(ii) in paragraph 2, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

In Article 57, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

In Article 58, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

In Article 59:

(i) in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;

(ii) paragraph 2 shall be replaced by the following:

“ESMA and the EFTA Surveillance Authority shall communicate to each other and to the Commission any decision taken in accordance with paragraph 1.”.

In Article 60, the words “or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

In Article 61:

(i) in paragraph 1, the words “or, in the case of trade repositories or related third parties to whom the trade repositories have outsourced operational functions or activities that are established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”;

(ii) in paragraph 2, 3 and 5, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;
(iii) as regards the EFTA States, point (g) of paragraph 3 shall read as follows:

“indicate the right to have the decision reviewed by the EFTA Court in accordance with Article 36 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

(iv) in paragraph 5, the following subparagraph shall be added:

“The EFTA Surveillance Authority shall without undue delay forward the information received under this Article to ESMA.”.

(r) In Article 62:

(i) in paragraph 1, the words “or, in the case a person subject to investigation is established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) in paragraph 1, the following subparagraph shall be added:

“Officials of and other persons authorised by ESMA shall be entitled to assist the EFTA Surveillance Authority in the carrying out of its duties under this Article and have the right to participate in investigations upon ESMA’s request.”;

(iii) as regards the EFTA States, in paragraphs 2, 3, 4 and the first and second sentences of paragraph 6, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iv) as regards the EFTA States, the second sentence of paragraph 3 shall read as follows:

“The decision shall specify the subject matter and purpose of the investigation, the periodic penalty payments provided for in Article 66 and the right to have the decision reviewed by the EFTA Court in accordance with Article 36 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

(v) as regards the EFTA States, in the third sentence of paragraph 6 the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority”;

(vi) as regards the EFTA States, the fourth sentence of paragraph 6 shall read as follows:

“The lawfulness of the EFTA Surveillance Authority’s decision shall be subject to review only by the EFTA Court in accordance with the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

(s) In Article 63:

(i) in paragraph 1, the words “or, in the case of legal persons established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”;

(ii) in paragraph 1, the following subparagraph shall be added:

“The EFTA Surveillance Authority shall without undue delay forward the information obtained under this Article to ESMA.”;

(iii) as regards the EFTA States, in paragraphs 2 to 7 and the first, second and third sentences of paragraph 9, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iv) in paragraph 2, the following subparagraph shall be added:

“Officials of and other persons authorised by ESMA shall be entitled to assist the EFTA Surveillance Authority in the carrying out of its duties under this Article and have the right to participate in on-site inspections.”;
(v) as regards the EFTA States, the second sentence of paragraph 4 shall read as follows:

“The decision shall specify the subject matter and purpose of the inspection, appoint the date on which it is to begin and indicate the periodic penalty payments provided for in Article 66 as well as the right to have the decision reviewed by the EFTA Court in accordance with Article 36 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

(vi) as regards the EFTA States, in the fourth sentence of paragraph 9 the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority”;

(vii) as regards the EFTA States, the fifth sentence of paragraph 9 shall read as follows:

“The lawfulness of the EFTA Surveillance Authority’s decision shall be subject to review only by the EFTA Court in accordance with the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

(i) In Article 64:

(i) as regards the EFTA States, in paragraph 1, first sentence, the words “ESMA shall appoint an independent investigating officer within ESMA to investigate the matter” shall read “the EFTA Surveillance Authority shall appoint an independent investigating officer within the EFTA Surveillance Authority to investigate the matter following consultations with ESMA.”

(ii) in paragraph 1, the following subparagraph shall be added:

“The investigating officer appointed by the EFTA Surveillance Authority shall not be involved or have been directly or indirectly involved in the supervision or registration process of the trade repository concerned and shall perform his functions independently from the College of the EFTA Surveillance Authority and ESMA’s Board of Supervisors.”;

(iii) as regards the EFTA States, in paragraphs 2, 3 and 4, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iv) as regards the EFTA States, in paragraph 5, after the words “Article 67,”, the remainder of the sentence shall read as follows:

“the EFTA Surveillance Authority shall decide if one or more of the infringements listed in Annex I has been committed by the persons who have been subject to investigation, and in such a case, shall take a supervisory measure in accordance with Article 73 and impose a fine in accordance with Article 65. The EFTA Surveillance Authority shall provide ESMA with all information and files necessary for the performance of its obligation under this paragraph.”;

(v) in paragraph 6, the words “or, in the case of a trade repository established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA’s”;

(vi) in paragraph 8, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.

(u) In Article 65:

(i) in paragraph 1, the words “or, in the case of a trade repository established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”;

(ii) as regards the EFTA States, in paragraph 2, the word “ESMA” shall read “the EFTA Surveillance Authority”.

(v) In Article 66:
(i) in paragraph 1, the words “or, in the case the trade repository or person concerned is established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the words “ESMA”;  

(ii) in paragraph 4, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.

(w) In Article 67:

(i) in paragraph 1, the following subparagraphs shall be added:

“Before preparing any draft for the EFTA Surveillance Authority under Articles 65 and 66, ESMA shall give the persons subject to the proceedings the opportunity to be heard on its findings. ESMA shall base its drafts only on findings on which the persons subject to the proceedings have had the opportunity to comment.

The EFTA Surveillance Authority shall base its decisions under Articles 65 and 66 only on findings on which the persons subject to the proceedings have had the opportunity to comment.”;

(ii) as regards the EFTA States, in paragraph 2, the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority”;

(iii) as regards the EFTA States, in paragraph 2, the words “ESMA’s internal preparatory documents” shall read “internal preparatory documents of ESMA and the EFTA Surveillance Authority”.

(x) In Article 68:

(i) in paragraph 1, the following shall be added:

“The EFTA Surveillance Authority shall also disclose to the public every fine and periodic penalty that it has imposed pursuant to Articles 65 and 66, subject to the conditions laid down in this paragraph as regards the disclosure of fines and periodic penalties by ESMA”;

(ii) as regards the EFTA States, in paragraphs 3 and 4, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iii) as regards the EFTA States, in paragraph 3, the words “the European Parliament, the Council” shall read “ESMA and the Standing Committee of the EFTA States”;

(iv) as regards the EFTA States, in paragraph 4, the words “the Court of Justice” shall read “the EFTA Court”;

(v) in paragraph 5, the following subparagraph shall be added:

“The Standing Committee of the EFTA States shall determine the allocation of the amounts of the fines and periodic penalty payments collected by the EFTA Surveillance Authority.”.

(y) In Article 71:

(i) in paragraph 1, the words “or, in the case of a trade repository established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”;

(ii) as regards the EFTA States, in paragraph 2, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iii) in the second sentence of paragraph 3, the words “or, in the case of a trade repository established in an EFTA State, not to prepare a draft for the EFTA Surveillance Authority to that effect,” shall be inserted after the word “concerned”.

(z) In Article 72(1), the following subparagraphs shall be added:
“As regards trade repositories established in an EFTA State, fees shall be charged by the EFTA Surveillance Authority on the same basis as fees charged to other trade repositories in accordance with this Regulation and with the delegated acts referred to in paragraph 3.

The amounts collected by the EFTA Surveillance Authority in accordance with this paragraph shall be passed on to ESMA without undue delay.”

(za) In Article 73:

(i) in paragraph 1, the words “or, in the case of a trade repository established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”;

(ii) as regards the EFTA States, in paragraph 2, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iii) in paragraph 3, the following subparagraphs shall be added:

“Without undue delay, the EFTA Surveillance Authority shall notify any decision adopted pursuant to paragraph 1 to the trade repository concerned, and shall communicate it to the competent authorities and to the Commission. ESMA shall make public any such decision on its website within 10 working days from the date when it was adopted. The EFTA Surveillance Authority shall also make public any of its own decisions on its website within 10 working days from the date when it was adopted.

When making public a decision of the EFTA Surveillance Authority as referred to in the third subparagraph, ESMA and the EFTA Surveillance Authority shall also make public the right for the trade repository concerned to have the decision reviewed by the EFTA Court, the fact, where relevant, that such proceedings have been instituted, specifying that actions brought before the EFTA Court do not have suspensory effect, and the fact that it is possible for the EFTA Court to suspend the application of the contested decision in accordance with Article 40 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”.

(zb) In Article 74:

(i) in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted before the words “may delegate specific supervisory tasks”;

(ii) in paragraphs 2 to 5, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iii) the following paragraph shall be added:

“6. Prior to delegation of a task, the EFTA Surveillance Authority and ESMA shall consult each other.”.

(zc) Articles 75(2) and (3) and 76 shall not apply.

(zd) In Article 81(3), as regards the EFTA States:

(i) in point (f), the words “the Union as referred to in Article 75” shall read “its EFTA State of establishment granting mutual access to, and exchange of information on, derivative contracts held in trade repositories”;

(ii) in point (i), the words “ESMA as referred to in Article 76” shall read “its EFTA State of establishment granting access to information on derivative contracts held in trade repositories established in that EFTA State”;

(iii) the text of point (j) shall read as follows:

“the Agency for the Cooperation of Energy Regulators, subject to the content and entry into force of a decision of the EEA Joint Committee incorporating Regulation

(zc) In Article 83, the words “or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(zd) In Article 84, the words “the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(ze) In Article 87(2), as regards the EFTA States, the words “by 17 August 2014” shall read “within one year of the date of entry into force of Decision of the EEA Joint Committee No 206/2016 of 30 September 2016”.

(zh) In Article 89:

(i) in paragraph 1, the following subparagraph shall be added after the first subparagraph:

“For three years after the entry into force of Decision of the EEA Joint Committee No 206/2016 of 30 September 2016, the clearing obligation set out in Article 4 shall not apply to OTC derivative contracts that are objectively measurable as reducing investment risks directly relating to the financial solvency of pension scheme arrangements as defined in Article 2(10) that are established in an EFTA State. The transitional period shall also apply to entities established for the purpose of providing compensation to members of pension scheme arrangements in case of a default.”;

(ii) in paragraphs 3, 5, 6 and 8, as regards the EFTA States, the words “are adopted by the Commission” shall read “adopted by the Commission apply in the EEA”;

(iii) in paragraph 3, as regards the EFTA States, the words “decisions of the EEA Joint Committee containing” shall be inserted after the words “entry into force of all the”;

(iv) in paragraphs 5 and 6, as regards the EFTA States, the words “the decisions of the EEA Joint Committee containing” shall be inserted after the words “entry into force of”;

(v) in paragraph 5a, as regards the EFTA States, the words “the decisions of the EEA Joint Committee containing” shall be inserted after the words “entry into force of the latest”;

(zi) In points (a) and (c) of Part IV of Annex I and in point (g) of Part I and in point (c) of Part II of Annex II, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.


31bcb.32014 D 0754: Commission Implementing Decision 2014/754/EU of 30 October 2014 on the equivalence of the regulatory framework of Hong Kong for central counterparties to the requirements of

---


[32014 D 0752] In point 31c adaptation (zh) added (v) by Decision No 35/2017 (OJ L 297, 22.11.2018, p. 44 and EEA Supplement No 78, 22.11.2018, p. 52), e.i.f. 1.7.2017 and subsequently corrected before publication by Corrigendum of 27.10.2017.

---


Determining, for a limited period of time, that the regulatory framework applicable to central

- \(\text{\bf 32019 D 0544:}\) Commission Implementing Decision (EU) 2019/544 of 3 April 2019 (OJ L 95, 4.4.2019, p. 9),


The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 4(5) and Article 4b, as regards the EFTA States, the words “in the EEA” shall be inserted after the words “date of application”.

(b) In Article 5, as regards the EFTA States:

(i) paragraphs 1 and 2 shall read as follows:

\[\text{\texttt{“1. Derivative contracts shall be reported:}}\]

\[\text{\texttt{(a) Within six months of the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018, where a trade repository for that particular derivative class has been registered under Article 55 of Regulation (EU) No 648/2012 before the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018;}}\]

\[\text{\texttt{(b) 90 days after the registration of a trade repository for a particular derivative class under Article 55 of Regulation (EU) No 648/2012, where there is no trade repository registered for that particular derivative class before or on the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018, but in any event no earlier than six months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018;}}\]

\[\text{\texttt{(c) Within six months of the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018, where there is no trade repository registered for that particular derivative class under Article 55 of Regulation (EU) No 648/2012 six months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018.}}\]
obligation shall commence on this date and contracts shall be reported to ESMA in accordance with Article 9(3) of that Regulation until a trade repository is registered for that particular derivative class.”;

(ii) in paragraphs 3 and 4, the words “16 August 2012” shall read “1 July 2017”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In Article 12, as regards the EFTA States:

(i) the words “and including 28 February 2014” shall read “six months after the date of entry into force of Decision of the EEA Joint No 112/2018 of 31 May 2018”;

(ii) the words “after 28 February 2014” shall read “after six months of the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”;

(iii) the words “and including 31 August 2013” shall read “five months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”;

(iv) the words “after 31 August 2013” shall read “after five months of the date of entry into force Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”;

(v) the words “and including 31 August 2014” shall read “six months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”;

(vi) the words “after 31 August 2014” shall read “after six months of the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”.

