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## **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: Draft DECISION OF THE EEA JOINT COMMITTEE amending Annex IX  
(Financial services) to the EEA Agreement

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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) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds<sup>1</sup>, as corrected by OJ L 131, 5.5.2022, p. 9, is to be incorporated into the EEA Agreement.
- (2) Regulation (EU) 2019/2176 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1092/2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board<sup>2</sup> is to be incorporated into the EEA Agreement.

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<sup>1</sup> OJ L 334, 27.12.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/2175/oj>.

<sup>2</sup> OJ L 334, 27.12.2019, p. 146, ELI: <http://data.europa.eu/eli/reg/2019/2176/oj>.

- (3) Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019 amending Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), Directive 2014/65/EU on markets in financial instruments and Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing<sup>3</sup> is to be incorporated into the EEA Agreement.
- (4) The Contracting Parties acknowledge that this Decision implements the agreement that was reflected in paragraph 2 of the Council Conclusions on the EU and EEA EFTA Ministers of Finance and Economy on 14 October 2014 regarding the incorporation of the EU ESAs Regulations into the EEA Agreement<sup>4</sup>, and should therefore be interpreted in line with the principles that those Conclusions embody.
- (5) Annex IX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

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<sup>3</sup> OJ L 334, 27.12.2019, p. 155, ELI: <http://data.europa.eu/eli/dir/2019/2177/oj>.

<sup>4</sup> Council Conclusions on the EU and EEA EFTA Ministers of Finance and Economy, ST 14178/14 REV 1.

### *Article 1*

The following indent shall be added in point 1 (Directive 2009/138/EC of the European Parliament and of the Council) of Annex IX to the EEA Agreement:

- ‘– **32019 L 2177**: Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019 (OJ L 334, 27.12.2019, p. 155).’

### *Article 2*

The following indent shall be added in point 23b (Directive (EU) 2015/849 of the European Parliament and of the Council) of Annex IX to the EEA Agreement:

- ‘– **32019 L 2177**: Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019 (OJ L 334, 27.12.2019, p. 155).’

### *Article 3*

The following shall be added in point 23ba (Regulation (EU) 2015/847 of the European Parliament and of the Council) of Annex IX to the EEA Agreement:

‘, as amended by:

- **32019 R 2175**: Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 (OJ L 334, 27.12.2019, p. 1), as corrected by OJ L 131, 5.5.2022, p. 9.’.

### *Article 4*

The following indent shall be added in point 31ba (Directive 2014/65/EU of the European Parliament and of the Council) of Annex IX to the EEA Agreement:

- ‘– **32019 L 2177**: Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019 (OJ L 334, 27.12.2019, p. 155).’.

## Article 5

Point 31baa (Regulation (EU) No 600/2014 of the European Parliament and of the Council) of Annex IX to the EEA Agreement shall be amended as follows:

1. The following indent is added:

- **32019 R 2175**: Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 (OJ L 334, 27.12.2019, p. 1) , as corrected by OJ L 131, 5.5.2022, p. 9.’.

2. The text of adaptation (a) is replaced by the following:

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

3. The following adaptation is inserted after adaptation (e):

- ‘(ea) Decisions, interim decisions, notifications, simple requests, revocations of decisions and other measures of the EFTA Surveillance Authority under Articles 27d(2) and (3), 27e(1), 38b(1), 38c(3), 38d(5), 38g(1), 38h(1), 38i(1) and 38k(8) 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.’.

4. The following adaptation is inserted after adaptation (f):

‘(fa) In Article 2(1)(18), the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.’.

5. The following adaptations are inserted after adaptation (h):

‘(ha) In the first sentence of the first subparagraph and in the second and third subparagraphs of Article 27(4), as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.

(hb) In Article 27b:

(i) in paragraph 1, the words “or, where such operations are established in an EFTA State, by the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(ii) in paragraph 2, the words “or, as regards investment firms or market operators operating a trading venue which are established in an EFTA State, by the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iii) in the second subparagraph of paragraph 3 and in paragraph 4, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

- (hc) In Article 27c:
- (i) in paragraph 1, the words “or, as regards data reporting services providers established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
  - (ii) in paragraph 2, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.
- (hd) In paragraphs 1 to 3 of Article 27d and paragraph 4 of Article 27f, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.
- (he) In Article 27e:
- (i) in paragraph 1, the words “or, in the case of a data reporting services provider established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
  - (ii) in paragraph 2, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.

6. The following adaptations are inserted after adaptation (j):

‘(ja) The following shall be added in Article 38a:

“The powers conferred on the EFTA Surveillance Authority or any official of or other person authorised by the EFTA Surveillance Authority by Articles 38b to 38e shall not be used to require the disclosure of information or documents which are subject to legal privilege.”.

