

## DECISION OF THE EEA JOINT COMMITTEE

No 128/2014

of 27 June 2014

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

THE EEA JOINT COMMITTEE,

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

Whereas:

- (1) Directive 2013/58/EU of the European Parliament and of the Council of 11 December 2013 amending Directive 2009/138/EC (Solvency II) as regards the date for its transposition and the date of its application, and the date of repeal of certain Directives (Solvency I) <sup>(1)</sup> is to be incorporated into the EEA Agreement.
- (2) Directive 2013/58/EU postpones, until 1 January 2016, the date of repeal of Council Directives 64/225/EEC <sup>(2)</sup>, 73/239/EEC <sup>(3)</sup>, 73/240/EEC <sup>(4)</sup>, 78/473/EEC <sup>(5)</sup>, 84/641/EEC <sup>(6)</sup>, 87/344/EEC <sup>(7)</sup>, 88/357/EEC <sup>(8)</sup> and 92/49/EEC <sup>(9)</sup> and Directives 98/78/EC <sup>(10)</sup>, 2001/17/EC <sup>(11)</sup>, 2002/83/EC <sup>(12)</sup> and 2005/68/EC <sup>(13)</sup> of the European Parliament and of the Council, which were incorporated into the EEA Agreement, and which were repealed under the EEA Agreement by Decision of the EEA Joint Committee No 78/2011 of 1 July 2011 amending Annex IX (Financial services) to the EEA Agreement <sup>(14)</sup>.
- (3) Consequently, Directives 64/225/EEC, 73/239/EEC, 73/240/EEC, 78/473/EEC, 84/641/EEC, 87/344/EEC, 88/357/EEC, 92/49/EEC, 98/78/EC, 2001/17/EC, 2002/83/EC and 2005/68/EC are to be reincorporated into the EEA Agreement and their repeal under the EEA Agreement postponed until 1 January 2016.
- (4) Annex IX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Annex IX to the EEA Agreement shall be amended as follows:

1. The following indent is added in point 1 (Directive 2009/138/EC of the European Parliament and of the Council):  
 '— **32013 L 0058**: Directive 2013/58/EU of the European Parliament and of the Council of 11 December 2013 (OJ L 341, 18.12.2013, p. 1).'
2. The following text is inserted in point 1a (deleted):  
 '**364 L 0225**: Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession (OJ 56, 4.4.1964, p. 878/64).

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

Article 3 shall not apply.'

<sup>(1)</sup> OJ L 341, 18.12.2013, p. 1.  
<sup>(2)</sup> OJ 56, 4.4.1964, p. 878.  
<sup>(3)</sup> OJ L 228, 16.8.1973, p. 3.  
<sup>(4)</sup> OJ L 228, 16.8.1973, p. 20.  
<sup>(5)</sup> OJ L 151, 7.6.1978, p. 25.  
<sup>(6)</sup> OJ L 339, 27.12.1984, p. 21.  
<sup>(7)</sup> OJ L 185, 4.7.1987, p. 77.  
<sup>(8)</sup> OJ L 172, 4.7.1988, p. 1.  
<sup>(9)</sup> OJ L 228, 11.8.1992, p. 1.  
<sup>(10)</sup> OJ L 330, 5.12.1998, p. 1.  
<sup>(11)</sup> OJ L 110, 20.4.2001, p. 28.  
<sup>(12)</sup> OJ L 345, 19.12.2002, p. 1.  
<sup>(13)</sup> OJ L 323, 9.12.2005, p. 1.  
<sup>(14)</sup> OJ L 262, 6.10.2011, p. 45.

3. The following text is inserted in point 2 (deleted):

**‘373 L 0239:** First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3), as amended by:

- **376 L 0580:** Council Directive 76/580/EEC of 29 June 1976 (OJ L 189, 13.7.1976, p. 13),
- **384 L 0641:** Council Directive 84/641/EEC of 10 December 1984 amending, particularly as regards tourist assistance, the first Directive (73/239/EEC) on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance (OJ L 339, 27.12.1984, p. 21),
- **387 L 0343:** Council Directive 87/343/EEC of 22 June 1987 amending, as regards credit assurance and suretyship assurance, the first Directive (73/239/EEC) (OJ L 185, 4.7.1987, p. 72),
- **387 L 0344:** Council Directive 87/344/EEC of 22 June 1987 on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance (OJ L 185, 4.7.1987, p. 77),
- **388 L 0357:** Second Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC (OJ L 172, 4.7.1988, p. 1),
- **390 L 0618:** Council Directive 90/618/EEC of 8 November 1990 amending, particularly as regards motor vehicle liability insurance, Directive 73/239/EEC and Directive 88/357/EEC which concern the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 330, 29.11.1990, p. 44),
- **392 L 0049:** Council Directive 92/49/EEC of 18 June 1992 (OJ L 228, 11.8.1992, p. 1),
- **395 L 0026:** European Parliament and Council Directive 95/26/EC of 29 June 1995 (OJ L 168, 18.7.1995, p. 7), as amended by:
  - **32002 L 0083:** Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 (OJ L 345, 19.12.2002, p. 1), as amended by:
    - **32004 L 0066:** Council Directive 2004/66/EC of 26 April 2004 (OJ L 168, 1.5.2004, p. 35).
- **32000 L 0026:** Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 (OJ L 181, 20.7.2000, p. 65),
- **32002 L 0013:** Directive 2002/13/EC of the European Parliament and of the Council of 5 March 2002 (OJ L 77, 20.3.2002, p. 17),
- **1 03 T:** Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded adopted on 16 April 2003 (OJ L 236, 23.9.2003, p. 33),
- **32002 L 0087:** Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 (OJ L 35, 11.2.2003, p. 1),
- **1 94 N:** Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments of the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21 as amended by OJ L 1, 1.1.1995, p. 1),

