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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on amendments to the Monetary Agreement between the European Union and the Principality of Andorra and to the Monetary Agreement between the European Union and the Republic of San Marino

COUNCIL DECISION (EU) 2025/...

of ...

**on amendments to the Monetary Agreement
between the European Union and the Principality of Andorra
and to the Monetary Agreement
between the European Union and the Republic of San Marino**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 219(3) thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Central Bank¹,

¹ OJ C, C/2024/4418, 8.7.2024, ELI: <http://data.europa.eu/eli/C/2024/4418/oj>.

Whereas:

- (1) The Union has exclusive competence for monetary law as of the date of the introduction of the euro.
- (2) The Council is to determine the arrangements for the amendment of agreements concerning monetary or foreign exchange regime matters.
- (3) The Monetary Agreement between the European Union and the Principality of Andorra² and the Monetary Agreement between the European Union and the Republic of San Marino³ (the ‘Monetary Agreements’) were signed on 30 June 2011 and 27 March 2012, respectively.
- (4) Following the finalisation of the negotiations in December 2023, the Union is expected to sign the Agreement establishing an association between the European Union and the Principality of Andorra and the Republic of San Marino, respectively (the ‘Association Agreement’). Under the Association Agreement and Framework Protocol 3 thereto on financial services, Andorra and San Marino will progressively join the single market for financial services. Andorra and San Marino should therefore transpose the Union *acquis* and new legislation on combatting money laundering and terrorist financing and on financial services.
- (5) The Monetary Agreements and the Association Agreement provide for the implementation of Union legal acts by Andorra and San Marino. Those Union legal acts are listed in the Annexes to the Monetary Agreements and to the Association Agreement.

² OJ C 369, 17.12.2011, p. 1.

³ OJ C 121, 26.4.2012, p. 5.

- (6) The Union legal acts on combatting money laundering and terrorist financing to be implemented pursuant to the Monetary Agreements and the Association Agreement are identical. In contrast, the Union legal acts on financial services overlap only partially. The Union legal acts that apply under the Monetary Agreements mainly concern banking and financial law related to the supervision of financial institutions that are relevant for the euro, whereas all Union legal acts on financial services fall within the scope of the Association Agreement.
- (7) The Monetary Agreements and the Association Agreement have different purposes and different legal bases. The legal basis for the Monetary Agreements is Article 219(3) of the Treaty on the Functioning of the European Union (TFEU), whereby the Council – representing only those Member States that have introduced the euro as their national currency – acts by the default rule of qualified majority on a recommendation from the Commission and after having consulted the European Central Bank. The Association Agreement is based on Article 218 TFEU, whereby, further to the consent of the European Parliament, the Council – representing all Member States – is able to adopt a decision on the conclusion of the Association Agreement. Therefore, the Monetary Agreements are independent of, and cannot be integrated into, the Association Agreement.
- (8) A mechanism should be established to address the partial overlapping of identical duties under the Monetary Agreements and the Association Agreement and to ensure the smooth interaction between them. A viable and simple solution is to amend the Monetary Agreements.

- (9) Clauses should be inserted into the Monetary Agreements that provide for the incorporation into the Association Agreement of all new Union legal acts on combatting money laundering and terrorist financing and all new Union legal acts on banking and finance relevant for the euro once those Union legal acts become applicable under the Association Agreement. The assessment of the implementation of those Union legal acts, whether they have been adopted in the past or are going to be adopted in the future, having become part of the Association Agreement, should be undertaken in the framework of the Association Agreement, and may be relevant for the application of the Monetary Agreements.
- (10) Implementation of Union legal acts concerning monetary law should remain governed exclusively by the Monetary Agreements.
- (11) Clauses should be inserted into the Monetary Agreements in order to ensure the independence of the Monetary Agreements and of the Association Agreement.
- (12) The Union legal acts on banking and finance relevant for the euro and the Union legal acts on combatting money laundering and terrorist financing that have become part of the Association Agreement should be incorporated into the Monetary Agreements automatically if the Association Agreement is partially or fully suspended or if it is terminated,

HAS ADOPTED THIS DECISION:

Article 1

The Commission shall seek to negotiate the following amendments to the Monetary Agreement between the European Union and the Principality of Andorra and to the Monetary Agreement between the European Union and the Republic of San Marino (the ‘Monetary Agreements’):

- (a) insertion into the Monetary Agreements of clauses by which all new Union legal acts on banking and financial law relevant for the euro and all new Union legal acts on combatting money laundering and terrorist financing become part of the relevant annex to the Agreement establishing an association between the European Union and the Principality of Andorra and the Republic of San Marino, respectively, (the ‘Association Agreement’) exclusively once those Union legal acts become applicable under the Association Agreement; those clauses should also clarify that, if a Union legal act relevant to the application of the relevant Monetary Agreement is adopted or amended before Framework Protocol 3 to the Association Agreement on financial services becomes applicable, it will be inserted into the Annex to the Monetary Agreement and transferred to the relevant annex to the Association Agreement once such Union legal act becomes applicable under the Association Agreement;

- (b) insertion into the Monetary Agreements of clauses which ensure that the assessment of the implementation of all Union legal acts on banking and financial law relevant for the euro and all Union legal acts on combatting money laundering or terrorist financing, whether they have been adopted in the past or are going to be adopted in the future, once they have become part of the relevant annex to the Association Agreement, is undertaken in the framework of the Association Agreement;
- (c) insertion into the Monetary Agreements of clauses by which the Union legal acts on banking and financial law relevant for the euro and all Union legal acts on combatting money laundering and terrorist financing that are listed in the Annexes to the Association Agreement are clearly marked as relevant for the application of the Monetary Agreements, so that the assessment of the implementation of those Union legal acts in Andorra and San Marino under the Association Agreement can be done at the same time for the purposes of the Monetary Agreements;
- (d) insertion into the Monetary Agreements of clauses by which all new Union legal acts on banking and financial law relevant for the euro and all new Union legal acts on combatting money laundering and terrorist financing, having become part of the Association Agreement, are automatically incorporated into the Annexes to the Monetary Agreements and their implementation is assessed in the framework of the Monetary Agreements if the Association Agreement is partially or fully suspended or if it is terminated.

- (e) insertion into the Monetary Agreements of clauses which ensure that the implementation of Union legal acts concerning monetary law remains governed exclusively by the Monetary Agreements.

The Commission shall inform Andorra and San Marino of the need and of the Union's readiness to amend the Monetary Agreements.

Article 2

1. The Commission is empowered to negotiate, sign and conclude the amendments to the Monetary Agreement between the European Union and the Principality of Andorra referred to in Article 1 in four languages: Catalan, French, English and Spanish. The text in each of those languages shall be considered equally authentic.
2. The Commission is empowered to negotiate, sign and conclude the amendments to the Monetary Agreement between the European Union and the Republic of San Marino referred to in Article 1 in English.
3. The European Central Bank shall be fully associated with the negotiations referred to in paragraphs 1 and 2 insofar as they concern its field of competence.
4. The Commission shall submit the draft amendments to the Monetary Agreements to the Economic and Financial Committee (EFC) for its opinion.

5. The Commission shall be entitled to conclude the amendments to the Monetary Agreements on behalf of the Union, unless the EFC is of the opinion that the amendments to the Monetary Agreements should be submitted to the Council.

Article 3

This Decision is addressed to the Commission.

Done at ..., ...

For the Council

The President