(jb) In Article 38b:

(i) paragraph 1 shall be replaced by the following:

“1. ESMA or, in the case of persons established in an EFTA State, the EFTA Surveillance Authority may by simple request or by decision require the following persons to provide all information to enable ESMA or, as the case may be, the EFTA Surveillance Authority, to carry out its duties under this Regulation:

(a) an APA, a CTP, an ARM, where they are supervised by ESMA or, as the case may be, the EFTA Surveillance Authority, and an investment firm or a market operator operating a trading venue to operate the data reporting services of an APA, a CTP or an ARM, and the persons that control them or are controlled by them;

- (b) the managers of the persons referred to in point (a);
- (c) the auditors and advisors of the persons referred to in point (a);”;
- (ii) in paragraphs 3 and 5, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;
- (iii) as regards the EFTA States, the text of point (g) of paragraph 3 shall read as follows:

“indicate the right to have the decision reviewed by the EFTA Court in accordance with Article 36 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

- (iv) the following subparagraph shall be added in paragraph 5:

“The EFTA Surveillance Authority shall, without undue delay, forward the information received under this Article to ESMA.”.

- (jc) In Article 38c:

- (i) in paragraph 1, the words “or, in the case a person subject to investigation is established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

- (ii) in paragraph 1, the following subparagraph shall be added:

“Officials of and other persons authorised by ESMA shall be entitled to assist the EFTA Surveillance Authority in carrying out its duties under this Article and have the right to participate in investigations upon ESMA’s request.”;

- (iii) in paragraphs 2 to 4, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;

- (iv) in paragraph 3, as regards the EFTA States, the second sentence shall read as follows:

“The decision shall specify the subject matter and purpose of the investigation, the periodic penalty payment provided for in Article 38i and the right to have the decision reviewed by the EFTA Court in accordance with Article 36 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

- (v) as regards the EFTA States, paragraph 6 shall read as follows:

“6. Where a national judicial authority receives an application for the authorisation of a request for records of telephone or data traffic referred to in point (e) of paragraph 1, that authority shall verify the following:

- (a) the decision adopted by the EFTA Surveillance Authority referred to in paragraph 3 is authentic;

(b) any measures to be taken are proportionate and not arbitrary or excessive.

For the purposes of point (b), the national judicial authority may ask the EFTA Surveillance Authority for detailed explanations, in particular relating to the grounds the EFTA Surveillance Authority has for suspecting that an infringement of this Regulation has taken place and the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the investigation or demand that it be provided with the information on the file of ESMA and the EFTA Surveillance Authority. The lawfulness of the EFTA Surveillance Authority's decision shall be subject to review only by the EFTA Court in accordance with the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”.

(jd) In Article 38d:

(i) in paragraph 1, the words “or, in the case of persons established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

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

“The EFTA Surveillance Authority shall, without undue delay, forward the information obtained under this Article to ESMA.”;

(iii) in paragraphs 2 to 8, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iv) in paragraph 5, as regards the EFTA States, the second sentence shall read as follows:

“The decision shall specify the subject matter and purpose of the inspection, appoint the date on which it is to begin and indicate the periodic penalty payments provided for in Article 38i, as well as the right to have the decision reviewed by the EFTA Court in accordance with the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

(v) as regards the EFTA States, paragraph 10 shall read as follows:

“10. Where a national judicial authority receives an application for the authorisation of an on-site inspection provided for in paragraph 1 or the assistance provided for in paragraph 7, that authority shall verify the following:

(a) the decision adopted by the EFTA Surveillance Authority referred to in paragraph 5 is authentic;

(b) any measures to be taken are proportionate and not arbitrary or excessive.

For the purposes of point (b), the national judicial authority may ask the EFTA Surveillance Authority for detailed explanations, in particular relating to the grounds the EFTA Surveillance Authority has for suspecting that an infringement of this Regulation has taken place and the seriousness of the suspected infringement and the nature of the involvement of the persons subject to the coercive measures. However, the national judicial authority shall not review the necessity for the investigation or demand that it be provided with the information on the file of ESMA and the EFTA Surveillance Authority. The lawfulness of the decision of the EFTA Surveillance Authority shall be subject to review only by the EFTA Court in accordance with the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”.

(je) In Article 38e, the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(jf) The text of Article 38f shall be replaced by the following:

“The obligation of professional secrecy referred to in Article 76 of Directive 2014/65/EU shall apply to ESMA and to the EFTA Surveillance Authority and all persons who work or who have worked for ESMA or for the EFTA Surveillance Authority or for any other person to whom ESMA or the EFTA Surveillance Authority have delegated tasks, including auditors and experts contracted by ESMA or the EFTA Surveillance Authority.”.