- **32005 L 0001**: Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 (OJ L 79, 24.3.2005, p. 9),
- **32005 L 0068**: Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 (OJ L 323, 9.12.2005, p. 1),
- **32006 L 0101**: Council Directive 2006/101/EC of 20 November 2006 (OJ L 363, 20.12.2006, p. 238).

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

- (a) The following shall be added to Article 4:

“(f) in Iceland

— Viðlagatrygging Íslands.”

- (b) the following shall be added to Article 8:

“— in the case of Iceland:

Hlutfélag.

— in the case of Liechtenstein:

Aktiengesellschaft, Genossenschaft.

— in the case of Norway:

Aksjeselskaper, Gjensidige selskaper.”

- (ba) In Article 17a, the words “European index of consumer prices comprising all Member States” shall be replaced with the words “EEA index of consumer prices comprising all Contracting Parties”.

- (c) Article 29 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 23 to 28 of the Directive on the condition that its 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 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 office within the territory of the Contracting Parties;

- (d) Articles 30, 31, 32 and 34 shall not apply; the following provision shall be applicable:

The non-life insurance undertakings to be identified separately by Iceland and Norway shall be exempt from Articles 16 and 17. The competent supervisory authority shall require such undertakings to meet the requirements of these Articles by 1 January 1995. Prior to that date the EEA Joint Committee shall examine the financial situation of the undertakings still not meeting the requirements and make appropriate recommendations. As long as an insurance undertaking fails to meet the requirements of Articles 16 and 17 it shall not establish a branch or provide services in the territory of another Contracting Party. Undertakings desiring to extend their operations within the meaning of Article 8(2) or Article 10 may not do so unless they comply immediately with the rules of the Directive;

- (e) as regards relations with third country insurance undertakings described in Article 29b (see Article 4 of Council Directive 90/618/EEC) the following shall apply:

1. With a view to achieving a maximum degree of convergence in the application of a third country regime for insurance undertakings, the Contracting Parties shall exchange information as described in Articles 29b(1) and 29b(5) and consultations shall be held regarding matters referred to in Articles 29b(2), 29b(3) and 29b(4), within the framework of the EEA Joint Committee and according to specific procedures to be agreed by the Contracting Parties.

2. Authorizations granted by the competent authorities of a Contracting Party to insurance undertakings being direct or indirect subsidiaries of parent undertakings governed by the laws of a third country shall have validity in accordance with the provisions of the Directive throughout the territory of all Contracting Parties. However,
  - (a) when a third country imposes quantitative restrictions on the establishment of insurance undertakings of an EFTA State or imposes restrictions on such insurance undertakings that it does not impose on Community insurance undertakings, authorizations granted by competent authorities within the Community to insurance undertakings being direct or indirect subsidiaries of parent undertakings governed by the laws of that third country shall have validity only in the Community, except where an EFTA State decides otherwise for its own jurisdiction;
  - (b) where the Community has decided that decisions regarding authorizations of insurance undertakings being direct or indirect subsidiaries of parent undertakings governed by the laws of a third country shall be limited or suspended, any authorization granted by a competent authority of an EFTA State to such insurance undertakings shall have validity only in its jurisdiction, except where another Contracting Party decides otherwise for its own jurisdiction;
  - (c) the limitations or suspensions referred to in subparagraphs (a) and (b) may not apply to insurance undertakings or their subsidiaries already authorized in the territory of a Contracting Party.
3. Whenever the Community negotiates with a third country on the basis of Articles 29b(3) and 29b(4) in order to obtain national treatment and effective market access for its insurance undertakings, it shall endeavour to obtain equal treatment for the insurance undertakings of the EFTA States.
4. The following text is inserted in point 3 (deleted):

**‘373 L 0240:** Council Directive 73/240/EEC of 24 July 1973 abolishing restrictions on freedom of establishment in business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 20).

