

DECISION OF THE EEA JOINT COMMITTEE

No 21/2018

of 9 February 2018

amending Annex IX (Financial services), Annex XII (Free movement of capital) and Annex XXII (Company law) to the EEA Agreement [2019/2057]

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 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council ⁽¹⁾ is to be incorporated into the EEA Agreement.
- (2) Directive 2014/59/EU refers to 'Union parent institutions', 'Union parent financial holding companies' and 'Union parent mixed financial holding companies', which in the context of the EEA Agreement are understood as referring to entities complying with the relevant definitions set out in that Directive that are established in an EEA Contracting Party and which are not subsidiaries of any other institution set up in any other EEA Contracting Party.
- (3) Annexes IX, XII and XXII 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 is added in points 14 (Directive 2013/36/EU of the European Parliament and of the Council) and 16c (Directive 2001/24/EC of the European Parliament and of the Council):

‘, as amended by:

— **32014 L 0059**: Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 (OJ L 173, 12.6.2014, p. 190).’

⁽¹⁾ OJ L 173, 12.6.2014, p. 190.

2. The following is inserted after point 19a (Directive 94/19/EC of the European Parliament and of the Council):

‘19b. **32014 L 0059**: Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

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”.

3. The following indent is added in points 31bc (Regulation (EU) No 648/2012 of the European Parliament and of the Council) and 31g (Regulation (EU) No 1093/2010 of the European Parliament and of the Council):

‘— **32014 L 0059**: Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 (OJ L 173, 12.6.2014, p. 190).’

Article 2

The following indent is added in point 4 (Directive 2002/47/EC of the European Parliament and of the Council) of Annex XII to the EEA Agreement:

‘— **32014 L 0059**: Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 (OJ L 173, 12.6.2014, p. 190).’

Article 3

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

1. The following indent is added in points 2 (Directive 2012/30/EU of the European Parliament and of the Council), 3 (Directive 2011/35/EU of the European Parliament and of the Council), 5 (Council Directive 82/891/EEC) and 10e (Directive 2005/56/EC of the European Parliament and of the Council):

‘— **32014 L 0059**: Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 (OJ L 173, 12.6.2014, p. 190).’

2. The following is added in points 10d (Directive 2004/25/EC of the European Parliament and of the Council) and 10g (Directive 2007/36/EC of the European Parliament and of the Council):

‘, as amended by:

- **32014 L 0059**: Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 (OJ L 173, 12.6.2014, p. 190).’

Article 4

The text of Directive 2014/59/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 5

This Decision shall enter into force on 10 February 2018, provided that all the notifications under Article 103(1) of the EEA Agreement have been made (*), or on the day of the entry into force of the Decision of the EEA Joint Committee incorporating Regulation (EU) No 575/2013 and Directive 2013/36/EU into the EEA Agreement, whichever is the later.

Article 6

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, 9 February 2018.

For the EEA Joint Committee

The President

Claude MAERTEN

(*) [Constitutional requirements indicated.]