(jg) In Article 38g:

- (i) in paragraph 1, the words “or, in the case of persons which are established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
- (ii) in the first subparagraph of paragraph 2, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;
- (iii) in point (h) of paragraph 2, as regards the EFTA States, the word “ESMA” shall read “ESMA and the EFTA Surveillance Authority”;

(iv) the following shall be added in paragraph 3:

“Without undue delay, the EFTA Surveillance Authority shall notify any action taken pursuant to paragraph 1 to the person responsible for the infringement and shall communicate it to the competent authorities and to the Commission. ESMA shall publicly disclose any such action on its website within 10 working days from the date when it was taken. The EFTA Surveillance Authority shall also make public any of its own actions on its website within 10 working days from the date when it was taken.

The disclosure to the public referred to in the third subparagraph shall include the following:

- (a) a statement affirming the right of the person responsible for the infringement to have the decision adopted reviewed by the EFTA Court;
- (b) where relevant, a statement affirming that such proceedings have been instituted and specifying that actions brought before the EFTA Court do not have suspensory effect;
- (c) a statement asserting that it is possible for the EFTA Court to suspend the application of the contested decision in accordance with Article 40 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”.

(jh) In Article 38h:

- (i) in paragraph 1, the words “or, in the case of persons established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
- (ii) in paragraph 3, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.

(ji) In Article 38i:

- (i) in paragraph 1, the words “or, in the case of persons established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
- (ii) in paragraph 4, as regards the EFTA States, the word “ESMA” and “ESMA’s” shall read “the EFTA Surveillance Authority and “the EFTA Surveillance Authority’s”, respectively”.

(jj) In Article 38j:

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

“The EFTA Surveillance Authority shall also disclose to the public every fine and periodic penalty payment that it has imposed pursuant to Articles 38h and 38i subject to the conditions laid down in this paragraph as regards the disclosure of fines and periodic penalty payments by ESMA.”;

(ii) in paragraph 3, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iii) in paragraph 3, as regards the EFTA States, the words “the European Parliament, the Council,” shall read “ESMA, the Standing Committee of the EFTA States,”;

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

“The Standing Committee of the EFTA States shall determine the allocation of the amounts of the fines and periodic penalty payments collected by the EFTA Surveillance Authority.”.

(jk) In Article 38k:

(i) in the first sentence in paragraph 1, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;

- (ii) in paragraph 1, as regards the EFTA States, the words “ESMA shall appoint an independent investigation officer within ESMA to investigate the matter” shall read “the EFTA Surveillance Authority shall appoint an independent investigation officer within the EFTA Surveillance Authority to investigate the matter following consultations with ESMA”;
- (iii) in paragraph 1, the following subparagraph shall be added:

“The investigation officer appointed by the EFTA Surveillance Authority shall not be involved or have been directly or indirectly involved in the supervision or the authorisation process of the data reporting services provider concerned and shall perform its functions independently from the College of the EFTA Surveillance Authority and ESMA’s Board of Supervisors.”;
- (iv) in paragraphs 2, 4, 5 and 7, as regards the EFTA States, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
- (v) in paragraph 8, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;
- (vi) in paragraph 8, the following subparagraph shall be added:

“The EFTA Surveillance Authority shall provide ESMA with all information and files necessary for the performance of its obligations under this paragraph.”;

- (vii) in paragraph 9, as regards the EFTA States, the words “or the EFTA Surveillance Authority’s” shall be inserted after the word “ESMA’s”;
  - (viii) in paragraph 11, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.
- (j) In Article 38l:
- (i) in paragraph 1, the following subparagraphs shall be added:

“Before preparing any draft for the EFTA Surveillance Authority pursuant to Articles 38g, 38h and 38i, ESMA shall give the persons subject to the proceedings the opportunity to be heard on its findings. ESMA shall base its drafts only on findings on which the persons subject to the proceedings have had an opportunity to comment.

The EFTA Surveillance Authority shall base its decisions pursuant to Articles 38g, 38h and 38i only on findings on which the persons subject to the proceedings have had an opportunity to comment.

The third and fourth subparagraphs of this paragraph shall not apply if urgent action is needed in order to prevent significant and imminent damage to the financial system. In such a case ESMA may prepare a draft and the EFTA Surveillance Authority may adopt an interim decision. ESMA shall give the persons concerned the opportunity to be heard as soon as possible after preparing such a draft.”;

- (ii) in paragraph 2, as regards the EFTA States, the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority” and the words “ESMA’s internal preparatory documents” shall read “the internal preparatory documents of ESMA and the EFTA Surveillance Authority”.

(jm) In Article 38n(1), the following subparagraphs shall be added:

“As regards data reporting services providers established in an EFTA State, fees shall be charged by the EFTA Surveillance Authority on the same basis as fees charged to other data reporting services providers in accordance with this Regulation and in accordance with the delegated acts referred to in paragraph 3.

