DECISIONS

COUNCIL DECISION (EU) 2023/269

of 30 January 2023

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 (Central Securities Depository – Liechtenstein)

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area ([1]), and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Agreement on the European Economic Area ([2]) ('the EEA Agreement') entered into force on 1 January 1994.

(2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Annex IX thereof.

(3) Regulation (EU) No 909/2014 of the European Parliament and of the Council ([3]) was incorporated into EEA Agreement by Decision of the EEA Joint Committee No 18/2019 ([4]) and is referred to in point 31bf of Annex IX to the EEA Agreement.

(4) Adaptation (c) in point 31bf of Annex IX to the EEA Agreement grants Liechtenstein a derogation to allow third-country Central Securities Depositories that already provide services referred to in Article 25(2) of Regulation (EU) No 909/2014 to financial intermediaries in Liechtenstein or that have already set up a branch in Liechtenstein to continue to provide such services referred to in that Article for a period not exceeding five years after the date of entry into force of Decision of the EEA Joint Committee No 18/2019.

(5) On 2 November 2022, Liechtenstein submitted a request for the extension of the derogation referred to in adaptation (c) in point 31bf of Annex IX to the EEA Agreement beyond 8 February 2024, for a period that should not exceed seven years.

(6) Annex IX to the EEA Agreement should therefore be amended to the effect that third-country Central Securities Depositories that already provide services referred to in Article 25(2) of Regulation (EU) No 909/2014 to financial intermediaries in Liechtenstein or that have already set up a branch in Liechtenstein are allowed to continue to provide such services for a period not exceeding seven years after the date of entry into force of the attached draft decision. Nevertheless, adaptation (c) in point 31bf of Annex IX to the EEA Agreement should be reviewed if Article 25 or 69 of Regulation (EU) No 909/2014 are amended during that period of time.

([1]) OJ L 305, 30.11.1994, p. 6.
([2]) OJ L 1, 3.1.1994, p. 3.
([3]) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).
([4]) Decision of the EEA Joint Committee No 18/2019 of 8 February 2019 amending Annex IX (Financial services) to the EEA Agreement [2019/341] (OJ L 60, 28.2.2019, p. 31).

(7) The position of the Union within the EEA Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment to Annex IX (Financial Services) to the EEA Agreement shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 30 January 2023.

For the Council
The President
P. KULLGREN

DRAFT

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) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 ([1]) was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 18/2019 of 8 February 2019 ([2]) and is referred to in point 31bf of Annex IX to the EEA Agreement.

(2) The conditions for the provision of services in the European Economic Area by central securities depositories (CSDs) established in a third country are governed by Article 25 of Regulation (EU) No 909/2014.

(3) Adaptation (c) in point 31bf of Annex IX to the EEA Agreement grants Liechtenstein a derogation to allow third-country CSDs that already provide services referred to in Article 25(2) of Regulation (EU) No 909/2014 to financial intermediaries in Liechtenstein or that have already set up a branch in Liechtenstein to continue to provide such services for up to five years after the date of entry into force of Decision of the EEA Joint Committee No 18/2019 of 8 February 2019.

(4) Adaptation (c) in point 31bf of Annex IX to the EEA Agreement should be amended to the effect that third-country CSDs that already provide services referred to in Article 25(2) of Regulation (EU) No 909/2014 to financial intermediaries in Liechtenstein or that have already set up a branch in Liechtenstein are allowed to continue to provide such services for a period not exceeding seven years after the date of entry into force of this Decision. Nevertheless, if Article 25 or 69 of Regulation (EU) No 909/2014 are amended during that period of time, adaptation (c) should be reviewed accordingly.

(5) Annex IX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The text of adaptation (c) in point 31bf of Annex IX to the EEA Agreement is replaced by the following:

'(c) Liechtenstein may allow third-country CSDs that already provide services referred to in Article 25(2) to financial intermediaries in Liechtenstein or that have already set up a branch in Liechtenstein to continue to provide the services referred to in Article 25(2) for a period not exceeding seven years after the date of entry into force of Decision of the EEA Joint Committee No …/… of [this Decision].'.

Article 2

The Contracting Parties shall review adaptation (c) in point 31bf of Annex IX when incorporating into the EEA Agreement any act which amends or replaces Article 25 or 69 of Regulation (EU) No 909/2014.

([1]) OJ L 257, 28.8.2014, p. 1.
([2]) OJ L 60, 28.2.2019, p. 31.

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.]