

# EUROPEAN ECONOMIC AREA

## STANDING COMMITTEE OF THE EFTA STATES

Ref 1092577

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### **Subcommittee II on the free movement of Capital and Services EEA EFTA Comment to the Communication from the Commission of 27 May 2009 on European Financial supervision**

Reference is made to the Communication from the Commission of 27 May 2009 on European Financial Supervision, COM (2009) 252 final.

#### **1. General Comment**

1. All financial services legislation adopted by the EU applies accordingly to the EEA EFTA States (Iceland, Liechtenstein and Norway) when deemed EEA relevant and incorporated into the EEA Agreement. Rights and obligations ensuing from the single market *acquis communautaire* thus apply to Iceland, Liechtenstein and Norway to the same extent as to the EU members. The EEA EFTA States fully participate in the internal market for financial services and the pass porting rules allowing financial institutions to establish branches and to provide cross-border services in any other member state apply to the same extent within the whole of the EEA.
2. **Micro-prudential supervision and the European System of Financial Supervisors (ESFS)**
  2. In chapter 4.3 regarding the composition and operational structure of the European System of Financial Supervisors (ESFS), the EEA EFTA States note and appreciate that the Commission explicitly suggests that the representatives from the Commission, the ESRC and the relevant supervisory authorities from the EEA EFTA States should take part in the Board of Supervisors as observers. However, in light of the comments above, it would be unfortunate if the EEA EFTA States were not allowed to attend any discussions pertaining to individual institutions.
  3. EU Banks (branches and subsidiaries) have a large share of the banking market in the EEA EFTA States. Norway is for instance an important market for large Danish and Swedish banks. Hence, developments in EU banks can have an important impact on financial stability in the EEA EFTA States and developments in the EEA EFTA States' financial sector could have an impact on financial stability in other EEA States.

It is therefore the EEA EFTA States' position that it is important not to exclude relevant EEA EFTA supervisory authorities from taking part in discussions regarding individual institutions where the actual EEA EFTA State can be the home state or the host state for the actual cross border institution (operating through a branch, subsidiary or directly). The exclusion from such discussions may lead to assessments and conclusions which do not take into consideration relevant and important information, e.g. only available to the relevant EEA EFTA supervisory authority, regarding the institution in question operating in the given EEA EFTA State. In a new supervisory framework for the financial market in Europe, it should be in the interest of the EU to avoid, to the extent possible, any potential cause for supervisory gaps, and to make sure that all supervisory authorities involved take part in discussions regarding the supervision of cross border groups, in order to ensure supervisory consistency and convergence.

4. The EEA EFTA financial supervisory authorities currently participate in several cross-border Colleges of banking supervisors and coordination committees for insurance groups. For instance, the Norwegian supervisory authority has, since the year 2000, been taking part in the well-established College for the Nordea group, which has a large subsidiary in Norway. The EEA EFTA States assume that this College will continue, and this concrete example shows the importance of including the EEA EFTA authorities in, i.e., the discussions regarding the Nordea group when the new authorities within the ESFS are in place.
5. As for the securities sector, there is a similar need to continue to take part in discussions about individual institutions in relation to market surveillance (insider trading and market manipulation), which is also an important cross-border issue within the EU/EEA.

### **3. Macro-prudential supervision and the European Systemic Risk Council (ESRC)**

6. The EEA EFTA States note that the Commission, in its Communication, has not explicitly mentioned the participation (as observers) of EEA EFTA authorities in the new European Systemic Risk Council (ESRC). As mentioned earlier, the high degree of banking integration between the EU and the EEA EFTA States suggests that a proper assessment of macro prudential risks in the EU would need macro prudential input from the EEA EFTA States and vice versa. The EEA EFTA States find that in order to ensure consistency and convergence also with regard to macro-prudential supervision in Europe, it should be important for the EU to also grant observer status to the relevant EEA EFTA authorities in the ESRC.
7. In Norway the Financial Supervisory Authority (Kredittilsynet) and the Central Bank (Norges Bank) have the same roles and responsibilities in supervision and financial stability surveillance as other supervisory agencies and central banks in Europe. The same applies to the Financial Supervisory Authority (Fjármálaeftirlitið) and the Central Bank of Iceland as regards supervised entities in Iceland and the Financial Market Authority Liechtenstein as regards its supervisory responsibilities. Norges

Bank and Kredittilsynet, the Icelandic Financial Supervisory Authority as well as the Financial Market Authority Liechtenstein have been participating in CEBS since its inception and have been invited as observers to the meetings of the ESCB's Banking Supervision Committee since 2006. Continued participation in macro prudential supervision would enhance international cooperation.

8. It is the opinion of the EEA EFTA States that EEA EFTA authorities could contribute with valuable experience to the ESRC. After the Norwegian banking crisis in the 1990's, macro-economic surveillance in Norway was strengthened, both within the central bank and the supervisory authority. Since then there has been a macro-prudential approach to supervision, and the supervisory activity has been steered towards issues highlighted by macro-economic oversight and analyses. Norges Bank was one of the pioneers to publish separate financial stability reports and Kredittilsynet has been producing annual financial risk outlook reports since 1994.
9. The macro-prudential issues are closely related to - and inter-linked with - micro-prudential supervision and provide valuable input to the supervision of financial institutions and the analysis and regulation of financial markets. Furthermore, important information on risk in the financial system gathered through the micro-prudential supervision may also provide valuable input to the macro-prudential supervision. It would therefore be important for EEA EFTA central banks and financial supervisory authorities to be granted access as observers to the ESRC.

#### **4. Conclusion**

10. It is important for the good functioning of the new enhanced supervisory framework of the European financial market that it includes relevant authorities from all EEA States. Exclusion of the EEA EFTA States from new key supervisory bodies may lead to gaps in the micro and macro prudential supervision, with the potential of reaching conclusions based on insufficient and even defective information. Thus, the three EEA EFTA States should have the right to participate as observers in both the ESRC and the ESFS with no limitations set to participating in discussions pertaining to individual institutions.
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