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

(jn) In Article 38o:

- (i) in paragraph 1, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted before the words “may delegate specific supervisory tasks”;
- (ii) in paragraphs 2 to 5, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
- (iii) in paragraph 5, the words “or, as the case may be, the EFTA Surveillance Authority’s” shall be inserted after the word “ESMA’s”;

(iv) the following paragraph shall be added:

“6. ESMA and the EFTA Surveillance Authority shall consult each other prior to any delegation of a task pursuant to this Article.”.’

7. The following adaptation is inserted after adaptation (m):

‘(n) In Article 54a, as regards the EFTA States:

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

(ii) the words “1 January 2022” shall read “the date of entry into force of Decision of the EEA Joint Committee No .../... of [this decision];

(iii) the words “before 1 October 2021” shall read “more than three months before the date of entry into force of Decision of the EEA Joint Committee No .../... of [this decision]”;

(iv) the following paragraph shall be added:

“6. The EFTA Surveillance Authority shall, where relevant and without undue delay, forward copies of any files, working documents, records and working papers received pursuant to this Article to ESMA.”.’

## Article 6

Point 31f (Regulation (EU) No 1092/2010 of the European Parliament and of the Council) of Annex IX to the EEA Agreement shall be amended as follows:

1. The following is added:

‘, as amended by:

- **32019 R 2176**: Regulation (EU) 2019/2176 of the European Parliament and of the Council of 18 December 2019 (OJ L 334, 27.12.2019, p. 146).’

2. The text of adaptation (b) is replaced by the following:

‘Notwithstanding the provisions of Protocol 1 to this Agreement, the terms Member State(s), competent authorities, and supervisory authorities shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities and supervisory authorities, respectively. This shall not apply as regards Articles 5(2), 9(5) and 11(1) (c).’

3. The text of adaptation (c) is replaced by the following:

‘The following shall be added in Article 6(2):

- “(e) the Governors of the national central banks of the EFTA States or, as regards Liechtenstein, a high-level representative of the Ministry of Finance;

(f) a College Member of the EFTA Surveillance Authority, whenever relevant to its tasks.”’.

4. The text of adaptation (d) is replaced by the following:

‘The following point shall be added in Article 13(1):

“(i) one representative of each national central bank of the EFTA States or, as regards Liechtenstein, of the Ministry of Finance.”’.

5. The following adaptation is inserted after adaptation (d):

‘(da) In Article 8(2a), the words “Union law” shall be replaced by the words “provisions of the EEA Agreement”’.

6. The following adaptations are inserted after adaptation (g):

‘(ga) In Article 17(1), the following subparagraph shall be added:

“If a recommendation referred to in point (d) of Article 3(2) is addressed to one of the addressees listed in Article 16(2) which is an EFTA State or a national authority of an EFTA State, the addressee shall communicate to the Standing Committee of the EFTA States and to the ESRB the actions undertaken in response to the recommendation and shall substantiate any inaction. Where relevant, the ESRB shall, subject to strict rules of confidentiality, inform the ESAs of the answers received without delay.”’.

(gb) In Article 17(2), the following subparagraph shall be added:

“If the ESRB decides that its recommendation addressed to an EFTA State or a national authority of an EFTA State has not been followed or that the addressees have failed to provide adequate justification for their inaction, the ESRB shall, subject to strict rules of confidentiality, inform the addressees, the Standing Committee of the EFTA States and the relevant ESAs thereof.”.

7. In adaptation (g), the words “Article 17(1) and (2) and in” are deleted.

### *Article 7*

Point 31g (Regulation (EU) No 1093/2010 of the European Parliament and of the Council) of Annex IX to the EEA Agreement shall be amended as follows:

1. The following indent is added:

– **32019 R 2175**: Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 (OJ L 334, 27.12.2019, p. 1) , as corrected by OJ L 131, 5.5.2022, p. 9.’.

2. The text of adaptation (b) is replaced by the following:

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

3. The following adaptations are inserted after adaptation (f):

‘(fa) In Article 3(3), the words “to the EFTA Surveillance Authority, to the Standing Committee of the EFTA States,” shall be inserted after the word “Commission,”.

(fb) As regards the EFTA States, the text of point (v) of Article 4(2) shall read:

“with regard to Directive 2014/59/EU of the European Parliament and of the Council, the resolution authorities designated in accordance with Article 3 of Directive 2014/59/EU;”.’.

4. The text of adaptation (g)(ii) is replaced by the following:

‘as regards the EFTA States, the second and third subparagraphs shall read as follows:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.

The EFTA Surveillance Authority shall review the decision referred to in the first two subparagraphs at appropriate intervals and at least every six months.

The EFTA Surveillance Authority shall as soon as possible after the adoption of the decision referred to in the first two subparagraphs inform the Authority of the expiry date. In due time before the expiry of the six-month period referred to in the third subparagraph, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft. The EFTA Surveillance Authority may inform the Authority of any development it considers relevant for the review.