---


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

The words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Article 2(3) shall apply as regards the EFTA States subject to the content and entry into force of a decision of the EEA Joint Committee incorporating Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of the Energy Regulators.

(b) In Article 3, as regards the EFTA States:

(i) in paragraph 1, the words “the Union as referred to in Article 75” shall read “its EFTA State of establishment as referred to in Article 81(3)(h)”;

(ii) in paragraph 2, the words “ESMA as referred to in Article 76” shall read “its EFTA State of establishment as referred to in Article 81(3)(k)”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

---


[(46)] Indent and words “as amended by:” added by Decision No 83/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.l.f. 1.1.2020.
In Article 2(i), the words “Union currency” shall be replaced by the words “official currency of a Contracting Party to the EEA Agreement”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

The words “Union currencies” shall be replaced by the words “official currencies of Contracting Parties to the EEA Agreement”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 1, as regards the EFTA States, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the European Securities and Markets Authority (ESMA)”.

(b) In Articles 2 and 4, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

(c) In Article 10(2):

(i) as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) the following subparagraph shall be added:

“When, as regards trade repositories established in the EFTA States, the EFTA Surveillance Authority is to reimburse the registration fee paid, ESMA shall without delay make available the amounts to be reimbursed to a trade repository to the EFTA Surveillance Authority for that purpose.”.

(d) In Article 11:

(i) the following subparagraph shall be added in paragraph 1:

“When, as regards trade repositories established in the EFTA States, the EFTA Surveillance Authority is to send the invoices for the instalments, ESMA shall inform the EFTA Surveillance Authority of the calculations necessary as regards each trade repository sufficiently in advance of the respective payment date.”;

(ii) in paragraph 2, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.

(e) In Article 13:

(i) in paragraph 1, the words “Only ESMA” shall be replaced by the words “Only ESMA or, as regards trade repositories established in the EFTA States, the EFTA Surveillance Authority”;

(ii) in paragraph 2, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In Article 4, as regards the EFTA States, the words “10 October 2014” shall read “six months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 1, as regards the EFTA States, the words “the European Securities and Markets Authority (ESMA)” and “ESMA” shall read “the EFTA Surveillance Authority”.

(b) In Article 2, as regards the EFTA States, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(c) In Article 3, as regards the EFTA States:

(i) in paragraph 1, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) the words “inform the EFTA Surveillance Authority thereof. The EFTA Surveillance Authority shall, without undue delay,” shall be inserted after the words “it shall” in paragraphs 2, 4 and 5 and before the words “decide to close the case” in paragraph 3;

(iii) in the second subparagraph of paragraph 4 and in the third sentence of the first subparagraph of paragraph 5, the words “, before preparing a draft for the EFTA Surveillance Authority, or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iv) in the third subparagraph of paragraph 4 and in the second subparagraph of paragraph 5, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(v) in paragraph 6, the word “ESMA” shall read “the EFTA Surveillance Authority”.

(d) In Article 4, as regards the EFTA States:

(i) in the first subparagraph, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) in the fourth subparagraph, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.


(c) In Article 5, as regards the EFTA States:

(i) the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “If so requested, ESMA”;

(ii) the words “ESMA has sent a statement of findings” shall read “the EFTA Surveillance Authority has sent a statement of findings”.

(f) In Article 6, as regards the EFTA States:

(i) in paragraphs 1 and 4, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) in paragraph 3, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iii) in paragraph 5, the following subparagraph shall be added:

“The limitation period for imposing fines and periodic penalty payments shall be suspended for as long as the decision of the EFTA Surveillance Authority is the subject of proceedings pending before the EFTA Court in accordance with Article 35 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”.

(g) In Article 7, as regards the EFTA States:

(i) the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) in paragraph 5(b), the words “ESMA Board of Appeal, in accordance with Article 58 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council, and the Court of Justice of the European Union, in accordance with Article 69 of Regulation (EU) No 648/2012” shall read “the EFTA Court in accordance with Article 35 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In point (b) of Article 2(1), as regards the EFTA States, the words “January, February and March 2016” shall read “January, February and March of the year of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”.

(b) In Article 3:

(i) as regards the EFTA States, the first subparagraph of paragraph 1 shall read as follows:


“In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect:

(a) six months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 1;

(b) one year after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 2;

(c) 21 June 2019 for counterparties in Category 3;

(d) two years after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 4.”;

(ii) in the second subparagraph of paragraph 1, the words “, or between one counterparty established in an EFTA State and one counterparty established in an EU Member State” shall be inserted after the words “between two counterparties included in different categories of counterparties”;

(iii) as regards the EFTA States, the first subparagraph of paragraph 2 shall read as follows:

“By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in the Annex and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the EEA, the clearing obligation shall take effect:

(a) two years after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 in case no equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts referred to in the Annex to this Regulation in respect of the relevant third country applies in the EEA; or

(b) the later of the following dates in case an equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts referred to in the Annex to this Regulation in respect of the relevant third country applies in the EEA:

(i) 60 days after the date of entry into force of the decision of the EEA Joint Committee containing the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts referred to in the Annex to this Regulation in respect of the relevant third country;

(ii) the date when the clearing obligation takes effect pursuant to paragraph 1.”;

(c) In Article 4:

(i) in paragraph 1, as regards the EFTA States, the words “21 February 2016” shall read “two months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”;

(ii) in paragraph 2, as regards the EFTA States, the words “21 May 2016” shall read “five months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”;

(iii) in paragraph 4, the words “, between one financial counterparty established in an EFTA State and one financial counterparty established in an EU Member State” shall
be inserted after the words “between two financial counterparties belonging to different categories”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In point (b) of Article 2(1), as regards the EFTA States, the words “January, February and March 2016” shall read “January, February and March of the year of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”.

(b) In Article 3:

(i) as regards the EFTA States, the first subparagraph of paragraph 1 shall read as follows:

“In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect:

(a) one year after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 1;

(b) eighteen months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 2;

(c) 21 June 2019 for counterparties in Category 3;

(d) thirty-nine months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 4.”;

(ii) in the second subparagraph of paragraph 1, the words “, or between one counterparty established in an EFTA State and one counterparty established in an EU Member State” shall be inserted after the words “between two counterparties included in different categories of counterparties”;

(iii) as regards the EFTA States, the first subparagraph of paragraph 2 shall read as follows:

“By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in the Annex and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the EEA, the clearing obligation shall take effect:

---


(a) thirty-nine months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 in case no equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in the Annex to this Regulation in respect of the relevant third country applies in the EEA; or

(b) the later of the following dates in case an equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in the Annex to this Regulation in respect of the relevant third country applies in the EEA:

(i) 60 days after the date of entry into force of the decision of the EEA Joint Committee containing the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in the Annex to this Regulation in respect of the relevant third country;

(ii) the date when the clearing obligation takes effect pursuant to paragraph 1.”.

c) In Article 4:

(i) in paragraphs 1 and 2, as regards the EFTA States, the words “9 October 2016” shall read “five months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”;

(ii) in paragraph 4, the words “, between one financial counterparty established in an EFTA State and one financial counterparty established in an EU Member State” shall be inserted after the words “between two financial counterparties belonging to different categories”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In point (b) of Article 2(1), as regards the EFTA States, the words “January, February and March 2016” shall read “January, February and March of the year of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”.

(b) In Article 3:

(i) as regards the EFTA States, the first subparagraph of paragraph 1 shall read as follows:

---


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In point (b) of Article 2(1), as regards the EFTA States, the words “January, February and March 2016” shall read “January, February and March of the year of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”.

(b) In Article 3:

(i) as regards the EFTA States, the first subparagraph of paragraph 1 shall read as follows:

---


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In point (b) of Article 2(1), as regards the EFTA States, the words “January, February and March 2016” shall read “January, February and March of the year of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”.

(b) In Article 3:

(i) as regards the EFTA States, the first subparagraph of paragraph 1 shall read as follows:
“In respect of contracts pertaining to a class of OTC derivatives set out in Annex I, the clearing obligation shall take effect:

(a) six months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 1;

(b) one year after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 2;

(c) 21 June 2019 for counterparties in Category 3;

(d) two years after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 4.”;

(ii) in the second subparagraph of paragraph 1, the words “, or between one counterparty established in an EFTA State and one counterparty established in an EU Member State” shall be inserted after the words “between two counterparties included in different categories of counterparties”;

(iii) as regards the EFTA States, the first subparagraph of paragraph 2 shall read as follows:

“By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in Annex I and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the EEA, the clearing obligation shall take effect:

(a) two years after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 in case no equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country applies in the EEA; or

(b) the later of the following dates in case an equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country applies in the EEA:

(i) 60 days after the date of entry into force of the decision of the EEA Joint Committee containing the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country;

(ii) the date when the clearing obligation takes effect pursuant to paragraph 1.”.

(c) In Article 4:

(i) in paragraphs 1 and 2, as regards the EFTA States, the words “9 October 2016” shall read “two months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”;

(ii) in paragraph 4, the words “, between one financial counterparty established in an EFTA State and one financial counterparty established in an EU Member State” shall be inserted after the words “between two financial counterparties belonging to different categories”.
The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 35, as regards the EFTA States, the words “16 August 2012” shall read “1 July 2017”.

(b) In Article 36, as regards the EFTA States:

(i) in point (a) of paragraph 1, the words “this Regulation” shall read “Decision of the EEA Joint Committee Decision No 83/2019 of 29 March 2019”;

(ii) in points (b) and (c) of paragraph 1, the words “1 September 2017” and the words “1 September 2018” shall read “1 month after the date of entry into force of Decision of the EEA Joint Committee Decision No 83/2019 of 29 March 2019”;

(iii) in point (d) of paragraph 1, the words “1 September 2019” shall read “1 month after the date of entry into force of Decision of the EEA Joint Committee Decision No 83/2019 of 29 March 2019 or from 1 September 2019, whichever is the later.”;

(iv) in paragraph 2, points (a) and (b) shall read as follows:

“(a) 3 years after the date of entry into force of this Regulation, where no equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country applies in the EEA;

(b) the later of the following dates where an equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country applies in the EEA:

(i) 4 months after the date of entry into force of the decision of the EEA Joint Committee containing the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country;

(ii) the applicable date determined pursuant to paragraph 1.”.

(c) In Article 37, as regards the EFTA States:

(i) point (b) of paragraph 1 shall read as follows:

---

[431]: Point, indent and adaptation text inserted by Decision No 83/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.1.2020.


“(b) from 5 months after the date of entry into force of Decision of the EEA Joint Committee No 83/2019 of 29 March 2019.”;

(ii) in point (b) of paragraph 2, the words “the date of entry into application of” shall read “the date of entry into force of the decision of the EEA Joint Committee containing”;

(iii) in paragraph 3, points (a) and (b) shall read as follows:

“(a) 3 years after the date of entry into force of this Regulation, where no equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country applies in the EEA;

(b) the later of the following dates where an equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country applies in the EEA:

(i) 4 months after the date of entry into force of the decision of the EEA Joint Committee containing the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country;

(ii) the applicable date determined pursuant to paragraph 1.”.

(d) In Article 38(2), as regards the EFTA States, the words “4 July 2017” shall read “6 months after the date of entry into force of Decision of the EEA Joint Committee No 83/2019 of 29 March 2019.”

(e) In point (a) of Article 39(1), as regards the EFTA States, the words “March, April and May of 2016” shall read “March, April and May of the year preceding the year of entry into force of Decision of the EEA Joint Committee No 83/2019 of 29 March 2019”.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) In Articles 22 and 23, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(c) In Article 23(2), the words “Union law” shall be replaced by the words “provisions of the EEA Agreement”.

(d) In Article 24, the words “ESMA, which” shall be replaced by the words “ESMA. ESMA or, as the case may be, the EFTA Surveillance Authority”.

[32013 R 0345] Point inserted by Decision No 64/2018 (OJ L 26, 30.1.2020, p. 60 and EEA Supplement No 6, 30.1.2020, p. 51), c.i.f. pending.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) In Articles 23 and 24, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(c) In Article 24(2), the words “Union law” shall be replaced by the words “provisions of the EEA Agreement”.

(d) In Article 25, the words “ESMA, which” shall be replaced by the words “ESMA. ESMA or, as the case may be, the EFTA Surveillance Authority”.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the term “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) References to “members of the ESCB” or to “central banks” shall be understood to include, in addition to their meaning in the Regulation, the national central banks of the EFTA States.

(c) Liechtenstein may allow third-country CSDs already providing services referred to in Article 25(2) to financial intermediaries in Liechtenstein or already having set up a branch in Liechtenstein to continue to provide the services referred to in Article 25(2) for a period not exceeding 5 years after the date of entry into force of Decision of the EEA Joint Committee No 18/2019 of 8 February 2019.

