EUROPEAN
COMMISSION

Brussels, 21.3.2018
COM(2018) 142 final

ANNEX 1

ANNEX

to the

Proposal for a Council Decision

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex IX (Financial Services) to the EEA Agreement

(EMIR Level 2 Acts)

ANNEX

DECISION OF THE EEA JOINT COMMITTEE
No

of

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) No 148/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories[1] is to be incorporated into the EEA Agreement.

(2) Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP[2] is to be incorporated into the EEA Agreement.

(3) Commission Delegated Regulation (EU) No 150/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards specifying the details of the application for registration as a trade repository[3] is to be incorporated into the EEA Agreement.

(4) Commission Delegated Regulation (EU) No 151/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards specifying the data to be published and made available by trade repositories and operational standards for aggregating, comparing and accessing the data[4] is to be incorporated into the EEA Agreement.

(5) Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on capital requirements for central counterparties[5] is to be incorporated into the EEA Agreement.

(6) Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the

[1] OJ L 52, 23.2.2013, p. 1.
[2] OJ L 52, 23.2.2013, p. 11.
[3] OJ L 52, 23.2.2013, p. 25.
[4] OJ L 52, 23.2.2013, p. 33.
[5] OJ L 52, 23.2.2013, p. 37.

Council with regard to regulatory technical standards on requirements for central counterparties[6] is to be incorporated into the EEA Agreement.

(7) Commission Delegated Regulation (EU) No 876/2013 of 28 May 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on colleges for central counterparties[7] is to be incorporated into the EEA Agreement.

(8) Commission Delegated Regulation (EU) No 1002/2013 of 12 July 2013 amending Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to the list of exempted entities[8] is to be incorporated into the EEA Agreement.

(9) Commission Delegated Regulation (EU) No 1003/2013 of 12 July 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to trade repositories[9] is to be incorporated into the EEA Agreement.

(10) Commission Delegated Regulation (EU) No 285/2014 of 13 February 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on direct, substantial and foreseeable effect of contracts within the Union and to prevent the evasion of rules and obligations[10] is to be incorporated into the EEA Agreement.

(11) Commission Delegated Regulation (EU) No 667/2014 of 13 March 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to rules of procedure for penalties imposed on trade repositories by the European Securities and Markets Authority including rules on the right of defence and temporal provisions[11] is to be incorporated into the EEA Agreement.

(12) Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories[12] is to be incorporated into the EEA Agreement.

(13) Commission Implementing Regulation (EU) No 1248/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of applications for the registration of trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories[13] is to be incorporated into the EEA Agreement.

(14) Commission Implementing Regulation (EU) No 1249/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of the records to be maintained by central counterparties according to Regulation (EU) No 648/2012

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6 OJ L 52, 23.2.2013, p. 41.
7 OJ L 244, 13.9.2013, p. 19.
8 OJ L 279, 19.10.2013, p. 2.
9 OJ L 279, 19.10.2013, p. 4.
10 OJ L 85, 21.3.2014, p. 1.
11 OJ L 179, 19.6.2014, p. 31.
12 OJ L 352, 21.12.2012, p. 20.
13 OJ L 352, 21.12.2012, p. 30.

of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories[14] is to be incorporated into the EEA Agreement.

(15) Commission Implementing Regulation (EU) No 484/2014 of 12 May 2014 laying down implementing technical standards with regard to the hypothetical capital of a central counterparty according to Regulation (EU) No 648/2012 of the European Parliament and of the Council[15] is to be incorporated into the EEA Agreement.

(16) 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 is added in point 31bc (Regulation (EU) No 648/2012 of the European Parliament and of the Council):

‘, as amended by:

- **32013 R 1002**: Commission Delegated Regulation (EU) No 1002/2013 of 12 July 2013 (OJ L 279, 19.10.2013, p. 2).’

2. The following is inserted after point 31bcai (Commission Delegated Regulation (EU) 2015/2042):

‘31bcb. **32012 R 1247**: Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories (OJ L 352, 21.12.2012, p. 20).