Following at least two consecutive renewals, and based on proper analysis which aims to assess the impact on the customer or consumer, the EFTA Surveillance Authority may decide on the annual renewal of the prohibition.

An EFTA State may request the EFTA Surveillance Authority to reconsider its decision. The EFTA Surveillance Authority shall forward this request to the Authority. In that case the Authority shall, in accordance with the procedure set out in the second subparagraph of Article 44(1), consider preparing a new draft for the EFTA Surveillance Authority.

Where the Authority amends or revokes any decision parallel to the decision adopted by the EFTA Surveillance Authority, the Authority shall, without undue delay, prepare a draft for the EFTA Surveillance Authority.”’.

5. The following adaptation is inserted after adaptation (g):

‘(ga) References to Union law in Articles 9b, 9c and 17a shall be understood as referring to the EEA Agreement.’.

6. The following adaptations are inserted after adaptation (h):

‘(ha) In Article 16a:

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

“The Authority may, upon a request from the Standing Committee of the EFTA States or from the EFTA Surveillance Authority, or on its own initiative, provide opinions to the Standing Committee of the EFTA States and to the EFTA Surveillance Authority on all issues related to its area of competence.”;

(ii) the following subparagraph shall be added in paragraph 4:

“The Authority may, upon a request from the Standing Committee of the EFTA States or from the EFTA Surveillance Authority provide technical advice to the Standing Committee of the EFTA States and the EFTA Surveillance Authority in the areas set out in the legislative acts referred to in Article 1(2).”.

(hb) In Article 16b:

(i) in paragraph 1, the words “the Standing Committee of the EFTA States and the EFTA Surveillance Authority,” shall be inserted after the words “Union institutions and bodies,”;

(ii) in paragraph 1, the words “of the Union” shall read “of the Contracting Parties to the EEA Agreement”;

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

“The Authority shall forward questions that require the interpretation of the EEA Agreement to the Commission and to the EFTA Surveillance Authority. The Commission and the EFTA Surveillance Authority shall consult each other on questions requiring the interpretation of the EEA Agreement with a view to submitting a joint answer. The Authority shall publish any answers provided by the Commission and/or by the EFTA Surveillance Authority.”.

7. The text of adaptation (i) is replaced by the following:

‘In Article 17:

- (i) the words “Union law” shall read “the EEA Agreement”;
- (ii) in paragraph 1, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “the Authority”;
- (iii) in paragraph 2, the words “, the Standing Committee of the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”;

- (iv) the following subparagraph shall be added in paragraph 2:

“Where the Authority outlines how it intends to proceed with a case and, where appropriate, investigates an alleged breach or non-application of the EEA Agreement with regard to a competent authority of an EFTA State, it shall inform the EFTA Surveillance Authority of the nature and purpose of the investigation and provide it regularly thereafter with the updated information necessary for the EFTA Surveillance Authority to appropriately perform its tasks under paragraphs 4 and 6.”;

- (v) as regards the EFTA States, the second subparagraph of paragraph 3 shall read as follows:

“The competent authority shall, within 10 working days of receipt of the recommendation, inform the Authority and the EFTA Surveillance Authority of the steps it has taken or intends to take to ensure compliance with the EEA Agreement.”;

- (vi) as regards the EFTA States, paragraphs 4 and 5 shall read as follows:

“4. Where the competent authority has not complied with the EEA Agreement within one month from receipt of the Authority’s recommendation, the EFTA Surveillance Authority may issue a formal opinion requiring the competent authority to take the action necessary to comply with the EEA Agreement. The EFTA Surveillance Authority’s formal opinion shall take into account the Authority’s recommendation.

The EFTA Surveillance Authority shall issue such a formal opinion no later than three months after the adoption of the recommendation. The EFTA Surveillance Authority may extend that period by one month.

Formal opinions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.

The competent authorities shall provide the Authority and the EFTA Surveillance Authority with all necessary information.

5. The competent authority shall, within 10 working days of receipt of the formal opinion referred to in paragraph 4, inform the Authority and the EFTA Surveillance Authority of the steps it has taken or intends to take to comply with that formal opinion.”;

- (vii) as regards the EFTA States, in the first subparagraph of paragraph 6 the words “Without prejudice to the powers of the Commission pursuant to Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority pursuant to Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”, and the words “the Authority” shall read “the EFTA Surveillance Authority”;

(viii) as regards the EFTA States, the second subparagraph of paragraph 6 shall read as follows:

“In matters concerning the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, where the relevant requirements of the legislative acts referred to in Article 1(2) are not directly applicable to financial sector operators, the EFTA Surveillance Authority may adopt a decision requiring the competent authority to comply with the formal opinion referred to in paragraph 4 of this Article within the period specified therein. If the authority does not comply with that decision, the EFTA Surveillance Authority may also adopt a decision in accordance with the first sub-paragraph. To that effect, the EFTA Surveillance Authority shall apply all relevant provisions of the EEA Agreement, and, where such provisions of the EEA Agreement are composed of Directives, national law to the extent that it transposes those Directives. Where the relevant provisions of the EEA Agreement are composed of Regulations and where those Regulations explicitly grant options for the EFTA States, the EFTA Surveillance Authority shall apply also national law to the extent that such options have been exercised.”;