(d) In Article 1(3), the words “Union law” shall be replaced by the words “the EEA Agreement”.

(e) In Article 12(3), the words “Union currencies” shall be replaced by the words “official currencies of the Contracting Parties to the EEA Agreement”.

---

Notes:

- {487} Point inserted by Decision No 64/2018 (OJ L 26, 30.1.2020, p. 60 and EEA Supplement No 6, 30.1.2020, p. 51), e.i.f. pending.
- {484} Point inserted by Decision No 64/2018 (OJ L 26, 30.1.2020, p. 60 and EEA Supplement No 6, 30.1.2020, p. 51), e.i.f. pending.
- {485} Point inserted by Decision No 64/2018 (OJ L 26, 30.1.2020, p. 60 and EEA Supplement No 6, 30.1.2020, p. 51), e.i.f. pending.
(f) In Article 13 and in the first subparagraph of Article 14(1), the words “the EFTA Surveillance Authority” shall be inserted after the words “relevant authorities”.

(g) In Articles 19(3), 33(3), 49(4), 52(2) and 53(3), the words “ESMA, which” shall be replaced by the words “ESMA. ESMA or, as the case may be, the EFTA Surveillance Authority”.

(h) In Article 24(5):

(i) in the first and second subparagraphs, the words “and, in cases concerning an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) in the third subparagraph, the words “ESMA, which” shall be replaced by the words “ESMA. ESMA or, as the case may be, the EFTA Surveillance Authority”.

(i) In Article 34(8), the words “Union competition rules” shall be replaced by the words “competition rules applicable pursuant to the EEA Agreement”.

(j) In Article 38(5), the words “17 September 2014” shall be replaced by the words “the date of entry into force of Decision of the EEA Joint Committee No 18/2019 of 8 February 2019”.

(k) In Article 49(1), as regards the EFTA States, the words “by 18 December 2014” shall read “within three months of the date of entry into force of Decision of the EEA Joint Committee No 18/2019 of 8 February 2019”.

(l) In Article 55:

(i) in paragraphs 5 and 6, the words “Union law” shall be replaced by the words “the EEA Agreement”;

(ii) in paragraph 6, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

(m) In Articles 58(3) and 69(1), as regards the EFTA States, the words “by 16 December 2014” shall read “within three months of the date of entry into force of Decision of the EEA Joint Committee No 18/2019 of 8 February 2019”.

(n) In Article 61(1), as regards the EFTA States, the words “by 18 September 2016” shall read “within one year of the date of entry into force of Decision of the EEA Joint Committee No 18/2019 of 8 February 2019”.

(o) In Article 69(2) and (5), as regards the EFTA States, the words “in the EEA” shall be inserted after the words “entry into force”.

(p) In Article 76, as regards the EFTA States:

(i) in paragraphs 4, 5 and 6, the words “the decision of the EEA Joint Committee containing” shall be inserted after the words “entry into force of”;

(ii) in paragraph 5, the words “until 13 June 2017” are replaced by the words “within sixth months from the date of entry into force of a decision of the EEA Joint Committee containing Directive 2014/65/EU and Regulation (EU) No 600/2014”;

(iii) in paragraph 7, the words “3 January 2017” shall read “these acts apply in the EEA”.

31bfa. [{439}]


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

{439} Point and adaptation text inserted by Decision No 20/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.l.f. 1.1.2020.
In point (a) of the third paragraph of Article 9, the words “the Decision of the EEA Joint Committee containing” shall be inserted after the words “entry into force of”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 23(2), the reference to “members of the European System of Central Banks” shall be understood to include, in addition to its meaning in the Delegated Regulation, the national central banks of the EFTA States.

(b) In Article 36(8)(b)(i), the words “Union currencies” shall be replaced by the words “official currencies of the Contracting Parties to the EEA Agreement”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 2(1)(a), the words “Union currency” shall be replaced by the words “official currency of the Contracting Parties to the EEA Agreement”.

(b) In Article 96(2), the words “the Decision of the EEA Joint Committee containing” shall be inserted after the words “entry into force of”.


The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

31bfc.32017 R 0394: Commission Implementing Regulation (EU) 2017/394 of 11 November 2016 laying down implementing technical standards with regard to standard forms, templates and procedures for authorisation, review and evaluation of central securities depositories, for the cooperation between authorities of the home Member State and the host Member State, for the consultation of authorities involved in the authorisation to provide banking-type ancillary services, for access involving central securities depositories, and with regard to the format of the records to be maintained by central securities depositories in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council (OJ L 65, 10.3.2017, p. 145).

The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

---

[^32017 R 0390]: Point and adaptation text inserted by Decision No 20/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.l.f. 1.1.2020.
[^32017 R 0391]: Point and adaptation text inserted by Decision No 20/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.l.f. 1.1.2020.
[^32017 R 0392]: Point and adaptation text inserted by Decision No 20/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.l.f. 1.1.2020.
[^32017 R 0393]: Point and adaptation text inserted by Decision No 20/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.l.f. 1.1.2020.
[^32017 R 0394]: Point and adaptation text inserted by Decision No 20/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.l.f. 1.1.2020.
In the second paragraph of Article 17, the words “the Decision of the EEA Joint Committee containing” shall be inserted after the words “entry into force of”.


-{[446]}


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) In Article 35(3) and (4), the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In Article 6(2), as regards the EFTA States, the words “1 May 2019” shall read “one year after the date of entry into force of Decision of the EEA Joint Committee No 19/2020 of 7 February 2020”.

(iv) Other issues {[453]}

31c. [ ] {[451]}


---


Indent and words", as amended by:” added by Decision No 271/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.1.2020.


Point and adaptation text inserted by Decision No 19/2020 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.

Point and adaptation text inserted by Decision No 19/2020 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.


IV. Occupational Retirement Provisions (461)


V. Provisions applying to all kinds of financial services (469)


(468) Indent added by Decision No 92/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. L12020.


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

“In Articles 9a and 12a(1), the words “and the EFTA Surveillance Authority, in the cases provided for and in accordance with points 31g, 31h and 31i in Annex IX to the EEA Agreement,” shall be inserted after the words “Joint Committee”.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)”, “competent authorities” and “sectoral competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities and sectoral competent authorities, respectively.

(b) Unless otherwise provided for in this Agreement, the European Securities and Markets Authority (ESMA) and the EFTA Surveillance Authority shall cooperate, exchange information and consult each other for the purposes of the Regulation, in particular prior to taking any action. This includes in particular the duty to pass to each other, without undue delay, the information needed for each body to carry out its duties under this Regulation, such as the preparation of drafts by ESMA as set out in point (d). This extends to, amongst others, information received by either body as a result of applications for registration or replies to requests for information submitted to market operators, or obtained by either body during investigations or on-site inspections.

Without prejudice to Article 109 of this Agreement, ESMA and the EFTA Surveillance Authority shall pass to the other body any application, information, complaint or request which fall within the competence of that body.

In case of disagreement between ESMA and the EFTA Surveillance Authority with regard to the administration of the provisions of the Regulation, the Chairperson of ESMA and the College of the EFTA Surveillance Authority shall, taking into account the urgency of the matter, without undue delay convene a meeting to find consensus. Where such consensus is not found, the Chairperson of ESMA or the College of the EFTA Surveillance Authority may request that the Contracting Parties refer the matter to the EEA Joint Committee which shall deal with it in accordance with Article 111 of this Agreement which shall apply mutatis mutandis. In accordance with Article 2 of Decision of the EEA Joint Committee No 1/94 of 8 February 1994 adopting the Rules of Procedure of the EEA Joint Committee (OJ L 85, 30.3.1994, p. 60), a Contracting Party may request immediate organisation of meetings in urgent circumstances. Notwithstanding this paragraph, a Contracting Party may at any time refer the matter to the EEA Joint Committee at its own initiative in accordance with Articles 5 or 111 of this Agreement.

(c) All references to national central banks under the Regulation shall not apply to Liechtenstein.

(d) Decisions, interim decisions, notifications, simple requests, revocations of decisions and other measures of the EFTA Surveillance Authority under Articles 6(3), 15(4), 16(2), 16(3), 17(2), 17(3), 20, 23b(1), 25c(3), 23d(4), 23e(5), 24(1), 24(4), 25(1), 36a(1) and 36b(1), shall, without undue delay, be adopted on the basis of drafts prepared by ESMA at its own initiative or at the request of the EFTA Surveillance Authority.

(e) In Article 3(1) (g), the words “Union law” shall be replaced by the words “the EEA Agreement”.

(f) In Article 6(3):

(i) the words “or, in the case of a credit rating agency established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

---


\[49\] Indent added by Decision No 247/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.l.f. 1.8.2019.
(ii) the following subparagraphs shall be added:

“In the case of a group of credit rating agencies consisting of at least one credit rating agency established in an EFTA State and at least one credit rating agency which has its registered office in an EU Member State, ESMA and the EFTA Surveillance Authority shall jointly ensure that at least one of the credit rating agencies in the group is not exempted from complying with the requirements of points 2, 5, and 6 of Section A of Annex I and Article 7(4).

The EFTA Surveillance Authority and ESMA shall inform each other of any developments that are relevant to the adoption of acts under this paragraph.”

(g) In Article 8b (2), the words “Union law” shall be replaced by the words “the EEA Agreement”.

(h) In Articles 8d (2) and 18(3), the following shall be added:

“ESMA shall include on that list registered credit rating agencies established in an EFTA State.”

(i) In Article 9, the words “or the EFTA Surveillance Authority with regard to EFTA States” shall be inserted after the word “ESMA”.

(j) In Article 10(6) and in point 52 of Part I of Annex III, the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(k) In Articles 11(2) and 11a (2), the following subparagraph shall be added:

“ESMA shall publish information submitted by credit rating agencies established in an EFTA State under this Article.”

(l) In Article 14:

(i) in paragraphs 2 and 5, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;

(ii) in paragraph 4, the words “or, in the case of a credit rating agency established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”.

(m) In Article 15:

(i) in paragraph 1, the words “or, in the case of a credit rating agency established in an EFTA State, to the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) in paragraph 2, the words “or, where they mandate a credit rating agency established in an EFTA State, to the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”;

(iii) in paragraph 4, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

(n) In Article 16, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

(o) In Article 17:

(i) in paragraphs 1, 2 and 4, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;

(ii) in paragraph 3, the words “and, as regards each credit rating agency established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”.

(p) In Article 18:
in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;

paragraph 2 shall be replaced by the following:

“ESMA and the EFTA Surveillance Authority shall communicate to each other, the Commission, EBA, EIOPA, the competent authorities and the sectoral competent authorities, any decision under Article 16, 17 or 20.”.

(q) In Article 19(1), the following subparagraphs shall be added:

“As regards credit rating agencies established in an EFTA State, fees shall be charged by the EFTA Surveillance Authority on the same basis as fees charged to other credit rating agencies in accordance with this Regulation and with the Commission regulation referred to in paragraph 2.

The amounts collected by the EFTA Surveillance Authority in accordance with this paragraph shall be passed on to ESMA without undue delay.”

(r) In Article 20:

(i) in paragraph 1, the words “or, in the case of a credit rating agency established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) in the second sentence of paragraph 2, the words “or, in the case of a credit rating agency established in an EFTA State, not to prepare a draft for the EFTA Surveillance Authority to that effect,” shall be inserted after the word “concerned”.

(s) In Article 21:

(i) in paragraph 1, the words “or the EFTA Surveillance Authority in the case of credit rating agencies established in an EFTA State,” shall be inserted after the word “ESMA”;

(ii) in paragraph 5, the following shall be added:

“That report shall also include the EFTA credit rating agencies registered under this Regulation pursuant to a decision of the EFTA Surveillance Authority.

The EFTA Surveillance Authority shall inform ESMA of all information necessary for the performance of its obligation under this paragraph.”;

(iii) as regards the EFTA States, paragraph 6 shall read as follows:

“The EFTA Surveillance Authority shall present annually to the Standing Committee of the EFTA States a report on supervisory measures taken and penalties imposed by the EFTA Surveillance Authority under this Regulation, including fines and periodic penalty payments.”.

(t) In Article 23, the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(u) In Article 23a, the words “or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(v) In Article 23b:

(i) in paragraph 1, the words “or, in the case of a credit rating agency or persons involved in credit rating activities, rated entities and related third parties, third parties to whom the credit rating agencies have outsourced operational functions or activities and persons otherwise closely and substantially related or connected to credit rating agencies or credit rating activities, established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”;

(ii) as regards the EFTA States, in paragraphs 2, 3 and 5, the word “ESMA” shall read “the EFTA Surveillance Authority”;
as regards the EFTA States, point (g) of paragraph 3 shall read as follows:

“indicate the right to have the decision reviewed by the EFTA Court in accordance with Article 36 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

in paragraph 5, the following subparagraph shall be added:

“The EFTA Surveillance Authority shall without undue delay forward the information received under this Article to ESMA.”.