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

In Article 5, as regards the EFTA States:

(i) paragraphs 1 and 2 shall read as follows:

“1. Derivative contracts shall be reported:

(a) Within six months of the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this decision], where a trade repository for that particular derivative class has been registered under Article 55 of Regulation (EU) No 648/2012 before the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this decision];

(b) 90 days after the registration of a trade repository for a particular derivative class under Article 55 of Regulation (EU) No 648/2012, where there is no trade repository registered for that particular derivative class before or on the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this decision], but in any event no earlier than six months after the date of entry into

[14] OJ L 352, 21.12.2012, p. 32.
[15] OJ L 138, 13.5.2014, p. 57.

force of Decision of the EEA Joint Committee No …/… of … [this decision];

(c) Within six months of the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this decision], where there is no trade repository registered for that particular derivative class under Article 55 of Regulation (EU) No 648/2012 six months after the date of entry into force of Decision of the EEA Joint Committee No…/…of … [this decision]. The reporting obligation shall commence on this date and contracts shall be reported to ESMA in accordance with Article 9(3) of that Regulation until a trade repository is registered for that particular derivative class.";

(ii) in paragraphs 3 and 4, the words "16 August 2012" shall read "the date of entry into force of Decision of the EEA Joint Committee No 206/2016 of 30 September 2016.".

31bcc. **32012 R 1248**: Commission Implementing Regulation (EU) No 1248/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of applications for the registration of trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories (OJ L 352, 21.12.2012, p. 30).

31bcd. **32012 R 1249**: Commission Implementing Regulation (EU) No 1249/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of the records to be maintained by central counterparties according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories (OJ L 352, 21.12.2012, p. 32).

31bce. **32013 R 0148**: Commission Delegated Regulation (EU) No 148/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories (OJ L 52, 23.2.2013, p. 1).

31bcf. **32013 R 0149**: Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP (OJ L 52, 23.2.2013, p. 11).

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

In Article 12, as regards the EFTA States:

(i) the words "and including 28 February 2014" shall read "six months after the date of entry into force of Decision of the EEA Joint Committee No …/… of …[this decision]";

(ii) the words “after 28 February 2014” shall read “after six months of the date of entry into force of Decision of the EEA Joint Committee No …/… of …[this decision]”;

(iii) the words “and including 31 August 2013” shall read “five months after the date of entry into force of Decision of the EEA Joint Committee No …/… of …[this decision]”;

(iv) the words “after 31 August 2013” shall read “after five months of the date of entry into force of Decision of the EEA Joint Committee No …/… of …[this decision]”;

(v) the words “and including 31 August 2014” shall read “six months after the date of entry into force of Decision of the EEA Joint Committee No …/… of …[this decision]”;

(vi) the words “after 31 August 2014” shall read “after six months of the date of entry into force of Decision of the EEA Joint Committee No …/… of …[this decision]”.

31bcg. **32013 R 0150**: Commission Delegated Regulation (EU) No 150/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards specifying the details of the application for registration as a trade repository (OJ L 52, 23.2.2013, p. 25).

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

The words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

31bch. **32013 R 0151**: Commission Delegated Regulation (EU) No 151/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards specifying the data to be published and made available by trade repositories and operational standards for aggregating, comparing and accessing the data (OJ L 52, 23.2.2013, p. 33).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Article 2(3) shall apply as regards the EFTA States subject to the content and entry into force of a decision of the EEA Joint Committee incorporating Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of the Energy Regulators.

(b) In Article 3, as regards the EFTA States:

(i) in paragraph 1, the words “the Union as referred to in Article 75” shall read “its EFTA State of establishment as referred to in Article 81(3)(f)”;

(ii) in paragraph 2, the words “ESMA as referred to in Article 76” shall read “its EFTA State of establishment as referred to in Article 81(3)(i)”.

31bci. **32013 R 0152**: Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on capital requirements for central counterparties (OJ L 52, 23.2.2013, p. 37).

31bcj. **32013 R 0153**: Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (OJ L 52, 23.2.2013, p. 41).

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

(a) In Article 2(i), the words “Union currency” shall be replaced by the words “official currency of a Contracting Party to the EEA Agreement”.

31bck. **32013 R 0876**: Commission Delegated Regulation (EU) No 876/2013 of 28 May 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on colleges for central counterparties (OJ L 244, 13.9.2013, p. 19).

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

The words “Union currencies” shall be replaced by the words “official currencies of Contracting Parties to the EEA Agreement”.

31bcl. **32013 R 1003**: Commission Delegated Regulation (EU) No 1003/2013 of 12 July 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to trade repositories (OJ L 279, 19.10.2013, p. 4).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 1, as regards the EFTA States, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the European Securities and Markets Authority (ESMA)”.

(b) In Articles 2 and 4, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

(c) In Article 10(2):

(i) as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) the following subparagraph shall be added:

“When, as regards trade repositories established in the EFTA States, the EFTA Surveillance Authority is to reimburse the registration fee paid, ESMA shall without delay make available the amounts to be reimbursed to a trade repository to the EFTA Surveillance Authority for that purpose.”

