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PROPOSAL

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 31 May 2016

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: COM(2016) 319 final - ANNEX 9

Subject: 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

Delegations will find attached document COM(2016) 319 final - ANNEX 9.

Encl.: COM(2016) 319 final - ANNEX 9



Brussels, 31.5.2016
COM(2016) 319 final

ANNEX 9

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**

ANNEX 9

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 272/2012 of 7 February 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to credit rating agencies¹ is to be incorporated into the EEA Agreement.
- (2) Commission Delegated Regulation (EU) No 446/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards on the content and format of ratings data periodic reporting to be submitted to the European Securities and Markets Authority by credit rating agencies² is to be incorporated into the EEA Agreement.
- (3) Commission Delegated Regulation (EU) No 447/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council by laying down regulatory technical standards for the assessment of compliance of credit rating methodologies³ is to be incorporated into the EEA Agreement.
- (4) Commission Delegated Regulation (EU) No 448/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the presentation of the information that credit rating agencies shall make available in a central repository established by the European Securities and Markets Authority⁴ is to be incorporated into the EEA Agreement.
- (5) Commission Delegated Regulation (EU) No 449/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards on information for registration

¹ OJ L 90, 28.3.2012, p. 6.

² OJ L 140, 30.5.2012, p. 2.

³ OJ L 140, 30.5.2012, p. 14.

⁴ OJ L 140, 30.5.2012, p. 17.

and certification of credit rating agencies⁵ is to be incorporated into the EEA Agreement.

- (6) Commission Delegated Regulation (EU) No 946/2012 of 12 July 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to rules of procedure on fines imposed to credit rating agencies by the European Securities and Markets Authority, including rules on the right of defence and temporal provisions is to be incorporated⁶ into the EEA Agreement.
- (7) Commission Implementing Decision 2014/245/EU of 28 April 2014 on the recognition of the legal and supervisory framework of Brazil as equivalent to the requirements of Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies⁷ is to be incorporated into the EEA Agreement.
- (8) Commission Implementing Decision 2014/246/EU of 28 April 2014 on the recognition of the legal and supervisory framework of Argentina as equivalent to the requirements of Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies⁸ is to be incorporated into the EEA Agreement.
- (9) Commission Implementing Decision 2014/247/EU of 28 April 2014 on the recognition of the legal and supervisory framework of Mexico as equivalent to the requirements of Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies⁹ is to be incorporated into the EEA Agreement.
- (10) Commission Implementing Decision 2014/248/EU of 28 April 2014 on the recognition of the legal and supervisory framework of Singapore as equivalent to the requirements of Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies¹⁰ is to be incorporated into the EEA Agreement.
- (11) Commission Implementing Decision 2014/249/EU of 28 April 2014 on the recognition of the legal and supervisory framework of Hong Kong as equivalent to the requirements of Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies¹¹ is to be incorporated into the EEA Agreement.
- (12) Annex IX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The following is inserted after point 31ebd (Commission Implementing Decision 2012/630/EU) of Annex IX to the EEA Agreement:

⁵ OJ L 140, 30.5.2012, p. 32.

⁶ OJ L 282, 16.10.2012, p. 23.

⁷ OJ L 132, 3.5.2014, p. 65.

⁸ OJ L 132, 3.5.2014, p. 68.

⁹ OJ L 132, 3.5.2014, p. 71.

¹⁰ OJ L 132, 3.5.2014, p. 73.

¹¹ OJ L 132, 3.5.2014, p. 76.

- ‘31ebe. **32014 D 0245**: Commission Implementing Decision 2014/245/EU of 28 April 2014 on the recognition of the legal and supervisory framework of Brazil as equivalent to the requirements of Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies (OJ L 132, 3.5.2014, p. 65).
- 31ebf. **32014 D 0246**: Commission Implementing Decision 2014/246/EU of 28 April 2014 on the recognition of the legal and supervisory framework of Argentina as equivalent to the requirements of Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies (OJ L 132, 3.5.2014, p. 68).
- 31ebg. **32014 D 0247**: Commission Implementing Decision 2014/247/EU of 28 April 2014 on the recognition of the legal and supervisory framework of Mexico as equivalent to the requirements of Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies(OJ L 132, 3.5.2014, p. 71).
- 31ebh. **32014 D 0248**: Commission Implementing Decision 2014/248/EU of 28 April 2014 on the recognition of the legal and supervisory framework of Singapore as equivalent to the requirements of Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies (OJ L 132, 3.5.2014, p. 73).
- 31ebi. **32014 D 0249**: Commission Implementing Decision 2014/249/EU of 28 April 2014 on the recognition of the legal and supervisory framework of Hong Kong as equivalent to the requirements of Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies (OJ L 132, 3.5.2014, p. 76).
- 31ebj. **32012 R 0272**: Commission Delegated Regulation (EU) No 272/2012 of 7 February 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to credit rating agencies (OJ L 90, 28.3.2012, p. 6).