In Article 23c:

(i) in paragraph 1, the words “or, in the case a person subject to investigation is established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) in paragraph 1, the following subparagraph shall be added:

“Officials of and other persons authorised by ESMA shall be entitled to assist the EFTA Surveillance Authority in the carrying out of its duties under this Article and have the right to participate in investigations upon ESMA’s request.”;

as regards the EFTA States, in paragraphs 2, 3, 4 and the first and second sentences of paragraph 6, the word “ESMA” shall read “the EFTA Surveillance Authority”;

as regards the EFTA States, the second sentence of paragraph 3 shall read as follows:

“The decision shall specify the subject matter and purpose of the investigation, the periodic penalty payments provided for in Article 36b and the right to have the decision reviewed by the EFTA Court in accordance with Article 36 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

as regards the EFTA States, in the third sentence of paragraph 6, the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority”;

as regards the EFTA States, the fourth sentence of paragraph 6 shall read as follows:

“The lawfulness of the EFTA Surveillance Authority’s decision shall be subject to review only by the EFTA Court in accordance with the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”.

In Article 23d:

(i) in paragraph 1, the words “or, in the case of legal persons established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”;

(ii) in paragraph 1, the following subparagraph shall be added:

“The EFTA Surveillance Authority shall without undue delay forward the information obtained under this Article to ESMA.”;

as regards the EFTA States, in paragraphs 2 to 7 and the first and second sentences of paragraph 9, the word “ESMA” shall read “the EFTA Surveillance Authority”;

as regards the EFTA States, the second sentence of paragraph 4 shall read as follows:

“The decision shall specify the subject matter and purpose of the inspection, specify the date on which it is to begin and indicate the periodic penalty payments provided for in Article 36b as well as the right to have the decision reviewed by the EFTA Court in accordance with Article 36 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

as regards the EFTA States, in the third sentence of paragraph 9, the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority”;
as regards the EFTA States, the fourth sentence of paragraph 9 shall read as follows:

“The lawfulness of the EFTA Surveillance Authority’s decision shall be subject to review only by the EFTA Court in accordance with the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”

In Article 23e:

(i) as regards the EFTA States, in paragraph 1, first sentence, the words “ESMA shall appoint an independent investigating officer within ESMA to investigate the matter” shall read “the EFTA Surveillance Authority shall appoint an independent investigating officer within the EFTA Surveillance Authority to investigate the matter following consultations with ESMA.”

(ii) in paragraph 1, the following subparagraph shall be added:

“The investigating officer appointed by the EFTA Surveillance Authority shall not be involved or have been involved in the direct or indirect supervision or registration process of the credit rating agency concerned and shall perform his functions independently from the College of the EFTA Surveillance Authority and ESMA's Board of Supervisors.”

(iii) as regards the EFTA States, in paragraphs 2, 3 and 4, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA's Board of Supervisors”;

(iv) in the third subparagraph of paragraph 2, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(v) as regards the EFTA States, in paragraph 5, after the words “and 36c,”, the remainder of the sentence shall read as follows:

“The EFTA Surveillance Authority shall decide if one or more of the infringements listed in Annex III has been committed by the persons who have been subject to investigation, and in such case, will take a supervisory measure in accordance with Article 24 and impose a fine in accordance with Article 36a.

The EFTA Surveillance Authority shall provide ESMA with all information and files necessary for the performance of its obligation under this paragraph.”

(vi) in paragraph 6, the words “or the EFTA Surveillance Authority” shall be inserted after the words “ESMA’s Board of Supervisors”;

(vii) as regards the EFTA States, in paragraph 8, the word “ESMA” shall read “the EFTA Surveillance Authority”.

In Article 24:

(i) in paragraph 1, the words “or, in the case of a credit rating agency established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the words “ESMA’s Board of Supervisors”;

(ii) as regards the EFTA States, in paragraphs 2 and 4, the words “ESMA’s Board of Supervisors” shall read “the EFTA Surveillance Authority”;

(iii) in paragraph 4, the words “ESMA’s decision” shall be replaced by the words “the decision of ESMA or the EFTA Surveillance Authority, as the case may be,”;

(iv) in paragraph 5, the following subparagraphs shall be added:

“Without undue delay, the EFTA Surveillance Authority shall notify any decision adopted pursuant to paragraph 1 to the credit rating agency established in an EFTA State concerned and shall communicate any such decision to the competent authorities and the sectoral competent authorities, the Commission, ESMA, EBA and EIOPA. ESMA shall make public any such decision on its website within 10 working days from the date when it was adopted. The EFTA Surveillance Authority
shall also make public any of its own decisions on its website within 10 working days from the date when it was adopted.

When making public a decision of the EFTA Surveillance Authority as referred to in the third subparagraph, ESMA and the EFTA Surveillance Authority shall also make public the right for the credit rating agency concerned to have the decision reviewed by the EFTA Court, the fact, where relevant, that such proceedings have been instituted, specifying that actions brought before the EFTA Court do not have suspensory effect, and the fact that it is possible for the EFTA Court to suspend the application of the contested decision in accordance with Article 40 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

(za) In Article 25:
(i) in paragraph 1, the following subparagraphs shall be added:

“Before preparing any draft for the EFTA Surveillance Authority under Article 24(1), ESMA's Board of Supervisors shall give the persons subject to the proceedings the opportunity to be heard on the findings. ESMA's Board of Supervisors shall base its drafts only on findings on which the persons subject to the proceedings have had the opportunity to comment. The EFTA Surveillance Authority shall base its decisions under Article 24(1) only on findings on which the persons subject to the proceedings have had the opportunity to comment.

The third and fourth subparagraphs shall not apply if urgent action is needed in order to prevent significant and imminent damage to the financial system. In such a case the EFTA Surveillance Authority may adopt an interim decision, and the persons concerned shall be given the opportunity to be heard by ESMA's Board of Supervisors as soon as possible after the decision is taken”;

(ii) in paragraph 2, the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority”.

(zb) In Articles 26 and 27(1), the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(zc) In Article 27(2), the words “or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(zd) In Article 30:
(i) in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted before the words “may delegate specific supervisory tasks”;

(ii) in paragraphs 2, 3 and 4 the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iii) the following paragraph shall be added:

“5. Prior to the delegation of a task, the EFTA Surveillance Authority and ESMA shall consult each other.”.

(ze) In Article 31:
(i) in the second subparagraph of paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;

(ii) in paragraph 2, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the notifying competent authority may request that ESMA”;

(iii) in paragraph 2, the following subparagraph shall be added:
“If the request from a national competent authority concerns a credit rating agency established in an EFTA State, ESMA shall consult the EFTA Surveillance Authority without undue delay.”.

(zf) In Article 32:

(i) in paragraph 1, the words “, the EFTA Surveillance Authority” shall be inserted after the first use of the word “ESMA”;

(ii) in paragraph 1, the words “, for the EFTA Surveillance Authority” shall be inserted after the second use of the word “ESMA”;

(iii) in paragraph 1, the words “or the EFTA Surveillance Authority” shall be inserted after the third use of the word “ESMA”;

(iv) in paragraph 2, the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(zg) In Article 35a(6), the words “or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(zh) In Article 36a:

(i) in paragraph 1, the words “or, in the case of a credit rating agency established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the words “ESMA’s Board of Supervisors” and “ESMA”;

(ii) as regards the EFTA States, in paragraph 2, the word “ESMA” shall read “the EFTA Surveillance Authority”.

(zj) In Article 36b:

(i) in paragraph 1, the words “or, in the case the credit rating agency or person concerned is established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the words “ESMA’s Board of Supervisors”;

(ii) in paragraph 4, the words “or, as the case may be, of the EFTA Surveillance Authority’s decision” shall be added after the words “ESMA’s decision”.

(zj) In Article 36c:

(i) in paragraph 1, the following subparagraphs shall be added:

“Before preparing any draft for the EFTA Surveillance Authority under Article 36a or points (a) to (d) of Article 36b(1), ESMA’s Board of Supervisors shall give the persons subject to the proceedings the opportunity to be heard on the findings. ESMA’s Board of Supervisors shall base its drafts only on findings on which the persons subject to the proceedings have had the opportunity to comment.

The EFTA Surveillance Authority shall base its decisions under Article 36a or points (a) to (d) of Article 36b(1) only on findings on which the persons subject to the proceedings have had the opportunity to comment.”;

(ii) as regards the EFTA States, in paragraph 2, the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority”.

(zk) In Article 36d:

(i) in paragraph 1, the following shall be added:

“The EFTA Surveillance Authority shall also disclose to the public every fine and periodic penalty that it has imposed pursuant to Articles 36a and 36b, subject to the conditions laid down in this paragraph as regards the disclosure of fines and periodic penalties by ESMA”;
(ii) as regards the EFTA States, in paragraph 3, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iii) as regards the EFTA States, in paragraph 3, the words “the Court of Justice of the European Union” shall read “the EFTA Court”;

(iv) in paragraph 4, the following subparagraph shall be added:

“The Standing Committee of the EFTA States shall determine the allocation of the amounts of the fines and periodic penalty payments collected by the EFTA Surveillance Authority.”.

(zl) Article 40a shall not apply as regards the EFTA States.

(zm) In point 7 of Part I and point 3 of Part II of Annex IV, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.


31ebb. [ ] [(476)]


31ebd. [ ] [(477)]

31ebc. [ ] [(477)]

31ebf. [ ] [(478)]


31ebh. [ ] [(479)]

31ebi.[(480)]32019 D 1284: Commission Implementing Decision (EU) 2019/1284 of 29 July 2019 on the recognition of the legal and supervisory framework of Hong Kong as equivalent to the requirements of Regulation


31ebm. \[^{[487]}\]


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 1, as regards the EFTA States, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

(b) In Chapter 2 and in Annexes IV and V, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.


The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 1, as regards the EFTA States, the words “the European Securities and Markets Authority (ESMA)” and “ESMA” shall read “the EFTA Surveillance Authority”.

(b) In Article 2, as regards the EFTA States, the words “and the EFTA Surveillance Authority” shall be inserted after the words “ESMA’s Board of Supervisors”.

(c) In Article 3, as regards the EFTA States:

(i) in paragraph 1, the words “and the EFTA Surveillance Authority” shall be inserted after the words “ESMA’s Board of Supervisors”;

(ii) the words “inform the EFTA Surveillance Authority thereof, The EFTA Surveillance Authority shall, without undue delay,” shall be inserted after the words “it shall” in paragraphs 2, 4 and 5 and before the words “take a decision” in paragraph 3;

(iii) in the second subparagraph of paragraph 4 and in the third sentence of the first subparagraph of paragraph 5, the words “, before preparing a draft for the EFTA Surveillance Authority, or the EFTA Surveillance Authority” shall be inserted after the words “ESMA’s Board of Supervisors”;

(iv) in the third subparagraph of paragraph 4 and in the second subparagraph of paragraph 5, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “ESMA’s Board of Supervisors”;

(v) in paragraph 6, the words “ESMA’s Board of Supervisors” shall read “the EFTA Surveillance Authority”.

(d) In Article 4, as regards the EFTA States:

(i) in the first subparagraph, the words “Board of Supervisors” and “Board of Supervisor” shall read “the EFTA Surveillance Authority”;


(ii) in the third subparagraph, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “ESMA’s Board of Supervisors”.

(e) In Article 5, as regards the EFTA States:

(i) the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) the words “Board of Supervisors” shall read “the EFTA Surveillance Authority”.

(f) In Article 6, as regards the EFTA States:

(i) in paragraphs 1 and 4, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) in paragraphs 3 and 5, the words “or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iii) in paragraph 5, the words “the Board of Appeal, in accordance with Article 58 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council (1), and before the Court of Justice of the European Union, in accordance with Article 36e of Regulation (EC) No 1060/2009” shall read “the EFTA Court in accordance with Article 35 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”.

(g) In Article 7, as regards the EFTA States:

(i) the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) in paragraph 5(b), the words “ESMA Board of Appeal, in accordance with Article 58 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council, and the Court of Justice of the European Union, in accordance with Article 36e of Regulation (EC) No 1060/2009” shall read “the EFTA Court in accordance with Article 35 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”.


31ec. [ ] [493]


---

[490] Point inserted by Decision No Decision No 189/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 11.7.2019.

[491] Point inserted by Decision No Decision No 189/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 11.7.2019.

[492] Point inserted by Decision No Decision No 189/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 11.7.2019.

Modalities for association of the EFTA States in accordance with Article 101 of the Agreement:

Each EFTA State may appoint a person to participate as an observer in the meetings of the European Multi-Stakeholder Forum on Electronic Invoicing (e-invoicing).


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) The relevant authorities of the EFTA States shall participate in the work of the European Systemic Risk Board (ESRB).

(b) Notwithstanding the provisions of Protocol 1 to this Agreement, the terms “Member State(s)”, “competent authorities”, and “supervisory authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities and supervisory authorities, respectively. This shall not apply as regards Articles 5(2), 9(5) and 11(1)(c).