(d) In Article 11:

(i) the following subparagraph shall be added in paragraph 1:

"When, as regards trade repositories established in the EFTA States, the EFTA Surveillance Authority is to send the invoices for the instalments, ESMA shall inform the EFTA Surveillance Authority of the calculations necessary as regards each trade repository sufficiently in advance of the respective payment date.";

(ii) in paragraph 2, as regards the EFTA States, the word "ESMA" shall read "the EFTA Surveillance Authority".

(e) In Article 13:

(i) in paragraph 1, the words "Only ESMA" shall be replaced by the words "Only ESMA or, as regards trade repositories established in the EFTA States, the EFTA Surveillance Authority";

(ii) in paragraph 2, the words "or the EFTA Surveillance Authority, as the case may be," shall be inserted after the word "ESMA".

31bcm. **32014 R 0285**: Commission Delegated Regulation (EU) No 285/2014 of 13 February 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on direct, substantial and foreseeable effect of contracts within the Union and to prevent the evasion of rules and obligations (OJ L 85, 21.3.2014, p. 1).

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

In Article 4, as regards the EFTA States, the words "10 October 2014" shall read "six months after the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this decision]".

31bcn. **32014 R 0484**: Commission Implementing Regulation (EU) No 484/2014 of 12 May 2014 laying down implementing technical standards with regard to the hypothetical capital of a central counterparty according to Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 138, 13.5.2014, p. 57).

31bco. **32014 R 0667**: Commission Delegated Regulation (EU) No 667/2014 of 13 March 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to rules of procedure for penalties imposed on trade repositories by the European Securities and Markets Authority including rules on the right of defence and temporal provisions (OJ L 179, 19.6.2014, p. 31).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 1, as regards the EFTA States, the words "the European Securities and Markets Authority (ESMA)" and "ESMA" shall read "the EFTA Surveillance Authority".

(b) In Article 2, as regards the EFTA States, the words "and the EFTA Surveillance Authority" shall be inserted after the word "ESMA".

(c) In Article 3, as regards the EFTA States:

(i) in paragraph 1, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) the words “inform the EFTA Surveillance Authority thereof. The EFTA Surveillance Authority shall, without undue delay,” shall be inserted after the words “it shall” in paragraphs 2, 4 and 5 and before the words “decide to close the case” in paragraph 3;

(iii) in the second subparagraph of paragraph 4 and in the third sentence of the first subparagraph of paragraph 5, the words “, before preparing a draft for the EFTA Surveillance Authority, or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iv) in the third subparagraph of paragraph 4 and in the second subparagraph of paragraph 5, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(v) in paragraph 6, the word “ESMA” shall read “the EFTA Surveillance Authority”.

(d) In Article 4, as regards the EFTA States:

(i) in the first subparagraph, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) in the fourth subparagraph, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(e) In Article 5, as regards the EFTA States:

(i) the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “If so requested, ESMA”;

(ii) the words “ESMA has sent a statement of findings” shall read “the EFTA Surveillance Authority has sent a statement of findings”.

(f) In Article 6, as regards the EFTA States:

(i) in paragraphs 1 and 4, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) in paragraph 3 , the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iii) in paragraph 5, the following subparagraph shall be added:

“The limitation period for imposing fines and periodic penalty payments shall be suspended for as long as the decision of the EFTA Surveillance Authority is the subject of proceedings pending before the EFTA Court in accordance with Article 35 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”.

(g) In Article 7, as regards the EFTA States:

(i) the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) in paragraph 5(b), the words "ESMA Board of Appeal, in accordance with Article 58 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council, and the Court of Justice of the European Union, in accordance with Article 69 of Regulation (EU) No 648/2012" shall read "the EFTA Court in accordance with Article 35 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice".'

Article 2

The texts of Delegated Regulations (EU) No 148/2013, (EU) No 149/2013, (EU) No 150/2013, (EU) No 151/2013, (EU) No 152/2013, (EU) No 153/2013, (EU) No 876/2013, (EU) No 1002/2013, (EU) No 1003/2013, (EU) No 285/2014 and (EU) No 667/2014 and Implementing Regulations (EU) No 1247/2012, (EU) No 1248/2012, (EU) No 1249/2012 and (EU) No 484/2014 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 […], 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, .

For the EEA Joint Committee
The President

The Secretaries
to the EEA Joint Committee

[*] [No constitutional requirements indicated.] [Constitutional requirements indicated.]