

**AGREEMENT AMENDING THE AGREEMENT BETWEEN THE EFTA STATES
ON THE ESTABLISHMENT OF A SURVEILLANCE AUTHORITY AND A COURT
OF JUSTICE BY ADDING A NEW ARTICLE 25a AND A NEW PROTOCOL 8 TO
THE AGREEMENT**

THE REPUBLIC OF ICELAND
THE PRINCIPALITY OF LIECHTENSTEIN
THE KINGDOM OF NORWAY

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, hereinafter referred to as the ‘Surveillance and Court Agreement’, and in particular Article 49 thereof,

Having consulted the EFTA Surveillance Authority,

Having regard to Decisions Nos 198/2016 – 206/2016 of the EEA Joint Committee of 30 September 2016 amending Annex IX (Financial Services) to the EEA Agreement,

Having regard to the tasks conferred to the EFTA Surveillance Authority in the field of financial services as set out in Annex IX (Financial Services) to the EEA Agreement, in particular as regards decisions addressed to market operators in the EEA EFTA States and the procedural requirements inherent therein,

Whereas, therefore, procedures should be laid down to be followed by the EFTA Surveillance Authority when exercising the tasks conferred to it by acts incorporated into Annex IX (Financial Services) to the EEA Agreement,

Whereas, therefore, the Surveillance and Court Agreement should be amended,

Whereas, therefore, a new Article 25a, and a new Protocol 8 on the functions and powers of the EFTA Surveillance Authority in the field of financial supervision, should be added to the Agreement,

HAVE AGREED AS FOLLOWS:

Article 1

The following new Article shall be inserted after Article 25 of the Surveillance and Court Agreement:

'Article 25a

The EFTA Surveillance Authority shall, in accordance with the acts referred to in Annex IX of the EEA Agreement providing within the European Union for powers of a European Supervisory Authority which, as regards the EFTA States and according to the adaptations contained in that Annex are to be exercised by the EFTA Surveillance Authority, as well as subject to the provisions contained in Protocol 8 to the present Agreement, give effect to the relevant provisions of the EEA Agreement and ensure that those provisions are applied.'

Article 2

The words "Protocols 1 to 4 and 6 and 7" in Article 49 of the Surveillance and Court Agreement shall be replaced by the words "Protocols 1 to 4 and 6 to 8".

Article 3

The new Protocol 8 to the Surveillance and Court Agreement on the functions and powers of the EFTA Surveillance Authority in the field of financial supervision shall be added after Protocol 7 to the Surveillance and Court Agreement. The text of the new Protocol 8 to be added is annexed to this Agreement.

Article 4

1. This Agreement, drawn up in a single copy and authentic in the English language, shall be approved by the EFTA States in accordance with their respective constitutional requirements.

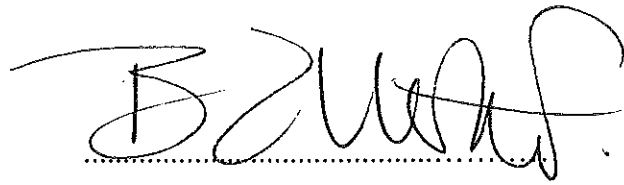
Before the end of a period of six months from its entry into force, this Agreement shall be drawn up and authenticated in German, Icelandic and Norwegian.

2. This Agreement shall be deposited with the Government of Norway, which shall notify the other EFTA States.

3. This Agreement shall enter into force on the day all instruments of acceptance have been deposited by the EFTA States.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised thereto, have signed this Agreement.

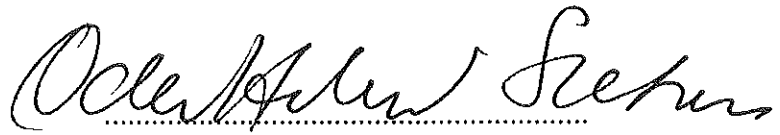
Done at Brussels, 6 October 2016.