(c) The following shall be added in Article 6(2): “(c) the Governors of the national central banks of the EFTA States, or, as regards Liechtenstein, a high-level representative of the Ministry of Finance;”

(d) a College Member of the EFTA Surveillance Authority, whenever relevant to its tasks.

The members of the General Board without voting rights referred to in points (c) and (d) shall not participate in the work of the General Board where the situation of individual EU financial institutions or EU Member States may be discussed.”

(d) The following point shall be added in Article 13(1):

“(i) one representative of each national central bank of the EFTA States or, as regards Liechtenstein, of the Ministry of Finance. These representatives shall not participate in the work of the Advisory Technical Committee where the situation of individual EU financial institutions or EU Member States may be discussed.”

(e) The following subparagraph shall be added in Article 15(2):

“The EFTA Surveillance Authority, the national central banks, the national supervisory authorities and national statistics authorities of the EFTA States shall cooperate closely with the ESRB and, shall provide it with all the information necessary for the fulfilment of its tasks in accordance with the EEA Agreement.”

(f) In Article 16(3), the words “, and in case an EFTA State or one or more of its national supervisory authorities is an addressee, the Standing Committee of the EFTA States” shall be added after the words “the Commission” and the words “and the EFTA Surveillance Authority” shall be added after the word “ESAs”.

(g) In Article 17(1) and (2) and in Article 18(1), the words “and, in case an EFTA State or one or more of its national supervisory authorities is an addressee, the Standing Committee of the EFTA States” shall be added after the word “Council”.

(h) Article 17(3) shall not apply with respect to decisions regarding recommendations addressed to one or more EFTA States.


(i) In Article 18(4) the words “the EFTA Surveillance Authority and the Standing Committee of the EFTA States” shall be added after the word “ESAs”.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) The competent authorities of the EFTA States and the EFTA Surveillance Authority shall, but for the right to vote, have the same rights and obligations as the competent authorities of EU Member States in the work of the European Supervisory Authority (European Banking Authority), hereinafter referred to as “the Authority”, its Board of Supervisors, and all preparatory bodies of the Authority, including internal committees and panels, subject to the provisions of this Agreement.

Without prejudice to Articles 108 and 109 of this Agreement, the Authority shall, but for the right to vote, have the right to participate in the work of the EFTA Surveillance Authority and its preparatory bodies, when the EFTA Surveillance Authority carries out, as regards the EFTA States, the functions of the Authority as provided for in this Agreement.

The rules of procedure of the Authority and of the EFTA Surveillance Authority shall give full effect to their participation, as well as that of the EFTA States competent authorities, in each other’s work as provided for in this Agreement.

(b) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(c) Unless otherwise provided for in this Agreement, the internal rules of procedure of the Authority shall apply mutatis mutandis as regards matters concerning the EFTA competent authorities and financial institutions. In particular, the preparation of drafts for the EFTA Surveillance Authority shall be subject to the same internal procedures as the preparation of decisions adopted regarding similar issues concerning the EU Member States, including their competent authorities and financial institutions.

(d) Unless otherwise provided for in this Agreement, the Authority and the EFTA Surveillance Authority shall cooperate, exchange information and consult each other for the purposes of the Regulation, in particular prior to taking any action.


\(^{[499]}\) Indent added by Decision No 165/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.

\(^{[500]}\) Indent added by Decision No 260/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.
In case of disagreement between the Authority and the EFTA Surveillance Authority with regard to the administration of the provisions of the Regulation, the Chairperson of the Authority and the College of the EFTA Surveillance Authority shall, taking into account the urgency of the matter, without undue delay convene a meeting to find consensus. Where such consensus is not found, the Chairperson of the Authority or the College of the EFTA Surveillance Authority may request the Contracting Parties to refer the matter to the EEA Joint Committee which shall deal with it in accordance with Article 111 of this Agreement which shall apply mutatis mutandis. In accordance with Article 2 of Decision of the EEA Joint Committee No 1/94 of 8 February 1994 adopting the Rules of Procedure of the EEA Joint Committee (OJ L 85, 30.3.1994, p. 60), a Contracting Party may request immediate organisation of meetings in urgent circumstances. Notwithstanding this paragraph, a Contracting Party may at any time refer the matter to the EEA Joint Committee at its own initiative in accordance with Articles 5 or 111 of this Agreement.

(e) References to other acts in the Regulation shall apply to the extent and in the form that those acts are incorporated into this Agreement.

(f) As regards the EFTA States, Article 1(4) shall read as follows:

“The provisions of this Regulation are without prejudice to the powers of the EFTA Surveillance Authority, in particular under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, to ensure compliance with the EEA Agreement or that Agreement.”

(g) In Article 9(5):

(i) as regards the EFTA States, in the first subparagraph, the words “The Authority” shall read “The EFTA Surveillance Authority”;

(ii) as regards the EFTA States, the second and third subparagraphs shall read as follows:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.

The EFTA Surveillance Authority shall review the decision referred to in the first two subparagraphs at appropriate intervals and at least every 3 months. If the decision is not renewed after a 3-month period, it shall automatically expire.

The EFTA Surveillance Authority shall as soon as possible after the adoption of the decision referred to in the first two subparagraphs inform the Authority of the expiry date. In due time before the expiry of the three-month period referred to in the third subparagraph, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft. The EFTA Surveillance Authority may inform the Authority of any development it considers relevant for the review.

An EFTA State may request the EFTA Surveillance Authority to reconsider its decision. The EFTA Surveillance Authority shall forward this request to the Authority. In that case the Authority shall, in accordance with the procedure set out in the second subparagraph of Article 44(1), consider preparing a new draft for the EFTA Surveillance Authority.

Where the Authority amends or revokes any decision parallel to the decision adopted by the EFTA Surveillance Authority, the Authority shall, without undue delay, prepare a draft for the EFTA Surveillance Authority.”

(h) In Article 16(4), the words “, the Standing Committee of the EFTA States and the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.

(i) In Article 17:

(i) the words “Union law” shall read “the EEA Agreement”;

(ii) in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the Authority”;
in paragraph 2, the words “the Standing Committee of the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”;

the following subparagraph shall be added in paragraph 2:

“Where the Authority investigates an alleged breach or non-application of the EEA Agreement with regard to a competent authority of an EFTA State, it shall inform the EFTA Surveillance Authority of the nature and purpose of the investigation and provide it regularly thereafter with the updated information necessary for the EFTA Surveillance Authority to appropriately perform its tasks under paragraphs 4 and 6.”;

as regards the EFTA States, the second subparagraph of paragraph 3 shall read as follows:

“The competent authority shall, within 10 working days of receipt of the recommendation, inform the Authority and the EFTA Surveillance Authority of the steps it has taken or intends to take to ensure compliance with the EEA Agreement.”;

as regards the EFTA States, paragraphs 4 and 5 shall read as follows:

“4. Where the competent authority has not complied with the EEA Agreement within 1 month from receipt of the Authority’s recommendation, the EFTA Surveillance Authority may issue a formal opinion requiring the competent authority to take the action necessary to comply with the EEA Agreement. The EFTA Surveillance Authority’s formal opinion shall take into account the Authority’s recommendation.

The EFTA Surveillance Authority shall issue such a formal opinion no later than 3 months after the adoption of the recommendation. The EFTA Surveillance Authority may extend this period by 1 month.

Formal opinions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.

The competent authorities shall provide the Authority and the EFTA Surveillance Authority with all necessary information.

5. The competent authority shall, within 10 working days of receipt of the formal opinion referred to in paragraph 4, inform the Authority and the EFTA Surveillance Authority of the steps it has taken or intends to take to comply with that formal opinion.”;

as regards the EFTA States, in the first subparagraph of paragraph 6, the words “Without prejudice to the powers of the Commission under Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”, and the words “the Authority” shall read “the EFTA Surveillance Authority”;

as regards the EFTA States, the second subparagraph of paragraph 6 shall read as follows:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

as regards the EFTA States, paragraph 8 shall read as follows:

“8. The EFTA Surveillance Authority shall annually publish information on which competent authorities and financial institutions in the EFTA States have not complied with the formal opinions or decisions referred to in paragraphs 4 and 6.”;

In Article 18:

as regards the EFTA States, in paragraphs 3 and 4, the words “the Authority” shall read “the EFTA Surveillance Authority”;
(ii) the following subparagraph shall be added in paragraphs 3 and 4:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

(iii) as regards the EFTA States, in paragraph 4, the words “Without prejudice to the powers of the Commission under Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”.

(k) In Article 19:

(i) in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the Authority”;

(ii) in paragraph 3, the words “in the EU Member States” shall be inserted after the words “with binding effects for the competent authorities concerned”;

(iii) the following subparagraphs shall be added in paragraph 3:

“Where exclusively competent authorities of the EFTA States are concerned, and where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the EFTA Surveillance Authority may take a decision requiring them to take specific action or to refrain from action in order to settle the matter, with binding effects for the competent authorities concerned, in order to ensure compliance with the EEA Agreement.

Where competent authorities of one or more EU Member States and one or more EFTA States are concerned, where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the Authority and the EFTA Surveillance Authority may take a decision requiring the competent authorities of respectively the EU Member States and the EFTA States concerned to take specific action or to refrain from action in order to settle the matter, with binding effects for the competent authorities concerned, in order to ensure compliance with the EEA Agreement.

Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

(iv) as regards the EFTA States, in paragraph 4, the words “Without prejudice to the powers of the Commission under Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”, the words “the Authority” shall read “the EFTA Surveillance Authority” and the words “Union law” shall read “the EEA Agreement”;

(v) in paragraph 4, the following subparagraph shall be added:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”.

(l) The following subparagraphs shall be added in Article 20:

“Where exclusively competent authorities of the EFTA States are concerned, the EFTA Surveillance Authority may take a decision in accordance with Article 19(3) and (4).

Where competent authorities of one or more EU Member States and one or more EFTA States are concerned the Authority respectively the EFTA Surveillance Authority may adopt a decision in accordance with Article 19(3) and (4).

Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by, as appropriate, the Authority, the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and/or the European Supervisory Authority (European Securities and Markets Authority) at their own initiative or at the request
of the EFTA Surveillance Authority. The Authority, the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), as appropriate, shall reach, in accordance with Article 56, joint positions and shall adopt the decisions and/or drafts in parallel.”

(m) In Article 21(4), the words “, or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “The Authority”.

(n) In Articles 22(1a) and 31(d), the words “as well as the EFTA Surveillance Authority and the Standing Committee of the EFTA States” shall be inserted after the words “the Commission”.

(o) In Articles 22(4) and 34(1), the words “, the EFTA Surveillance Authority or the Standing Committee of the EFTA States,” shall be inserted after the words “the European Parliament, the Council or the Commission”.

(p) In Article 32(3a), as regards the EFTA States:

(i) the words “It may request” shall read “The EFTA Surveillance Authority may request”;

(ii) the words “the Authority and the EFTA Surveillance Authority” shall be inserted before the words “may participate”;

(iii) the following subparagraph shall be added:

‘Requests by the EFTA Surveillance Authority under this paragraph shall, without undue delay, be made on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.’.

(q) In Article 35(5), the words “, to the national central bank” shall not apply to Liechtenstein.

(r) In Article 36(5), the words “and the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.

(s) In Article 38, as regards the EFTA States:

(i) the words “the Authority”, “the Authority and the Commission”, “the Authority, the Commission and the Authority” shall read “the EFTA Surveillance Authority”;

(ii) the words “the Council” shall read “the Standing Committee of the EFTA States”;

(iii) the following subparagraph shall be added after the fourth subparagraph of paragraph 2:

“The EFTA Surveillance Authority shall without undue delay forward the notification of the EFTA State concerned to the Authority and the Commission. The decision of the EFTA Surveillance Authority to maintain, amend or to revoke a decision shall be taken on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

(iv) the following subparagraph shall be added after the third subparagraph of paragraph 3:

“The EFTA Surveillance Authority shall without undue delay forward the notification of the EFTA State to the Authority, the Commission and the Council.”;

(v) the following subparagraph shall be added after the first subparagraph of paragraph 4:

“The EFTA Surveillance Authority shall without undue delay forward the notification of the EFTA State to the Authority, the Commission and the Council.”;

(vi) the following paragraph shall be added:

“6. Where, in a case falling under Article 19(3), in combination with Article 20 as the case may be, and concerning a disagreement also involving the competent
authorities of one or more EFTA States a decision is suspended, or terminated pursuant to this Article, any parallel decision of the EFTA Surveillance Authority in the case concerned shall be equally suspended or terminated.

Where, in such cases, the Authority amends or revokes its decision, the Authority shall, without undue delay, prepare a draft for the EFTA Surveillance Authority.”.

