

DECISION OF THE EEA JOINT COMMITTEE
No 238/2019

of 27 September 2019

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) 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 States¹ is to be incorporated into the EEA Agreement.
- (2) Commission Delegated Regulation (EU) 2018/65 of 29 September 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council specifying technical elements of the definitions laid down in paragraph 1 of Article 3 of the Regulation² is to be incorporated into the EEA Agreement.
- (3) Commission Delegated Regulation (EU) 2018/66 of 29 September 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council specifying how the nominal amount of financial instruments other than derivatives, the notional amount of derivatives and the net asset value of investment funds are to be assessed³ is to be incorporated into the EEA Agreement.
- (4) Commission Delegated Regulation (EU) 2018/67 of 3 October 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to the establishment of the conditions to assess the impact resulting from the cessation of or change to existing benchmarks⁴ is to be incorporated into the EEA Agreement.
- (5) Commission Delegated Regulation (EU) 2018/1637 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the procedures and characteristics of the oversight function⁵ is to be incorporated into the EEA Agreement.
- (6) Commission Delegated Regulation (EU) 2018/1638 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with

¹ OJ L 12, 17.1.2018, p. 5.

² OJ L 12, 17.1.2018, p. 9.

³ OJ L 12, 17.1.2018, p. 11.

⁴ OJ L 12, 17.1.2018, p. 14.

⁵ OJ L 274, 5.11.2018, p. 1.

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 function⁶ is to be incorporated into the EEA Agreement.

- (7) Commission Delegated Regulation (EU) 2018/1639 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 elements of the code of conduct to be developed by administrators of benchmarks that are based on input data from contributors⁷ is to be incorporated into the EEA Agreement.
- (8) Commission Delegated Regulation (EU) 2018/1640 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 governance and control requirements for supervised contributors⁸ is to be incorporated into the EEA Agreement.
- (9) 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 methodology⁹ is to be incorporated into the EEA Agreement.
- (10) Commission Delegated Regulation (EU) 2018/1642 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 criteria to be taken into account by competent authorities when assessing whether administrators of significant benchmarks should apply certain requirements¹⁰ is to be incorporated into the EEA Agreement.
- (11) Commission Delegated Regulation (EU) 2018/1643 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 contents of, and cases where updates are required to, the benchmark statement to be published by the administrator of a benchmark¹¹ is to be incorporated into the EEA Agreement.
- (12) Commission Delegated Regulation (EU) 2018/1644 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards determining the minimum content of cooperation arrangements with competent authorities of third countries whose legal framework and supervisory practices have been recognised as equivalent¹² is to be incorporated into the EEA Agreement.

⁶ OJ L 274, 5.11.2018, p. 6.

⁷ OJ L 274, 5.11.2018, p. 11.

⁸ OJ L 274, 5.11.2018, p. 16.

⁹ OJ L 274, 5.11.2018, p. 21.

¹⁰ OJ L 274, 5.11.2018, p. 25.

¹¹ OJ L 274, 5.11.2018, p. 29.

¹² OJ L 274, 5.11.2018, p. 33.

- (13) Commission Delegated Regulation (EU) 2018/1645 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the form and content of the application for recognition with the competent authority of the Member State of reference and of the presentation of information in the notification to European Securities and Markets Authority (ESMA)¹³ is to be incorporated into the EEA Agreement.
- (14) Commission Delegated Regulation (EU) 2018/1646 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the information to be provided in an application for authorisation and in an application for registration¹⁴ is to be incorporated into the EEA Agreement.
- (15) Commission Implementing Regulation (EU) 2016/1368 of 11 August 2016 establishing a list of critical benchmarks used in financial markets pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council¹⁵ is to be incorporated into the EEA Agreement.
- (16) Commission Implementing Regulation (EU) 2017/1147 of 28 June 2017 amending Implementing Regulation (EU) 2016/1368 establishing a list of critical benchmarks used in financial markets pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council¹⁶ is to be incorporated into the EEA Agreement.
- (17) Commission Implementing Regulation (EU) 2017/2446 of 19 December 2017 amending Implementing Regulation (EU) 2016/1368 establishing a list of critical benchmarks used in financial markets pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council¹⁷ is to be incorporated into the EEA Agreement.
- (18) Commission Implementing Regulation (EU) 2018/1105 of 8 August 2018 laying down implementing technical standards with regard to procedures and forms for the provision of information by competent authorities to ESMA under Regulation (EU) 2016/1011 of the European Parliament and of the Council¹⁸ is to be incorporated into the EEA Agreement.
- (19) Commission Implementing Regulation (EU) 2018/1106 of 8 August 2018 laying down implementing technical standards with regard to templates for the compliance statement to be published and maintained by administrators of significant and non-significant benchmarks pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council¹⁹ is to be incorporated into the EEA Agreement.
- (20) Commission Implementing Regulation (EU) 2018/1557 of 17 October 2018 amending Implementing Regulation (EU) 2016/1368 establishing a list of critical benchmarks used in financial markets pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council²⁰ is to be incorporated into the EEA Agreement.

¹³ OJ L 274, 5.11.2018, p. 36.

¹⁴ OJ L 274, 5.11.2018, p. 43.

¹⁵ OJ L 217, 12.8.2016, p. 1.

¹⁶ OJ L 166, 29.6.2017, p. 32.

¹⁷ OJ L 346, 28.12.2017, p. 1.

¹⁸ OJ L 202, 9.8.2018, p. 1.

¹⁹ OJ L 202, 9.8.2018, p. 9.

²⁰ OJ L 261, 18.10.2018, p. 10.

