2024/1511

29.5.2024

COUNCIL DECISION (EU) 2024/1511

of 22 April 2024

on the position to be adopted on behalf of the European Union within the EEA Joint Committee established by the Agreement on the European Economic Area concerning an amendment to Annex IX (Financial services) to the EEA Agreement

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 (Financial services) to the EEA Agreement.

(3) Several regulations should be incorporated into the EEA Agreement.

(4) Annex IX (Financial services) to the EEA Agreement should therefore be amended accordingly.

(5) 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 the Union's behalf within the EEA Joint Committee concerning an 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 Luxembourg, 22 April 2024.

For the Council

The President

J. BORRELL FONTELLES

[1] OJ L 305, 30.11.1994, p. 6.
[2] OJ L 1, 3.1.1994, p. 3.

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) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms ([1]) is to be incorporated into the EEA Agreement.

(2) Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 ([2]) is to be incorporated into the EEA Agreement.

(3) Regulation (EU) 2021/557 of the European Parliament and of the Council of 31 March 2021 amending Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 crisis ([3]) is to be incorporated into the EEA Agreement.

(4) Regulation (EU) 2021/558 of the European Parliament and of the Council of 31 March 2021 amending Regulation (EU) No 575/2013 as regards adjustments to the securitisation framework to support the economic recovery in response to the COVID-19 crisis ([4]) is to be incorporated into the EEA Agreement.

(5) Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings ([5]) is to be incorporated into the EEA Agreement.

(6) The EFTA States are to, when defining what countries shall be on the list of non-cooperative jurisdiction in their national legislation, take utmost account of the EU list of non-cooperative jurisdiction for tax purposes.

(7) 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 indent is added in points 1 (Directive 2009/138/EC of the European Parliament and of the Council), 30 (Directive 2009/65/EC of the European Parliament and of the Council), 31bb (Directive 2011/61/EU of the European Parliament and of the Council) and 31bc (Regulation (EU) No 648/2012 of the European Parliament and of the Council):

'— **32017 R 2402**: Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 (OJ L 347, 28.12.2017, p. 35).'.

([1]) OJ L 347, 28.12.2017, p. 1.
([2]) OJ L 347, 28.12.2017, p. 35.
([3]) OJ L 116, 6.4.2021, p. 1.
([4]) OJ L 116, 6.4.2021, p. 25.
([5]) OJ L 227, 10.9.2018, p. 1.

2. Point 1b (Commission Delegated Regulation (EU) 2015/35) is amended as follows:

(i) the following indent is added:

'— **32018 R 1221**: Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 (OJ L 227, 10.9.2018, p. 1).';

(ii) adaptations (b) and (c) are renumbered as adaptations (d) and (e);

(iii) the following adaptations are inserted:

'(b) In Article 178a, as regards the EFTA States:

(i) in paragraphs 1 and 4, the words "1 January 2019" shall read "the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this Decision]";

(ii) in paragraphs 1 to 4, the words "31 December 2018" shall read "the day preceding the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this Decision]";

(iii) in paragraph 3, the words "18 January 2015" shall read "the date of entry into force of Decision of the EEA Joint Committee No 62/2018 of 23 March 2018".

(c) In Article 180, as regards the EFTA States:

(i) in paragraph 10a, the words "1 January 2019" shall read "the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this Decision]";

(ii) in paragraph 10a, the words "31 December 2018" shall read "the day preceding the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this Decision]".'.

3. Point 14a (Regulation (EU) No 575/2013 of the European Parliament and of the Council) is amended as follows:

(i) the following indents are added:

'— **32017 R 2401**: Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 (OJ L 347, 28.12.2017, p. 1),

— **32021 R 0558**: Regulation (EU) 2021/558 of the European Parliament and of the Council of 31 March 2021 (OJ L 116, 6.4.2021, p. 25).';

(ii) adaptations (k) to (r) are renumbered as adaptations (m) to (t);

(iii) the following adaptation is inserted after adaptation (j):

'(k) In the second subparagraph of Article 254(3), as regards the EFTA States, the word "2018" shall read "of the year of entry into force of the Decision of the EEA Joint Committee No …/… of … [this Decision]".'.

4. The following is inserted after point 31bj (Directive (EU) 2019/2162 of the European Parliament and of the Council):

'31bk. **32017 R 2402**: Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35), as amended by:

— **32021 R 0557**: Regulation (EU) 2021/557 of the European Parliament and of the Council of 31 March 2021 (OJ L 116, 6.4.2021, p. 1).

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

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms Member States and competent authorities shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.

(b) References to the powers of the European Securities and Markets Authority (ESMA) under Regulation (EU) No 648/2012 of the European Parliament and of the Council, Regulation (EU) No 1095/2010 of the European Parliament and of the Council, and Regulation (EU) No 600/2014 of the European Parliament and of the Council in the Regulation shall be understood as referring, in the cases provided for in and in accordance with this Agreement, to the powers of the EFTA Surveillance Authority as regards the EFTA States.