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

Articles 1, 2 and 5 shall not apply.’
5. The following text is inserted in point 4 (deleted):

**‘378 L 0473:** Council Directive 78/473/EEC of 30 May 1978 on the coordination of laws, regulations and administrative provisions relating to Community co-insurance (OJ L 151, 7.6.1978, p. 25).

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

Article 9 shall not apply.’
6. The following text is inserted in point 5 (deleted):

**‘384 L 0641:** Council Directive 84/641/EEC of 10 December 1984 amending, particularly as regards tourist assistance, the First Directive (73/239/EEC) on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 339, 27.12.1984, p. 21).’
7. The following text is inserted in point 6 (deleted):

**‘387 L 0344:** Council Directive 87/344/EEC of 22 June 1987 on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance (OJ L 185, 4.7.1987, p. 77).’
8. The following text is inserted in point 7 (deleted):

**‘388 L 0357:** Second Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC (OJ L 172, 4.7.1988, p. 1), as amended by:

— **390 L 0618:** Council Directive 90/618/EEC of 8 November 1990 amending, particularly as regards motor vehicle liability insurance, Directive 73/239/EEC and Directive 88/357/EEC which concern the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 330, 29.11.1990, p. 44),

- **392 L 0049**: Council Directive 92/49/EEC of 18 June 1992 (OJ L 228, 11.8.1992, p. 1),
- **32000 L 0026**: Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 (OJ L 181, 20.7.2000, p. 65),
- **32005 L 0014**: Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 (OJ L 149, 11.6.2005, p. 14).'

9. The following text is inserted in point 7a (deleted):

'**392 L 0049**: Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive) (OJ L 228, 11.8.1992, p. 1), as amended by:

- **395 L 0026**: European Parliament and Council Directive 95/26/EC of 29 June 1995 (OJ L 168, 18.7.1995, p. 7), as amended by:
  - **32002 L 0083**: Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 (OJ L 345, 19.12.2002, p. 1), as amended by:
    - **32004 L 0066**: Council Directive 2004/66/EC of 26 April 2004 (OJ L 168, 1.5.2004, p. 35).
- **32000 L 0064**: Directive 2000/64/EC of the European Parliament and of the Council of 7 November 2000 (OJ L 290, 17.11.2000, p. 27),
- **32002 L 0083**: Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 (OJ L 345, 19.12.2002, p. 1), as amended by:
  - **32004 L 0066**: Council Directive 2004/66/EC of 26 April 2004 (OJ L 168, 1.5.2004, p. 35).
- **32002 L 0087**: Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 (OJ L 35, 11.2.2003, p. 1),
- **32005 L 0001**: Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 (OJ L 79, 24.3.2005, p. 9),
- **32005 L 0068**: Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 (OJ L 323, 9.12.2005, p. 1),
- **32007 L 0044**: Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 (OJ L 247, 21.9.2007, p. 1).

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

- (a) Articles 15, 15a, 15b and 15c 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.
- (b) in Article 48, the words "notification of this Directive" shall read "decision by the EEA Joint Committee to include this Directive in the EEA Agreement",
- (c) Liechtenstein may postpone until 1 January 1996 the application of this Directive to compulsory insurance against accident. The situation shall be reviewed by the EEA Joint Committee during 1995.'

10. The following text is inserted in point 7b (deleted):

'**32005 L 0068**: Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC (OJ L 323, 9.12.2005, p. 1), as amended by:

- **32007 L 0044**: Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 (OJ L 247, 21.9.2007, p. 1).

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

- (a) Articles 19, 19a and 20 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.
- (b) The following shall be added in Annex I:
- in the case of the Principality of Liechtenstein: “Aktiengesellschaft”, “Europäische Aktiengesellschaft (Societas Europaea)” “Genossenschaft”;
  - in the case of the Kingdom of Norway: “aksjeselskaper”, “allmennaksjeselskaper”, “gjensidige selskaper”;
  - in the case of the Republic of Iceland: “hlutafélög”, “gagnkvæm félög”.

11. The following is inserted after point 10 (deleted):

*‘(iii) Life assurance’*

12. The following text is inserted in point 11 (deleted):

**‘32002 L 0083:** Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ L 345, 19.12.2002, p. 1), as amended by:

- **32002 L 0087:** Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 (OJ L 35, 11.2.2003, p. 1),
- **32004 L 0066:** Council Directive 2004/66/EC of 26 April 2004 (OJ L 168, 1.5.2004, p. 35),
- **32005 L 0001:** Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 (OJ L 79, 24.3.2005, p. 9),
- **32005 L 0068:** Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 (OJ L 323, 9.12.2005, p. 1),
- **32006 L 0101:** Council Directive 2006/101/EC of 20 November 2006 (OJ L 363, 20.12.2006, p. 238),
- **32007 L 0044:** Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 (OJ L 247, 21.9.2007, p. 1).