(21) Commission Implementing Regulation (EU) 2019/482 of 22 March 2019 amending Commission Implementing Regulation (EU) 2016/1368 establishing a list of critical benchmarks used in financial markets pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council²¹ is to be incorporated into the EEA Agreement.

(22) 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:

The following is inserted after point 311 (Regulation (EU) 2016/1011 of the European Parliament and of the Council):

‘311a. **32016 R 1368**: Commission Implementing Regulation (EU) 2016/1368 of 11 August 2016 establishing a list of critical benchmarks used in financial markets pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council (OJ L 217, 12.8.2016, p. 1), as amended by:

- **32017 R 1147**: Commission Implementing Regulation (EU) 2017/1147 of 28 June 2017 (OJ L 166, 29.6.2017, p. 32),
- **32017 R 2446**: Commission Implementing Regulation (EU) 2017/2446 of 19 December 2017 (OJ L 346, 28.12.2017, p. 1),
- **32018 R 1557**: Commission Implementing Regulation (EU) 2018/1557 of 17 October 2018 (OJ L 261, 18.10.2018, p. 10),
- **32019 R 0482**: Commission Implementing Regulation (EU) 2019/482 of 22 March 2019 (OJ L 82, 25.03.2019, p.4).

311b. **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).

311c. **32018 R 0065**: Commission Delegated Regulation (EU) 2018/65 of 29 September 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council specifying technical elements of the definitions laid down in paragraph 1 of Article 3 of the Regulation (OJ L 12, 17.1.2018, p. 9).

311d. **32018 R 0066**: Commission Delegated Regulation (EU) 2018/66 of 29 September 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council specifying how the nominal amount of financial instruments other than derivatives, the notional amount of derivatives and the net asset value of investment funds are to be assessed (OJ L 12, 17.1.2018, p. 11).

311e. **32018 R 0067**: Commission Delegated Regulation (EU) 2018/67 of 3 October 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the

²¹ OJ L 82, 25.3.2019, p. 26

Council with regard to the establishment of the conditions to assess the impact resulting from the cessation of or change to existing benchmarks (OJ L 12, 17.1.2018, p. 14).

- 31lf. **32018 R 1105**: Commission Implementing Regulation (EU) 2018/1105 of 8 August 2018 laying down implementing technical standards with regard to procedures and forms for the provision of information by competent authorities to ESMA under Regulation (EU) 2016/1011 of the European Parliament and of the Council (OJ L 202, 9.8.2018, p. 1).

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.

- 31lg. **32018 R 1106**: Commission Implementing Regulation (EU) 2018/1106 of 8 August 2018 laying down implementing technical standards with regard to templates for the compliance statement to be published and maintained by administrators of significant and non-significant benchmarks pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council (OJ L 202, 9.8.2018, p. 9).
- 31lh. **32018 R 1637**: Commission Delegated Regulation (EU) 2018/1637 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the procedures and characteristics of the oversight function (OJ L 274, 5.11.2018, p. 1).
- 31li. **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).
- 31lj. **32018 R 1639**: Commission Delegated Regulation (EU) 2018/1639 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 elements of the code of conduct to be developed by administrators of benchmarks that are based on input data from contributors (OJ L 274, 5.11.2018, p. 11).
- 31lk. **32018 R 1640**: Commission Delegated Regulation (EU) 2018/1640 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 governance and control requirements for supervised contributors (OJ L 274, 5.11.2018, p. 16).
- 31ll. **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).

- 31lm. **32018 R 1642:** Commission Delegated Regulation (EU) 2018/1642 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 criteria to be taken into account by competent authorities when assessing whether administrators of significant benchmarks should apply certain requirements (OJ L 274, 5.11.2018, p. 25).
- 31ln. **32018 R 1643:** Commission Delegated Regulation (EU) 2018/1643 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 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).
- 31lo. **32018 R 1644:** Commission Delegated Regulation (EU) 2018/1644 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards determining the minimum content of cooperation arrangements with competent authorities of third countries whose legal framework and supervisory practices have been recognised as equivalent (OJ L 274, 5.11.2018, p. 33).
- 31lp. **32018 R 1645:** Commission Delegated Regulation (EU) 2018/1645 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the form and content of the application for recognition with the competent authority of the Member State of reference and of the presentation of information in the notification to European Securities and Markets Authority (ESMA) (OJ L 274, 5.11.2018, p. 36).
- 31lq. **32018 R 1646:** Commission Delegated Regulation (EU) 2018/1646 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the information to be provided in an application for authorisation and in an application for registration (OJ L 274, 5.11.2018, p. 43).’

Article 2

The texts of Delegated Regulations (EU) 2018/64, (EU) 2018/65, (EU) 2018/66, (EU) 2018/67, (EU) 2018/1637, (EU) 2018/1638, (EU) 2018/1639, (EU) 2018/1640, (EU) 2018/1641, (EU) 2018/1642, (EU) 2018/1643, (EU) 2018/1644, (EU) 2018/1645 and (EU) 2018/1646 and Implementing Regulations (EU) 2016/1368, (EU) 2017/1147, (EU) 2017/2446, (EU) 2018/1105, (EU) 2018/1106, (EU) 2018/1557 and (EU) 2019/482 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 September 2019, provided that all the notifications under Article 103(1) of the EEA Agreement have been made*, or on the day of the entry into force of Decision of the EEA Joint Committee No 190/2019 of 10 July 2019²², whichever is the later.

* [No constitutional requirements indicated.]

²² OJ L 235, 12.9.2019, p. 9

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 September 2019.

*For the EEA Joint Committee
The President*

Gunnar Pálsson

*The Secretaries
To the EEA Joint Committee*

Hege M. Hoff Mikołaj Karłowski

Not yet published