(ix) as regards the EFTA States, the third subparagraph of paragraph 6 shall read as follows:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

(x) as regards the EFTA States, paragraph 8 shall read as follows:

“8. The EFTA Surveillance Authority shall annually publish information on which competent authorities and financial institutions in the EFTA States have not complied with the formal opinions or decisions referred to in paragraphs 4 and 6.”’.

8. The following adaptation is inserted after adaptation (i):

‘(ia) In paragraphs 1 and 3 of Article 17a, the words “and the EFTA Surveillance Authority” shall be inserted after the words “the Authority”.’.

9. The text of adaptation (k) is replaced by the following:

‘In Article 19:

- (i) in paragraphs 1, 1a and 3a, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “the Authority”;
- (ii) in paragraph 3, the words “in the EU Member States” shall be inserted after the words “shall be binding on the competent authorities concerned”;

(iii) the following subparagraphs shall be added in paragraph 3:

“Where exclusively competent authorities of the EFTA States are concerned, and where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the EFTA Surveillance Authority may take a decision requiring those authorities to take specific action, or to refrain from certain action in order to settle the matter, and to ensure compliance with the EEA Agreement. The decision of the EFTA Surveillance Authority shall be binding on the competent authorities concerned. The decision of the EFTA Surveillance Authority may require competent authorities to revoke or amend a decision that they have adopted or to make use of the powers which they have under the relevant provisions of the EEA Agreement.

Where competent authorities of one or more EU Member States and one or more EFTA States are concerned, and where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the Authority and the EFTA Surveillance Authority may take a decision requiring the competent authorities of, respectively, the EU Member States and the EFTA States concerned to take specific action, or to refrain from action, in order to settle the matter, and to ensure compliance with the EEA Agreement. The decisions of the Authority and the EFTA Surveillance Authority shall be binding on the competent authorities concerned. The decisions of the Authority and the EFTA Surveillance Authority may require competent authorities to revoke or amend a decision that they have adopted or to make use of the powers which they have under the relevant provisions of the EEA Agreement.

Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

- (iv) as regards the EFTA States, in the first subparagraph of paragraph 4, the words “Without prejudice to the powers of the Commission pursuant to Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority pursuant to Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice,” the words “the Authority” shall read “the EFTA Surveillance Authority” and the words “Union law” shall read “the EEA Agreement”;

- (v) as regards the EFTA States, the second subparagraph of paragraph 4 shall read as follows:

“In matters concerning the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, the EFTA Surveillance Authority may adopt a decision in accordance with the first subparagraph of this paragraph where the relevant requirements of the legislative acts referred to in Article 1(2) are not directly applicable to financial sector operators. To that effect, the EFTA Surveillance Authority shall apply all relevant provisions of the EEA Agreement, and where such provisions of the EEA Agreement are composed of Directives, national law to the extent that it transposes those Directives. Where the relevant provisions of the EEA Agreement are composed of Regulations and where those Regulations explicitly grant options for EFTA States, the EFTA Surveillance Authority shall also apply national law to the extent that such options have been exercised.”;

- (vi) in paragraph 4, the following subparagraph shall be added:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”.

10. The text of adaptation (o) is replaced by the following:

‘In Article 22(4), the words “, the EFTA Surveillance Authority or the Standing Committee of the EFTA States,” shall be inserted after the words “the European Parliament, the Council or the Commission”.’.

11. The following adaptations are inserted after adaptation (o):

‘(oa) In Article 28(3), the following subparagraph shall be inserted:

“When the competent authorities have delegated tasks and responsibilities to the Authority pursuant to paragraph 1 that are directed at natural and legal persons established in an EFTA State and result in direct obligation on these entities, the Authority shall request the EFTA Surveillance Authority to take such measures. Decisions, interim decisions, notifications, simple requests, revocations of decisions and other measures of the EFTA Surveillance Authority under this paragraph shall be based on a draft by the Authority.”.

(ob) In Article 30(7), the words “, to the Standing Committee of the EFTA States and to the EFTA Surveillance Authority” shall be inserted after the word “Commission”.’.

12. The following adaptation is inserted after adaptation (p):

‘(pa) In Article 33(3):

- (i) in the third subparagraph, the words “, to the Standing Committee of the EFTA States” shall be inserted after the word “Commission”;
- (ii) in the fourth subparagraph, the words “and the Standing Committee of the EFTA States” shall be inserted after the word “Commission”.’.