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

(a) the following shall be added to Article 6.1(a):

— in the case of Iceland:

Hlutafélag, Gagnkvæmt félag.

— in the case of Liechtenstein:

Aktiengesellschaft, Genossenschaft, Stiftung.

— in the case of Norway:

Aksjeselskaper, Gjensidige selskaper.”

(b) Articles 15, 15a, 15b and 15c 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) Article 57 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 51, 52 and 54 to 56 of the Directive on the condition that its 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 provisions to branches of insurance undertakings having their head office outside the territory of the Contracting Parties which result in more favourable treatment than that accorded to branches of insurance undertakings having their head office within the territory of the Contracting Parties;

(d) As regards relations with third-country insurance undertakings described in Article 59 the following shall apply:

1. With a view to achieving a maximum degree of convergence in the application of a third-country regime for insurance undertakings, the Contracting Parties shall exchange information as described in Articles 59(1) and 59(5). Consultations shall be held regarding matters referred to in Articles 59(2), 59(3) and 59(4), within the framework of the EEA Joint Committee and according to specific procedures to be agreed by the Contracting Parties.
2. Authorizations granted by the competent authorities of a Contracting Party to insurance undertakings which are direct or indirect subsidiaries of parent undertakings governed by the laws of a third country shall have validity in accordance with the provisions of the Directive throughout the territory of all Contracting Parties.

However,

- (a) where a third country imposes quantitative restrictions on the establishment of insurance undertakings of an EFTA State, or imposes restrictions on such insurance undertakings that it does not impose on Community insurance undertakings, authorizations granted by competent authorities within the Community to insurance undertakings which are direct or indirect subsidiaries of parent undertakings governed by the laws of that third country shall have validity only in the Community, except where an EFTA State decides otherwise for its own jurisdiction;
  - (b) where the Community has decided that decisions regarding authorizations of insurance undertakings which are direct or indirect subsidiaries of parent undertakings governed by the laws of a third country, shall be limited or suspended, any authorization granted by a competent authority of an EFTA State to such insurance undertakings shall have validity only in its jurisdiction, except where another Contracting Party decides otherwise for its own jurisdiction,
  - (c) the limitations or suspensions referred to in subparagraphs (a) and (b) may not apply to insurance undertakings or their subsidiaries already authorized in the territory of a Contracting Party.
3. Whenever the Community negotiates with a third country on the basis of Article 59(3) and 59(4), in order to obtain national treatment and effective market access for its insurance undertakings, it shall endeavor to obtain equal treatment for the insurance undertakings of the EFTA States;
- (e) In Article 30(1), the words “European index of consumer prices comprising all Member States” shall be replaced with the words “EEA index of consumer prices comprising all Contracting Parties”.

13. The following text is inserted in point 12c (deleted):

‘**398 L 0078**: Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance undertakings in an insurance group (OJ L 330, 5.12.1998, p. 1), as amended by:

— **32002 L 0087**: Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 (OJ L 35, 11.2.2003, p. 1),

— **32005 L 0001**: Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 (OJ L 79, 24.3.2005, p. 9),

— **32005 L 0068**: Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 (OJ L 323, 9.12.2005, p. 1).’

14. The following text is inserted in point 13a (deleted):

‘**32001 L 0017**: Directive 2001/17/EC of the European Parliament and of the Council of 19 March 2001 on the reorganisation and winding-up of insurance undertakings (OJ L 110, 20.4.2001, p. 28).’

15. The text of points 1a (Council Directive 64/225/EEC), 2 (First Council Directive 73/239/EEC), 3 (Council Directive 73/240/EEC), 4 (Council Directive 78/473/EEC), 5 (Council Directive 84/641/EEC), 6 (Council Directive 87/344/EEC), 7 (Second Council Directive 88/357/EEC), 7a (Council Directive 92/49/EEC), 7b (Directive 2005/68/EC of the European Parliament and of the Council), 12c (Directive 98/78/EC of the European Parliament and of the Council) and 13a (Directive 2001/17/EC of the European Parliament and of the Council) and the text of, and heading related to, point 11 (Directive 2002/83/EC of the European Parliament and of the Council) shall be deleted with effect from 1 January 2016.

*Article 2*

The texts of Directive 2013/58/EU in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

*Article 3*

This Decision shall enter into force on 28 June 2014, provided that all the notifications under Article 103(1) of the EEA Agreement have been made (\*).

*Article 4*

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

Done at Brussels, 27 June 2014.

*For the EEA Joint Committee*

*The President*

Gianluca GRIPPA

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(\*) No constitutional requirements indicated.