(t) In Article 39:

(i) the following subparagraph shall be added in paragraph 1:

“When preparing a draft for the EFTA Surveillance Authority in accordance with this Regulation, the Authority shall inform the EFTA Surveillance Authority, setting a time limit within which the EFTA Surveillance Authority may allow any natural or legal person, including a competent authority, which is the addressee of the decision to be taken to express its views on the matter, taking full account of the urgency, complexity and potential consequences of the matter.”;

(ii) the following subparagraphs shall be added in paragraph 4:

“Where the EFTA Surveillance Authority has taken a decision pursuant to Article 18(3) or (4) it shall review that decision at appropriate intervals. The EFTA Surveillance Authority shall inform the Authority of forthcoming revisions, as well as of any developments that are relevant to the review.

The decision of the EFTA Surveillance Authority to amend or to revoke a decision shall be taken on the basis of drafts prepared by the Authority. In due time before any intended revision, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft.”;

(iii) as regards the EFTA States, in paragraph 5 the words “or the EFTA Surveillance Authority, as the case may be” shall be inserted after the words “the Authority”.

(u) In Article 40(1):

(i) in point (b), the following shall be inserted after the words “Member State”:

“and, without the right to vote, the head of the national public authority competent for the supervision of credit institutions in each EFTA State,”;

(ii) in point (f), the words “and of the EFTA Surveillance Authority” shall be inserted after the word “Authorities”.

(v) In Article 43:

(i) in paragraph 2, the words “, prepare drafts for the EFTA Surveillance Authority,” shall be inserted after the word “decisions”;

(ii) in paragraphs 4 and 6, the words “, the EFTA Surveillance Authority, the Standing Committee of the EFTA States,” shall be inserted after the words “the Council”.

(w) In Article 44:

(i) the following subparagraph shall be added in paragraph 1:

“The provisions of this paragraph shall apply, mutatis mutandis, in the case of drafts prepared for the EFTA Surveillance Authority under the respective provisions of this Regulation.”;

(ii) in paragraph 4, the words “as well as the representative of the EFTA Surveillance Authority” shall be inserted after the words “the Executive Director”;

(iii) the following subparagraph shall be added in paragraph 4:

“EFTA States’ members of the Board of Supervisors pursuant to Article 40(1)(b) shall be entitled to attend discussions within the Board of Supervisors relating to individual financial institutions.”.
(x) In Article 57(2), the following words shall be inserted after the words “Member State”:

“as well as one high-level representative of the relevant competent authority from each EFTA State and one representative of the EFTA Surveillance Authority.”

(y) The following subparagraph shall be added in Article 60(4):

“If the appeal concerns a decision of the Authority adopted under Article 19, in combination with Article 20 as the case may be, in a case where the disagreement also involves the competent authorities of one or more EFTA States, the Board of Appeal shall invite the EFTA competent authority involved to file observations on communications from the parties to the appeal proceedings, within specified time limits. The EFTA competent authority involved shall be entitled to make oral representations.”

(z) The following subparagraphs shall be added in Article 62(1) (a):

“The EFTA national public authorities shall contribute financially to the budget of the Authority in accordance with this point.

For the purpose of determining the obligatory contributions from the EFTA national public authorities competent for the supervision of financial institutions under this point, the weighting of each EFTA State shall be the following:

Iceland: 2
Liechtenstein: 1
Norway: 7”

(za) The following shall be added in Article 67:

“The EFTA States shall apply to the Authority and its staff the Protocol (No 7) on the privileges and immunities of the European Union annexed to the Treaty on European Union and to the TFEU.”

(zb) The following paragraph shall be added in Article 68:

“5. By way of derogation from Articles 12(2)(a) and 82(3)(a) of the Conditions of Employment of Other Servants, nationals of the EFTA States enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Authority.”

By way of derogation from Articles 12(2)(e), 82(3)(e) and 85(3) of the Conditions of Employment of Other Servants, the languages referred to in Article 129(1) of the EEA Agreement shall be considered by the Authority, in respect of its staff, as languages of the Union referred to in Article 55(1) of the Treaty on European Union.”

(zc) The following paragraph shall be added in Article 72:


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) The competent authorities of the EFTA States and the EFTA Surveillance Authority shall, but for the right to vote, have the same rights and obligations as the competent authorities of EU Member States in the work of the European Supervisory Authority (European Insurance and Occupational Pensions Authority), hereinafter referred to as “the Authority”, its Board of Supervisors, and all preparatory bodies of the Authority, including internal committees and panels, subject to the provisions of this Agreement.

Without prejudice to Articles 108 and 109 of this Agreement, the Authority shall, but for the right to vote, have the right to participate in the work of the EFTA Surveillance Authority and its preparatory bodies, when the EFTA Surveillance Authority carries out, as regards the EFTA States, the functions of the Authority as provided for in this Agreement.

The rules of procedure of the Authority and of the EFTA Surveillance Authority shall give full effect to their participation, as well as that of the EFTA States competent authorities, in each other’s work as provided for in this Agreement.

(b) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(c) Unless otherwise provided for in this Agreement, the internal rules of procedure of the Authority shall apply mutatis mutandis as regards matters concerning the EFTA competent authorities and financial institutions. In particular, the preparation of drafts for the EFTA Surveillance Authority shall be subject to the same internal procedures as the preparation of decisions adopted regarding similar issues concerning the EU Member States, including their competent authorities and financial institutions.

(d) Unless otherwise provided for in this Agreement, the Authority and the EFTA Surveillance Authority shall cooperate, exchange information and consult each other for the purposes of the Regulation, in particular prior to taking any action.

In case of disagreement between the Authority and the EFTA Surveillance Authority with regard to the administration of the provisions of the Regulation, the Chairperson of the Authority and the College of the EFTA Surveillance Authority shall, taking into account the urgency of the matter, without undue delay convene a meeting to find consensus. Where such consensus is not found, the Chairperson of the Authority or the College of the EFTA Surveillance Authority may request the Contracting Parties to refer the matter to the EEA Joint Committee which shall deal with it in accordance with Article 111 of this Agreement which shall apply mutatis mutandis. In accordance with Article 2 of Decision of the EEA Joint Committee No 1/94 of 8 February 1994 adopting the Rules of Procedure of the EEA Joint Committee (OJ L 85, 30.3.1994, p. 60), a Contracting Party may request immediate organisation of meetings in urgent circumstances. Notwithstanding this paragraph, a Contracting Party may at any time refer the matter to the EEA Joint Committee at its own initiative in accordance with Articles 5 or 111 of this Agreement.

(e) References to other acts in the Regulation shall apply to the extent and in the form that those acts are incorporated into this Agreement.

(f) In Article 1, as regards the EFTA States:

(i) in paragraph 4, the words “or the EFTA Surveillance Authority, as the case may be” shall be inserted after the words “the Authority”;

(ii) paragraph 5 shall read as follows:

“The provisions of this Regulation are without prejudice to the powers of the EFTA Surveillance Authority, in particular under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, to ensure compliance with the EEA Agreement or that Agreement.”

(g) In Article 9(5):
(i) as regards the EFTA States, in the first subparagraph, the words “The Authority” shall read “The EFTA Surveillance Authority”;

(ii) as regards the EFTA States, the second and third subparagraphs shall read as follows:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.

The EFTA Surveillance Authority shall review the decision referred to in the first two subparagraphs at appropriate intervals and at least every 3 months. If the decision is not renewed after a three-month period, it shall automatically expire.

The EFTA Surveillance Authority shall as soon as possible after the adoption of the decision referred to in the first two subparagraphs inform the Authority of the expiry date. In due time before the expiry of the three-month period referred to in the third subparagraph, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft. The EFTA Surveillance Authority may inform the Authority of any development it considers relevant for the review.

An EFTA State may request the EFTA Surveillance Authority to reconsider its decision. The EFTA Surveillance Authority shall forward this request to the Authority. In that case the Authority shall, in accordance with the procedure set out in the second subparagraph of Article 44(1), consider preparing a new draft for the EFTA Surveillance Authority.

Where the Authority amends or revokes any decision parallel to the decision adopted by the EFTA Surveillance Authority, the Authority shall, without undue delay, prepare a draft for the EFTA Surveillance Authority.”.

(h) In Article 16(4), the words “; the Standing Committee of the EFTA States and the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.

(i) In Article 17:

(i) the words “Union law” shall read “the EEA Agreement”;

(ii) in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the Authority”;

(iii) in paragraph 2, the words “; the Standing Committee of the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”;

(iv) the following subparagraph shall be added in paragraph 2:

“Where the Authority investigates an alleged breach or non-application of the EEA Agreement with regard to a competent authority of an EFTA State, it shall inform the EFTA Surveillance Authority of the nature and purpose of the investigation and provide it regularly thereafter with the updated information necessary for the EFTA Surveillance Authority to appropriately perform its tasks under paragraphs 4 and 6.”;

(v) as regards the EFTA States, the second subparagraph of paragraph 3 shall read as follows:

“The competent authority shall, within ten working days of receipt of the recommendation, inform the Authority and the EFTA Surveillance Authority of the steps it has taken or intends to take to ensure compliance with the EEA Agreement.”;

(vi) as regards the EFTA States, paragraphs 4 and 5 shall read as follows:

“4. Where the competent authority has not complied with the EEA Agreement within 1 month from receipt of the Authority’s recommendation, the EFTA Surveillance Authority may issue a formal opinion requiring the competent authority to take the action necessary to comply with the EEA Agreement. The EFTA Surveillance Authority’s formal opinion shall take into account the Authority’s recommendation.”
The EFTA Surveillance Authority shall issue such a formal opinion no later than 3 months after the adoption of the recommendation. The EFTA Surveillance Authority may extend this period by 1 month.

Formal opinions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.

The competent authorities shall provide the Authority and the EFTA Surveillance Authority with all necessary information.

5. The competent authority shall, within ten working days of receipt of the formal opinion referred to in paragraph 4, inform the Authority and the EFTA Surveillance Authority of the steps it has taken or intends to take to comply with that formal opinion;.

(vii) as regards the EFTA States, in the first subparagraph of paragraph 6, the words “Without prejudice to the powers of the Commission under Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”, and the words “the Authority” shall read “the EFTA Surveillance Authority”;

(viii) as regards the EFTA States, the second subparagraph of paragraph 6 shall read as follows:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

(ix) as regards the EFTA States, paragraph 8 shall read as follows:

“8. The EFTA Surveillance Authority shall annually publish information on which competent authorities and financial institutions in the EFTA States have not complied with the formal opinions or decisions referred to in paragraphs 4 and 6.”.

(j) In Article 18:

(i) as regards the EFTA States, in paragraphs 3 and 4, the words “the Authority” shall read “the EFTA Surveillance Authority”;

(ii) the following subparagraph shall be added in paragraphs 3 and 4:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

(iii) as regards the EFTA States, in paragraph 4, the words “Without prejudice to the powers of the Commission under Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”.

(k) In Article 19:

(i) in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the Authority”;

(ii) in paragraph 3, the words “in the EU Member States” shall be inserted after the words “with binding effects for the competent authorities concerned”;

(iii) the following subparagraphs shall be added in paragraph 3:

“Where exclusively competent authorities of the EFTA States are concerned, and where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the EFTA Surveillance Authority may take a decision requiring them to take specific action or to refrain from action in order to settle the
matter, with binding effects for the competent authorities concerned, in order to ensure compliance with the EEA Agreement.

Where competent authorities of one or more EU Member States and one or more EFTA States are concerned, and where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the Authority and the EFTA Surveillance Authority may take a decision requiring the competent authorities of respectively the EU Member States and the EFTA States concerned to take specific action or to refrain from action in order to settle the matter, with binding effects for the competent authorities concerned, in order to ensure compliance with the EEA Agreement.

Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority."

(iv) as regards the EFTA States, in paragraph 4, the words “Without prejudice to the powers of the Commission under Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”, the words “the Authority” shall read “the EFTA Surveillance Authority” and the words “Union law” shall read “the EEA Agreement”;

(v) in paragraph 4, the following subparagraph shall be added:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”.

(l) The following subparagraphs shall be added in Article 20:

“Where exclusively competent authorities of the EFTA States are concerned, the EFTA Surveillance Authority may take a decision in accordance with Article 19(3) and (4). Where competent authorities of one or more EU Member States and one or more EFTA States are concerned the Authority respectively the EFTA Surveillance Authority may adopt a decision in accordance with Article 19(3) and (4).

Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by, as appropriate, the Authority, the European Supervisory Authority (European Banking Authority) and/or the European Supervisory Authority (European Securities and Markets Authority) at their own initiative or at the request of the EFTA Surveillance Authority. The Authority, the European Supervisory Authority (European Banking Authority) and the European Supervisory Authority (European Securities and Markets Authority), as appropriate, shall reach, in accordance with Article 56, joint positions and shall adopt the decisions and/or drafts in parallel.”

(m) In Article 21(4), the words “, or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “The Authority”.

(n) In Articles 22(4) and 34(1), the words “, the EFTA Surveillance Authority or the Standing Committee of the EFTA States,” shall be inserted after the words “the European Parliament, the Council or the Commission”.