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 Article 2, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.
- (c) In Article 5(3):
 - (i) in the fourth subparagraph, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;
 - (ii) the following subparagraph shall be added:

“When, as regards credit rating agencies 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 credit rating agency sufficiently in advance of the respective payment date.”.

- (d) In Article 6(7):
- (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 credit rating agencies established in the EFTA States, the EFTA Surveillance Authority is to reimburse part of the registration fee paid, ESMA shall without delay make available the amounts to be reimbursed to a credit rating agency to the EFTA Surveillance Authority for that purpose.”

- (e) In Article 9:
- (i) in paragraph 1, the words “Only ESMA” shall be replaced by the words “Only ESMA or, as regards credit rating agencies established in the EFTA States, the EFTA Surveillance Authority”;
 - (ii) the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

31ebk. **32012 R 0446:** Commission Delegated Regulation (EU) No 446/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards on the content and format of ratings data periodic reporting to be submitted to the European Securities and Markets Authority by credit rating agencies (OJ L 140, 30.5.2012, p. 2).

31ebl. **32012 R 0447:** Commission Delegated Regulation (EU) No 447/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council by laying down regulatory technical standards for the assessment of compliance of credit rating methodologies (OJ L 140, 30.5.2012, p. 14).

31ebm. **32012 R 0448:** Commission Delegated Regulation (EU) No 448/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the presentation of the information that credit rating agencies shall make available in a central repository established by the European Securities and Markets Authority (OJ L 140, 30.5.2012, p. 17).

31ebn. **32012 R 0449:** Commission Delegated Regulation (EU) No 449/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards on information for registration and certification of credit rating agencies (OJ L 140, 30.5.2012, p. 32).

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 word “ESMA”.
- (b) In Chapter 2 and in Annexes IV and V, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.

31ebo. **32012 R 0946:** Commission Delegated Regulation (EU) No 946/2012 of 12 July 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to rules of procedure on fines imposed to credit rating agencies by the European Securities and Markets Authority, including rules on the right of defence and temporal provisions is to be incorporated (OJ L 282, 16.10.2012, p. 23).

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 words “ESMA’s Board of Supervisors”.
- (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 words “ESMA’s Board of Supervisors”;
 - (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 “take a decision” 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 words “ESMA’s Board of Supervisors”;
 - (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 words “ESMA’s Board of Supervisors”;
 - (v) in paragraph 6, the words “ESMA’s Board of Supervisors” shall read “the EFTA Surveillance Authority”.
- (d) In Article 4, as regards the EFTA States:
 - (i) in the first subparagraph, the words “Board of Supervisors” and “Board of Supervisor” shall read “the EFTA Surveillance Authority”;
 - (ii) in the third subparagraph, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “ESMA’s Board of Supervisors”.
- (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 word “ESMA”;
 - (ii) the words “Board of Supervisors” shall read “the EFTA Surveillance Authority”.
- (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 paragraphs 3 and 5, the words “or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
 - (iii) in paragraph 5, the words “the Board of Appeal, in accordance with Article 58 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽¹⁾, and before the Court of Justice of the European Union, in accordance with Article 36e of Regulation (EC) No 1060/2009” 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”.
- (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 36e of Regulation (EC) No 1060/2009” 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 272/2012, (EU) No 446/2012, (EU) No 447/2012, (EU) No 448/2012, (EU) No 449/2012 and (EU) No 946/2012 and Implementing Decisions 2014/245/EU, 2014/246/EU, 2014/247/EU, 2014/248/EU and 2014/249/EU 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*, or on the day of the entry into force of Decision of the EEA Joint Committee No .../... of ...¹² [incorporating Regulation (EU) No 513/2011], whichever is the later.

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

¹² OJ L ...

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*