13. The text of adaptation (r) is replaced by the following:

‘In Article 36(5), as regards the EFTA States, the words “the European Parliament, the Council, the Commission” shall read “the Standing Committee of the EFTA States and the EFTA Surveillance Authority”.’.

14. The text of adaptation (t) is replaced by the following:

‘In Article 39:

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

- (ii) the following subparagraph shall be added in paragraph 2:

“When preparing a draft for the EFTA Surveillance Authority in accordance with the Regulation, the Authority shall inform the EFTA Surveillance Authority in the official language of the addressee of the decision to be taken, setting a time limit within which the EFTA Surveillance Authority may allow any natural or legal person, including a competent authority, which is the addressee of the decision to be taken, to express its view on the subject-matter of the decision, taking full account of the urgency, complexity and potential consequences of the matter.”;

- (iii) the following subparagraphs shall be added in paragraph 5:

“Where the EFTA Surveillance Authority has taken a decision pursuant to Article 18(3) or (4), it shall review that decision at appropriate intervals. The EFTA Surveillance Authority shall inform the Authority of forthcoming revisions, as well as of any developments that are relevant to the review.

The decision of the EFTA Surveillance Authority to amend or to revoke a decision shall be taken on the basis of drafts prepared by the Authority. In due time before any intended revision, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft.”;

- (iv) as regards the EFTA States, in paragraph 6 the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “the Authority”.’.

15. The text of adaptation (v) is replaced by the following:

‘In Article 43:

- (i) in paragraph 1, the words “, prepare drafts for the EFTA Surveillance Authority,” shall be inserted after the words “decisions of the Authority,”;
- (ii) in paragraphs 4, 5 and 6, the words “, the EFTA Surveillance Authority, the Standing Committee of the EFTA States,” shall be inserted after the words “the Council”.’.

16. The following adaptation is inserted after adaptation (z):

‘(zaa)The following subparagraph shall be added in Article 62(1)(b):

“The EFTA States shall participate in the contribution from the Union referred to in this point. For this purpose, the procedures laid down in Article 82(1)(a) of and Protocol 32 to the EEA Agreement shall apply *mutatis mutandis*.”.’.

17. The text of adaptation (za) is replaced by the following:

‘The following shall be added in Article 67:

“The EFTA States shall grant privileges and immunities to the Authority and its staff equivalent to those contained in Protocol (No 7) on the privileges and immunities of the European Union annexed to the Treaty on European Union and to the TFEU.”.’.

## Article 8

Point 31h (Regulation (EU) No 1094/2010 of the European Parliament and of the Council) of Annex IX to the EEA Agreement shall be amended as follows:

1. The following indent is added:

- **32019 R 2175**: Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 (OJ L 334, 27.12.2019, p. 1), as corrected by OJ L 131, 5.5.2022, p. 9.’.

2. The text of adaptation (b) is replaced by the following:

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

3. The following adaptation is inserted after adaptation (f):

- ‘(fa) In Article 3(3), the words “to the EFTA Surveillance Authority, to the Standing Committee of the EFTA States,” shall be inserted after the word “Commission,”.’.

4. The text of adaptation (g)(ii) is replaced by the following:

‘as regards the EFTA States, the second and third subparagraphs shall read as follows:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.

The EFTA Surveillance Authority shall review the decision referred to in the first two subparagraphs at appropriate intervals and at least every six months.

The EFTA Surveillance Authority shall as soon as possible after the adoption of the decision referred to in the first two subparagraphs inform the Authority of the expiry date. In due time before the expiry of the six-month period referred to in the third subparagraph, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft. The EFTA Surveillance Authority may inform the Authority of any development it considers relevant for the review.

Following at least two consecutive renewals, and based on proper analysis which aims to assess the impact on the customer or consumer, the EFTA Surveillance Authority may decide on the annual renewal of the prohibition.

An EFTA State may request the EFTA Surveillance Authority to reconsider its decision. The EFTA Surveillance Authority shall forward this request to the Authority. In that case the Authority shall, in accordance with the procedure set out in the second subparagraph of Article 44(1), consider preparing a new draft for the EFTA Surveillance Authority.

Where the Authority amends or revokes any decision parallel to the decision adopted by the EFTA Surveillance Authority, the Authority shall, without undue delay, prepare a draft for the EFTA Surveillance Authority.”’.

5. The following adaptation is inserted after adaptation (g):

‘(ga) References to Union law in Articles 9a and 17a shall be understood as referring to the EEA Agreement.’.

6. The following adaptations are inserted after adaptation (h):

‘(ha) In Article 16a:

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

“The Authority may, upon a request from the Standing Committee of the EFTA States or from the EFTA Surveillance Authority, or on its own initiative, provide opinions to the Standing Committee of the EFTA States and to the EFTA Surveillance Authority on all issues related to its area of competence.”;

- (ii) the following subparagraph shall be inserted in paragraph 4:

“The Authority may, upon a request from the Standing Committee of the EFTA States or from the EFTA Surveillance Authority provide technical advice to the Standing Committee of the EFTA States and the EFTA Surveillance Authority in the areas set out in the legislative acts referred to in Article 1(2).”.