(o) In Article 35(5), the words “, to the national central bank” shall not apply to Liechtenstein.

(p) In Article 38, as regards the EFTA States:

(i) the words “the Authority”, “the Authority and the Commission”, “the Authority, the Commission” and “the Commission and the Authority” shall read “the EFTA Surveillance Authority”;

(ii) the words “the Council” shall read “the Standing Committee of the EFTA States”;

(iii) the following subparagraph shall be added after the fourth subparagraph of paragraph 2:
“The EFTA Surveillance Authority shall without undue delay forward the notification of the EFTA State concerned to the Authority and the Commission. The decision of the EFTA Surveillance Authority to maintain, amend or to revoke a decision shall be taken on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

(iv) the following subparagraph shall be added after the third subparagraph of paragraph 3:

“The EFTA Surveillance Authority shall without undue delay forward the notification of the EFTA State to the Authority and the Commission.”;

(v) the following subparagraph shall be added after the first subparagraph of paragraph 4:

“The EFTA Surveillance Authority shall without undue delay forward the notification of the EFTA State to the Authority, the Commission and the Council.”;

(vi) the following paragraph shall be added:

“6. Where, in a case falling under Article 19(3), in combination with Article 20 as the case may be, and concerning a disagreement also involving the competent authorities of one or more EFTA States a decision is suspended, or terminated pursuant to this Article, any parallel decision of the EFTA Surveillance Authority in the case concerned shall be equally suspended or terminated.

Where, in such cases, the Authority amends or revokes its decision, the Authority shall, without undue delay, prepare a draft for the EFTA Surveillance Authority.”.

(q) In Article 39:

(i) the following subparagraph shall be added in paragraph 1:

“When preparing a draft for the EFTA Surveillance Authority in accordance with this Regulation, the Authority shall inform the EFTA Surveillance Authority, setting a time limit within which the EFTA Surveillance Authority may allow any natural or legal person, including a competent authority, which is the addressee of the decision to be taken to express its views on the matter, taking full account of the urgency, complexity and potential consequences of the matter.”;

(ii) the following subparagraphs shall be added in paragraph 4:

“Where the EFTA Surveillance Authority has taken a decision pursuant to Article 18(3) or (4) it shall review that decision at appropriate intervals. The EFTA Surveillance Authority shall inform the Authority of forthcoming revisions, as well as of any developments that are relevant to the review.

The decision of the EFTA Surveillance Authority to amend or to revoke a decision shall be taken on the basis of drafts prepared by the Authority. In due time before any intended revision, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft.”;

(iii) as regards the EFTA States, in paragraph 5 the words “or the EFTA Surveillance Authority, as the case may be” shall be inserted after the words “the Authority”.

(r) In Article 40(1):

(i) in point (b), the following shall be inserted after the words “Member State”:

“and, without the right to vote, the head of the national public authority competent for the supervision of financial institutions in each EFTA State.”;

(ii) in point (e), the words “and of the EFTA Surveillance Authority” shall be inserted after the word “Authorities”.

(s) In Article 43:
(i) in paragraph 2, the words ”, prepare drafts for the EFTA Surveillance Authority,” shall be inserted after the word “decisions”;

(ii) in paragraphs 4 and 6, the words ”, the EFTA Surveillance Authority, the Standing Committee of the EFTA States,” shall be inserted after the words “the Council”.

(t) In Article 44:

(i) the following subparagraph shall be added in paragraph 1:

“‘The provisions of this paragraph shall apply, mutatis mutandis, in the case of drafts prepared for the EFTA Surveillance Authority under the respective provisions of this Regulation.’;

(ii) in paragraph 4, the words “as well as the representative of the EFTA Surveillance Authority” shall be inserted after the words “the Executive Director”;

(iii) the following subparagraph shall be added in paragraph 4:

“EFTA States’ members of the Board of Supervisors pursuant to Article 40(1)(b) shall be entitled to attend discussions within the Board of Supervisors relating to individual financial institutions.”.

(u) In Article 57(2), the following words shall be inserted after the words “Member State”:

“as well as one high-level representative of the relevant competent authority from each EFTA State and one representative of the EFTA Surveillance Authority.”

(v) The following subparagraph shall be added in Article 60(4):

“If the appeal concerns a decision of the Authority adopted under Article 19, in combination with Article 20 as the case may be, in a case where the disagreement also involves the competent authorities of one or more EFTA States, the Board of Appeal shall invite the EFTA competent authority involved to file observations on communications from the parties to the appeal proceedings, within specified time limits. The EFTA competent authority involved shall be entitled to make oral representations.”

(w) The following subparagraphs shall be added in Article 62(1)(a):

“The EFTA national public authorities shall contribute financially to the budget of the Authority in accordance with this point.

For the purpose of determining the obligatory contributions from the EFTA national public authorities competent for the supervision of financial institutions under this point, the weighting of each EFTA State shall be the following:

Iceland: 2

Liechtenstein: 1

Norway: 7”

(x) The following shall be added in Article 67:

“The EFTA States shall apply to the Authority and its staff the Protocol (No 7) on the privileges and immunities of the European Union annexed to the Treaty on European Union and to the TFEU.”

(y) The following paragraph shall be added in Article 68:

“5. By way of derogation from Articles 12(2)(a) and 82(3)(a) of the Conditions of Employment of Other Servants, nationals of the EFTA States enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Authority.”

By way of derogation from Articles 12(2)(e), 82(3)(e) and 85(3) of the Conditions of Employment of Other Servants, the languages referred to in Article 129(1) of the EEA Agreement shall be considered by the Authority, in respect of its staff, as
languages of the Union referred to in Article 55(1) of the Treaty on European Union.”

(z) The following paragraph shall be added in Article 72:


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) The competent authorities of the EFTA States and the EFTA Surveillance Authority shall, but for the right to vote, have the same rights and obligations as the competent authorities of EU Member States in the work of the European Supervisory Authority (European Securities and Markets Authority), hereinafter referred to as “the Authority”, its Board of Supervisors, and all preparatory bodies of the Authority, including internal committees and panels, subject to the provisions of this Agreement.

Without prejudice to Articles 108 and 109 of this Agreement, the Authority shall, but for the right to vote, have the right to participate in the work of the EFTA Surveillance Authority and its preparatory bodies, when the EFTA Surveillance Authority carries out, as regards the EFTA States, the functions of the Authority as provided for in this Agreement.

The rules of procedure of the Authority and of the EFTA Surveillance Authority shall give full effect to their participation, as well as that of the EFTA States competent authorities, in each other’s work as provided for in this Agreement.

(b) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(c) Unless otherwise provided for in this Agreement, the internal rules of procedure of the Authority shall apply mutatis mutandis as regards matters concerning the EFTA competent authorities and financial market participants. In particular, the preparation of drafts for the EFTA Surveillance Authority shall be subject to the same internal procedures as the preparation of decisions adopted regarding similar issues concerning the EU Member States, including their competent authorities and financial market participants.

(d) Unless otherwise provided for in this Agreement, the Authority and the EFTA Surveillance Authority shall cooperate, exchange information and consult each other for the purposes of the Regulation, in particular prior to taking any action.

In case of disagreement between the Authority and the EFTA Surveillance Authority with regard to the administration of the provisions of the Regulation, the Chairperson of the Authority and the College of the EFTA Surveillance Authority shall, taking into account the


(95) Indent added by Decision No 247/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.l.f. 1.8.2019.
urgency of the matter, without undue delay convene a meeting to find consensus. Where such consensus is not found, the Chairperson of the Authority or the College of the EFTA Surveillance Authority may request the Contracting Parties to refer the matter to the EEA Joint Committee which shall deal with it in accordance with Article 111 of this Agreement which shall apply mutatis mutandis. In accordance with Article 2 of Decision of the EEA Joint Committee No 1/94 of 8 February 1994 adopting the Rules of Procedure of the EEA Joint Committee (OJ L 85, 30.3.1994, p. 60), a Contracting Party may request immediate organisation of meetings in urgent circumstances. Notwithstanding this paragraph, a Contracting Party may at any time refer the matter to the EEA Joint Committee at its own initiative in accordance with Articles 5 or 111 of this Agreement.

(e) References to other acts in the Regulation shall apply to the extent and in the form that those acts are incorporated into this Agreement.

(f) As regards the EFTA States, Article 1(4) shall read as follows:

“The provisions of this Regulation are without prejudice to the powers of the EFTA Surveillance Authority, in particular under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, to ensure compliance with the EEA Agreement or that Agreement.”

(g) In Article 9(5):

(i) as regards the EFTA States, in the first subparagraph, the words “The Authority” shall read “The EFTA Surveillance Authority”;

(ii) as regards the EFTA States, the second and third subparagraphs shall read as follows:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.

The EFTA Surveillance Authority shall review the decision referred to in the first two subparagraphs at appropriate intervals and at least every 3 months. If the decision is not renewed after a three-month period, it shall automatically expire.

The EFTA Surveillance Authority shall as soon as possible after the adoption of the decision referred to in the first two subparagraphs inform the Authority of the expiry date. In due time before the expiry of the three-month period referred to in the third subparagraph, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft. The EFTA Surveillance Authority may inform the Authority of any development it considers relevant for the review.

An EFTA State may request the EFTA Surveillance Authority to reconsider its decision. The EFTA Surveillance Authority shall forward this request to the Authority. In that case the Authority shall, in accordance with the procedure set out in the second subparagraph of Article 44(1), consider preparing a new draft for the EFTA Surveillance Authority.

Where the Authority amends or revokes any decision parallel to the decision adopted by the EFTA Surveillance Authority, the Authority shall, without undue delay, prepare a draft for the EFTA Surveillance Authority.”.

(h) In Article 16(4), the words “, the Standing Committee of the EFTA States and the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.

(i) In Article 17:

(i) the words “Union law” shall read “the EEA Agreement”;

(ii) in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the Authority”;

(iii) in paragraph 2, the words “, the Standing Committee of the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”;

(iv) the following subparagraph shall be added in paragraph 2:
“Where the Authority investigates an alleged breach or non-application of the EEA Agreement with regard to a competent authority of an EFTA State, it shall inform the EFTA Surveillance Authority of the nature and purpose of the investigation and provide it regularly thereafter with the updated information necessary for the EFTA Surveillance Authority to appropriately perform its tasks under paragraphs 4 and 6.”;

(v) as regards the EFTA States, the second subparagraph of paragraph 3 shall read as follows:

“The competent authority shall, within ten working days of receipt of the recommendation, inform the Authority and the EFTA Surveillance Authority of the steps it has taken or intends to take to ensure compliance with the EEA Agreement.”;

(vi) as regards the EFTA States, paragraphs 4 and 5 shall read as follows:

“4. Where the competent authority has not complied with the EEA Agreement within 1 month from receipt of the Authority’s recommendation, the EFTA Surveillance Authority may issue a formal opinion requiring the competent authority to take the action necessary to comply with the EEA Agreement. The EFTA Surveillance Authority’s formal opinion shall take into account the Authority’s recommendation.

The EFTA Surveillance Authority shall issue such a formal opinion no later than 3 months after the adoption of the recommendation. The EFTA Surveillance Authority may extend this period by 1 month.

Formal opinions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.

The competent authorities shall provide the Authority and the EFTA Surveillance Authority with all necessary information.

5. The competent authority shall, within ten working days of receipt of the formal opinion referred to in paragraph 4, inform the Authority and the EFTA Surveillance Authority of the steps it has taken or intends to take to comply with that formal opinion.”;

(vii) as regards the EFTA States, in the first subparagraph of paragraph 6, the words “Without prejudice to the powers of the Commission under Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”, and the words “the Authority” shall read “the EFTA Surveillance Authority”;

(viii) as regards the EFTA States, the second subparagraph of paragraph 6 shall read as follows:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

(ix) as regards the EFTA States, paragraph 8 shall read as follows:

“8. The EFTA Surveillance Authority shall annually publish information on which competent authorities and financial market participants in the EFTA States have not complied with the formal opinions or decisions referred to in paragraphs 4 and 6.”;

(j) In Article 18:

(i) as regards the EFTA States, in paragraphs 3 and 4, the words “the Authority” shall read “the EFTA Surveillance Authority”;

(ii) the following subparagraph shall be added in paragraphs 3 and 4:
“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

(iii) as regards the EFTA States, in paragraph 4, the words “Without prejudice to the powers of the Commission under Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”.

(k) In Article 19:

(i) in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the Authority”;

(ii) in paragraph 3, the words “in the EU Member States” shall be inserted after the words “with binding effects for the competent authorities concerned”;

(iii) the following subparagraphs shall be added in paragraph 3:

“Where exclusively competent authorities of the EFTA States are concerned, and where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the EFTA Surveillance Authority may take a decision requiring them to take specific action or to refrain from action in order to settle the matter, with binding effects for the competent authorities concerned, in order to ensure compliance with the EEA Agreement.