(c) Unless otherwise provided for in this Agreement, ESMA and the EFTA Surveillance Authority shall cooperate, exchange information and consult each other for the purposes of the Regulation, in particular prior to taking any action.

(d) Decisions, interim decisions, notifications, simple requests, revocations of decisions and other measures of the EFTA Surveillance Authority under Articles 10(6), 12 and 15 shall, without undue delay, be adopted on the basis of drafts prepared by ESMA at its own initiative or at the request of the EFTA Surveillance Authority.

(e) Article 4(aa), as regards the EFTA States, shall read "third country is considered a non-cooperative jurisdiction as defined by the national legislation of the EFTA State concerned."

(f) In Articles 8(1), 9(4)(b) and 29(4), as regards the EFTA States, the words "1 January 2019" shall read "the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this Decision]".

(g) In Article 9, as regards the EFTA States, the words "Directive 2014/17/EU" shall read "Decision of the EEA Joint Committee No 125/2019 of 8 May 2019".

(h) In Article 10:

(i) in paragraph 1, the words "or, in the case of a securitisation repository established in an EFTA State, with the EFTA Surveillance Authority" shall be inserted after the word "ESMA";

(ii) in paragraph 5, the words "or, in the case of a securitisation repository established in an EFTA State, to the EFTA Surveillance Authority" shall be inserted after the word "ESMA";

(iii) in paragraph 6, the words "or the EFTA Surveillance Authority, as the case may be," shall be inserted after the word "ESMA".

(i) In Article 11, the words "or the EFTA Surveillance Authority, as the case may be," shall be inserted after the word "ESMA".

(j) In Article 12, the words "or the EFTA Surveillance Authority, as the case may be," shall be inserted after the word "ESMA".

(k) In Article 13:

(i) in paragraph 1, the words "or the EFTA Surveillance Authority, as the case may be" shall be inserted after the word "ESMA";

(ii) paragraph 2 shall be replaced by the following:

"ESMA and the EFTA Surveillance Authority shall communicate, without undue delay, to each other and to the Commission any decision taken in accordance with paragraph 1.".

(l) In Article 15:

(i) in paragraph 1, the words "or, in the case of a securitisation repository established in an EFTA State, the EFTA Surveillance Authority" shall be inserted after the word "ESMA";

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

(iii) in the second sentence of paragraph 3, the words "or, in the case of a securitisation repository established in an EFTA State, not to prepare a draft for the EFTA Surveillance Authority to that effect" shall be inserted after the word "concerned".

(m) In Article 16(1), the following subparagraphs shall be added:

"As regards securitisation repositories established in an EFTA State, fees shall be charged by the EFTA Surveillance Authority on the same basis as fees charged to other securitisation repositories in accordance with this Regulation and with the delegated acts referred to in paragraph 2.

The amounts collected by the EFTA Surveillance Authority in accordance with this paragraph shall be passed on to ESMA without undue delay.".

(n) In Article 26e(5)(c)(i), the words "Union" shall be replaced by "the EEA Agreement".

(o) In Article 29(5), as regards the EFTA States, the words "by 10 October 2021" shall read "within six months of the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this Decision]" and the words "8 April 2021" shall read "the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this Decision]".

(p) In Article 31(4), the words ", and in case an EFTA State is an addressee, the Standing Committee of the EFTA States" shall be added after the word "Council".

(q) In Article 35, as regards the EFTA States, the words "18 January 2019" shall read "the seventeenth day following the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this Decision]".

(r) In Article 37(7), the words ", the EFTA Surveillance Authority" shall be inserted after the word "EIOPA".

(s) In Article 43, as regards the EFTA States:

(i) the words "1 January 2019" shall read "the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this Decision]";

(ii) in paragraphs 5 and 6, the words "31 December 2018" shall read "the day preceding the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this Decision]".

(t) In Article 43a, as regards the EFTA States, the words "9 April 2021" shall read "the date of entry into force of Decision of the EEA Joint Committee No …/… of … [this Decision]".'.

5. Point 31eb (Regulation (EC) No 1060/2009 of the European Parliament and of the Council) is amended as follows:

(i) the following indent is added:

'— **32017 R 2402**: Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 (OJ L 347, 28.12.2017, p. 35).';

(ii) adaptation (g) is deleted;

(iii) adaptations (h) to (zm) are renumbered as adaptations (g) to (zl).

Article 2

The texts of Regulations (EU) 2017/2401, (EU) 2017/2402, (EU) 2021/557 and (EU) 2021/558 and Delegated Regulation (EU) 2018/1221 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 …,

For the EEA Joint Committee	*The Secretaries*
The President	*To the EEA Joint Committee*

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