FOR THE REPUBLIC OF ICELAND



FOR THE PRINCIPALITY OF
LIECHTENSTEIN



FOR THE KINGDOM OF NORWAY

Annex

to

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PROTOCOL 8

***ON THE FUNCTIONS AND POWERS OF THE EFTA SURVEILLANCE
AUTHORITY IN THE FIELD OF FINANCIAL SUPERVISION***

Article 1 (scope)

This Protocol sets out the functions and powers of the EFTA Surveillance Authority within the field of financial services where the EFTA Surveillance Authority in accordance with Article 25a in this Agreement acts pursuant to the specific supervisory powers conferred to it by acts in Annex IX of the EEA Agreement.

This Protocol is without prejudice to the powers of the EFTA Surveillance Authority, in particular under Article 31 of this Agreement, to ensure compliance with the EEA Agreement and this Agreement.

Article 2 (cooperation and participation)

When carrying out its tasks referred to in Article 1, the EFTA Surveillance Authority shall consult and cooperate with the relevant European Supervisory Authority and the other relevant EU institutions.

When the EFTA Surveillance Authority is carrying out its tasks referred to in Article 1, the relevant European Supervisory 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.

The EFTA Surveillance Authority shall provide authorisation to the representatives of the relevant European Supervisory Authority who shall take part in on-site inspections in accordance with the relevant acts incorporated in Annex IX to the EEA Agreement.

The EFTA Surveillance Authority may enter into administrative arrangements with the European Banking Authority (EBA), the European Insurance and Occupational

Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA) providing details for such cooperation and participation.

Article 3 (decisions)

The EFTA Surveillance Authority's decisions within the scope of this Protocol shall be adopted by its College on the basis of drafts prepared by the relevant European Supervisory Authority. When taking such decisions, the EFTA Surveillance Authority shall act without undue delay upon receipt of such drafts. The EFTA Surveillance Authority may request the relevant European Supervisory Authority to prepare a draft.

The EFTA Surveillance Authority shall act in full independence. A representative from the relevant European Supervisory Authority shall have the right to be present, without the right to vote, at the College meetings where decisions within the scope of this Protocol are taken.

The EFTA Surveillance Authority may adopt specific rules of procedure for decisions within the scope of this Protocol, including provisions providing for representation from the relevant European Supervisory Authority.

Article 4 (transparency)

Before taking a decision within the scope of this Protocol, the EFTA Surveillance Authority shall invite the competent authorities of the EFTA States to provide technical expertise within a time limit set by the EFTA Surveillance Authority.

The EFTA Surveillance Authority shall, when setting the time limit, take full account of the urgency, complexity and potential consequences of the matter.

If such technical expertise is provided by one or more of the authorities concerned, the EFTA Surveillance Authority shall, in order to ensure transparency, keep the other authorities duly informed.

Article 5 (right to be heard)

Before taking decisions within the scope of this Protocol, the EFTA Surveillance Authority shall, subject to the provisions of the relevant acts referred to in Article 1, inform any named addressee of its intention to adopt the decision, and set a time limit within which the addressee may express its views on the matter, taking full account of the urgency, complexity and potential consequences of the matter and to what extent the right to be heard has been exercised at an earlier stage.

Article 6 (judicial review)

Proceedings may be brought before the EFTA Court by the EFTA States or any natural or legal person, in accordance with Article 36 of the Surveillance and Court Agreement, contesting a decision taken by the EFTA Surveillance Authority.

In the event that the EFTA Surveillance Authority has an obligation to act and fails to take a decision, proceedings for failure to act may be brought before the EFTA Court in accordance with Article 37 of the Surveillance and Court Agreement.

Where the Acts referred to in Article 1 in this Protocol foresee that fines and/or periodic penalty payments may be imposed by a decision adopted by the EFTA Surveillance Authority, the EFTA Court shall, in accordance with Article 35 of the Surveillance and Court Agreement, have unlimited jurisdiction to review such decisions. The EFTA Court may annul, reduce or increase the fine or periodic penalty payment imposed.