Where competent authorities of one or more EU Member States and one or more EFTA States are concerned and where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the Authority and the EFTA Surveillance Authority may take a decision requiring the competent authorities of respectively the EU Member States and the EFTA States concerned to take specific action or to refrain from action in order to settle the matter, with binding effects for the competent authorities concerned, in order to ensure compliance with the EEA Agreement.

Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

(iv) as regards the EFTA States, in paragraph 4, the words “Without prejudice to the powers of the Commission under Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”, the words “the Authority” shall read “the EFTA Surveillance Authority” and the words “Union law” shall read “the EEA Agreement”;

(v) in paragraph 4, the following subparagraph shall be added:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”.

(l) The following subparagraphs shall be added in Article 20:

“Where exclusively competent authorities of the EFTA States are concerned, the EFTA Surveillance Authority may take a decision in accordance with Article 19(3) and (4).

Where competent authorities of one or more EU Member States and one or more EFTA States are concerned the Authority respectively the EFTA Surveillance Authority may adopt a decision in accordance with Article 19(3) and (4).

Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by, as appropriate, the Authority, the European Supervisory Authority (European Banking Authority) and/or the European Supervisory Authority (European
Insurance and Occupational Pensions Authority) at their own initiative or at the request of the EFTA Surveillance Authority. The Authority, the European Supervisory Authority (European Banking Authority) and the European Supervisory Authority (European Insurance and Occupational Pensions Authority), as appropriate, shall reach, in accordance with Article 56, joint positions and shall adopt the decisions and/or drafts in parallel.”

(m) In Article 21(4), the words “, or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “The Authority”.

(n) In Articles 22(4) and 34(1), the words “, the EFTA Surveillance Authority or the Standing Committee of the EFTA States,” shall be inserted after the words “the European Parliament, the Council or the Commission”.

(o) In Article 35(5), the words “, to the national central bank” shall not apply to Liechtenstein.

(p) In Article 38, as regards the EFTA States:

(i) the words “the Authority”, “the Authority and the Commission”, “the Authority, the Commission” and “the Commission and the Authority” shall read “the EFTA Surveillance Authority”;

(ii) the words “the Council” shall read “the Standing Committee of the EFTA States”;

(iii) the following subparagraph shall be added after the fourth subparagraph of paragraph 2:

“The EFTA Surveillance Authority shall without undue delay forward the notification of the EFTA State concerned to the Authority and the Commission. The decision of the EFTA Surveillance Authority to maintain, amend or to revoke a decision shall be taken on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

(iv) the following subparagraph shall be added after the third subparagraph of paragraph 3:

“The EFTA Surveillance Authority shall without undue delay forward the notification of the EFTA State to the Authority, the Commission and the Council.”;

(v) the following subparagraph shall be added after the first subparagraph of paragraph 4:

“The EFTA Surveillance Authority shall without undue delay forward the notification of the EFTA State to the Authority, the Commission and the Council.”;

(vi) the following paragraph shall be added:

“6. Where, in a case falling under Article 19(3), in combination with Article 20 as the case may be, and concerning a disagreement also involving the competent authorities of one or more EFTA States a decision is suspended, or terminated pursuant to this Article, any parallel decision of the EFTA Surveillance Authority in the case concerned shall be equally suspended or terminated.

Where, in such cases, the Authority amends or revokes its decision, the Authority shall, without undue delay, prepare a draft for the EFTA Surveillance Authority.”.

(q) In Article 39:

(i) the following subparagraph shall be added in paragraph 1:

“When preparing a draft for the EFTA Surveillance Authority in accordance with this Regulation, the Authority shall inform the EFTA Surveillance Authority, setting a time limit within which the EFTA Surveillance Authority may allow any natural or legal person, including a competent authority, which is the addressee of the decision to be taken, to express its views on the matter, taking full account of the urgency, complexity and potential consequences of the matter.”;
(ii) the following subparagraphs shall be added in paragraph 4:

“Where the EFTA Surveillance Authority has taken a decision pursuant to Article 18(3) or (4) it shall review that decision at appropriate intervals. The EFTA Surveillance Authority shall inform the Authority of forthcoming revisions, as well as of any developments that are relevant to the review.

The decision of the EFTA Surveillance Authority to amend or to revoke a decision shall be taken on the basis of drafts prepared by the Authority. In due time before any intended revision, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft.”;

(iii) as regards the EFTA States, in paragraph 5, the words “or the EFTA Surveillance Authority, as the case may be” shall be inserted after the words “the Authority”.

(r) In Article 40(1):

(i) in point (b), the following shall be inserted after the words “Member State”:

“and, without the right to vote, the head of the national public authority competent for the supervision of financial market participants in each EFTA State,”;

(ii) in point (e), the words “and of the EFTA Surveillance Authority” shall be inserted after the word “Authorities”.

(s) In Article 43:

(i) in paragraph 2, the words “, prepare drafts for the EFTA Surveillance Authority,” shall be inserted after the word “decisions”;

(ii) in paragraphs 4 and 6, the words “, the EFTA Surveillance Authority, the Standing Committee of the EFTA States,” shall be inserted after the words “the Council”.

(t) In Article 44:

(i) the following subparagraph shall be added in paragraph 1:

“The provisions of this paragraph shall apply, mutatis mutandis, in the case of drafts prepared for the EFTA Surveillance Authority under the respective provisions of this Regulation.”;

(ii) in paragraph 4, the words “as well as the representative of the EFTA Surveillance Authority” shall be inserted after the words “the Executive Director”;

(iii) the following subparagraph shall be added in paragraph 4:

“EFTA States’ members of the Board of Supervisors pursuant to Article 40(1)(b) shall be entitled to attend discussions within the Board of Supervisors relating to individual financial market participants.”.

(u) In Article 57(2), the following words shall be inserted after the words “Member State”:

“as well as one high-level representative of the relevant competent authority from each EFTA State and one representative of the EFTA Surveillance Authority.”

(v) The following subparagraph shall be added in Article 60(4):

“If the appeal concerns a decision of the Authority adopted under Article 19, in combination with Article 20, as the case may be, in a case where the disagreement also involves the competent authorities of one or more EFTA States, the Board of Appeal shall invite the EFTA competent authority involved to file observations on communications from the parties to the appeal proceedings, within specified time limits. The EFTA competent authority involved shall be entitled to make oral representations.”
(w) The following subparagraphs shall be added in Article 62(1)(a):

“The EFTA national public authorities shall contribute financially to the budget of the Authority in accordance with this point.

For the purpose of determining the obligatory contributions from the EFTA national public authorities competent for the supervision of financial market participants under this point, the weighting of each EFTA State shall be the following:

Iceland: 2

Liechtenstein: 1

Norway: 7”

(x) The following shall be added in Article 67:

“The EFTA States shall apply to the Authority and its staff the Protocol (No 7) on the privileges and immunities of the European Union annexed to the Treaty on European Union and to the TFEU.”

(y) The following paragraph shall be added in Article 68:

“5. By way of derogation from Articles 12(2)(a) and 82(3)(a) of the Conditions of Employment of Other Servants, nationals of the EFTA States enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Authority.

By way of derogation from Articles 12(2)(e), 82(3)(e) and 85(3) of the Conditions of Employment of Other Servants, the languages referred to in Article 129(1) of the EEA Agreement shall be considered by the Authority, in respect of its staff, as languages of the Union referred to in Article 55(1) of the Treaty on European Union.”

(z) The following paragraph shall be added in Article 72:


The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Directive, the EFTA States and their competent authorities, respectively.

(b) In point (b) of Article 5(3), the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “the European Supervisory Authority (European Banking Authority) (EBA)”.

(c) In Articles 12(3) and 27(3), as regards the EFTA States, the words “20 March 2014” shall read “the date of entry into force of Decision of the EEA Joint Committee No 125/2019 of 8 May 2019”.

(d) In Article 14(5), as regards the EFTA States, the words “20 March 2014” shall read “the date of entry into force of Decision of the EEA Joint Committee No 125/2019 of 8 May 2019” and the words “until 21 March 2019” shall read “for five years thereafter”.

(e) In Article 26(2), the following subparagraph is added:

“Liechtenstein is exempted from the statistical monitoring required by paragraph 2 of Article 26.”

(f) In the fifth subparagraph of paragraph 2, and in point (b) of paragraph 4 of Article 34, the words “EBA may act” shall be replaced by the words “EBA or, as the case may be, the EFTA Surveillance Authority may act”.

(g) In Article 37, the words “EBA may act in accordance with the powers conferred on it by that Article and any binding decision made by EBA” shall be replaced by the words “EBA or, as the case may be, the EFTA Surveillance Authority may act in accordance with the powers conferred on it by that Article and any binding decision made by EBA or, as the case may be, the EFTA Surveillance Authority”.

(h) In Article 43, as regards the EFTA States, the words “21 March 2016” and “20 March 2014” shall read “the date of entry into force of Decision of the EEA Joint Committee No 125/2019 of 8 May 2019” and the words “21 March 2017” shall read “one year after the date of entry into force of Decision of the EEA Joint Committee No 125/2019 of 8 May 2019”.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In point (b) of Article 3(2), as regards the EFTA States, the words “8 June 2015” shall read “the date of entry into force of Decision of the EEA Joint Committee No 21/2019 of 8 February 2019”.

(b) In Article 16(2), as regards the EFTA States, the words “until 9 December 2016” shall read “for one year after the date of entry into force of Decision of the EEA Joint Committee No 21/2019 of 8 February 2019”.


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:


[**] Point inserted by Decision No 261/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.l.f. 1.1.2020.


[**] Indent and words „, as amended by:“ added by Decision No 20/2020 (OJ L [to be published] and EEA Supplement No [to be published]), e.l.f. pending.
(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) In the second subparagraph of Article 46(4), the third subparagraph of Article 46(10) and in the first subparagraph of Article 46(11), the words “or as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(c) In Article 46(10), the words “Union law” shall be replaced by the words “provisions of the EEA Agreement”.

(d) In Article 47(1), as regards the EFTA States, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(e) In Article 48(3), the words “laid down by Union” shall be replaced by the words “of the EEA Agreement”.


31lb. [2] 32018 R 0064: Commission Delegated Regulation (EU) 2018/64 of 29 September 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to specifying how the criteria of Article 20(1)(c)(iii) are to be applied for assessing whether certain events would result in significant and adverse impacts on market integrity, financial stability, consumers, the real economy or the financing of households and businesses in one or more Member States (OJ L 12, 17.1.2018, p. 5).


---

[1] Point and four indents inserted by Decision No 238/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 18.12.2019.


The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.


31li. (174) 32018 R 1638: Commission Delegated Regulation (EU) 2018/1638 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further how to ensure that input data is appropriate and verifiable, and the internal oversight and verification procedures of a contributor that the administrator of a critical or significant benchmark has to ensure are in place where the input data is contributed from a front office function (OJ L 274, 5.11.2018, p. 6).


31ll. (177) 32018 R 1641: Commission Delegated Regulation (EU) 2018/1641 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the information to be provided by administrators of critical or significant benchmarks on the methodology used to determine the benchmark, the internal review and approval of the methodology and on the procedures for making material changes in the methodology (OJ L 274, 5.11.2018, p. 21).


---

172 Point inserted by Decision No 238/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 18.12.2019.
173 Point inserted by Decision No 238/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 18.12.2019.
174 Point inserted by Decision No 238/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 18.12.2019.
175 Point inserted by Decision No 238/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 18.12.2019.
176 Point inserted by Decision No 238/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 18.12.2019.
177 Point inserted by Decision No 238/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 18.12.2019.
178 Point inserted by Decision No 238/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 18.12.2019.
179 Point inserted by Decision No 238/2019 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. 18.12.2019.
technical standards specifying further the contents of, and cases where updates are required to, the benchmark statement to be published by the administrator of a benchmark (OJ L 274, 5.11.2018, p. 29).


The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) In Article 12(c), the words “Union law” shall be replaced by the words “provisions of the EEA Agreement”.

(c) In Article 43(2) and in the first sentence of Article 43(3), the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(d) In Article 44(1), the words “By 21 January 2019” shall read “Within six months of the date of entry into force of Decision of the EEA Joint Committee No 22/2020 of 7 February 2020.”


---


[228] Point inserted by Decision No 238/2019 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 18.12.2019.


[229] Point inserted by Decision No 21/2020 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 8.2.2020.

[229] Point inserted by Decision No 21/2020 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 8.2.2020.

[228] Point, indent and adaptation text inserted by Decision No 22/2020 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.

[228] Point inserted by Decision No 22/2020 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.
The Contracting Parties take note of the contents of the following acts:


---

(cit1) Point inserted by Decision No 22/2020 (OJ L [to be published]) and EEA Supplement No [to be published], e.i.f. pending.


---


(545) Point inserted by Decision No 120/2010 (OJ L 58, 3.3.2011, p. 77 and EEA Supplement No 12, 3.3.2011, p. 20), e.l.f. 1.11.2012.