- (hb) In Article 16b:

- (i) in paragraph 1, the words “the Standing Committee of the EFTA States and the EFTA Surveillance Authority,” shall be inserted after the words “Union institutions and bodies,”;
- (ii) in paragraph 1, the words “of the Union” shall read “of the Contracting Parties to the EEA Agreement”;
- (iii) the following subparagraph shall be inserted in paragraph 5:

“The Authority shall forward questions that require the interpretation of the EEA Agreement to the Commission and to the EFTA Surveillance Authority. The Commission and the EFTA Surveillance Authority shall consult each other on questions requiring the interpretation of the EEA Agreement with a view to submitting a joint answer. The Authority shall publish any answers provided by the Commission and/or by the EFTA Surveillance Authority.”.

7. The text of adaptation (i)(iv) is replaced by the following:

‘the following subparagraph shall be added in paragraph 2:

“Where the Authority outlines how it intends to proceed with a case and, where appropriate, investigates an alleged breach or non-application of the EEA Agreement with regard to a competent authority of an EFTA State, it shall inform the EFTA Surveillance Authority of the nature and purpose of the investigation and provide it regularly thereafter with the updated information necessary for the EFTA Surveillance Authority to appropriately perform its tasks under paragraphs 4 and 6.”.’.

8. The text of adaptation (i)(vii) is replaced by the following:

‘as regards the EFTA States, in the first subparagraph of paragraph 6, the words “Without prejudice to the powers of the Commission pursuant to Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority pursuant to Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”, and the words “the Authority” shall read “the EFTA Surveillance Authority”.’.

9. The following adaptation is inserted after adaptation (i):

‘(ia) In paragraphs 1 and 3 of Article 17a, the words “and the EFTA Surveillance Authority” shall be inserted after the words “the Authority”.’.

10. The text of adaptation (k) is replaced by the following:

‘In Article 19:

- (i) in paragraphs 1, 1a and 3a, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “the Authority”;
- (ii) in paragraph 3, the words “in the EU Member States” shall be inserted after the words “binding on the competent authorities concerned”;
- (iii) the following subparagraphs shall be added in paragraph 3:

“Where exclusively competent authorities of the EFTA States are concerned, and where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the EFTA Surveillance Authority may take a decision requiring those authorities to take specific action, or to refrain from certain action, in order to settle the matter, and to ensure compliance with the EEA Agreement. The decision of the EFTA Surveillance Authority shall be binding on the competent authorities concerned. The decision of the EFTA Surveillance Authority may require competent authorities to revoke or amend a decision that they have adopted or to make use of the powers which they have under the relevant provisions of the EEA Agreement.

Where competent authorities of one or more EU Member States and one or more EFTA States are concerned, and where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the Authority and the EFTA Surveillance Authority may take a decision requiring the competent authorities of, respectively, the EU Member States and the EFTA States concerned to take specific action, or to refrain from certain action, in order to settle the matter, and to ensure compliance with the EEA Agreement. The decisions of the Authority and the EFTA Surveillance Authority shall be binding on the competent authorities concerned. The decisions of the Authority and the EFTA Surveillance Authority may require competent authorities to revoke or amend a decision that they have adopted or to make use of the powers which they have under the relevant provisions of the EEA Agreement.

Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

- (iv) in paragraph 4, as regards the EFTA States, the words “Without prejudice to the powers of the Commission pursuant to Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority pursuant to Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”, the words “the Authority” shall read “the EFTA Surveillance Authority” and the words “Union law” shall read “the EEA Agreement”;

(v) in paragraph 4, the following subparagraph shall be added:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”.

11. The text of adaptation (n) is replaced by the following:

‘In Article 22(4), the words “, the EFTA Surveillance Authority or the Standing Committee of the EFTA States,” shall be inserted after the words “the European Parliament, the Council or the Commission”.’.

12. The following adaptations are inserted after adaptation (n):

‘(na) In Article 28(3), the following subparagraph is inserted:

“When the competent authorities have delegated tasks and responsibilities to the Authority pursuant to paragraph 1 that are directed at natural and legal persons established in an EFTA State and result in direct obligation on those entities, the Authority shall request the EFTA Surveillance Authority to take such measures. Decisions, interim decisions, notifications, simple requests, revocations of decisions and other measures of the EFTA Surveillance Authority under this paragraph shall be based on a draft by the Authority.”.

(nb) In Article 30(7), the words “, to the Standing Committee of the EFTA States and to the EFTA Surveillance Authority” shall be inserted after the word “Commission”.

(nc) In Article 33(3):

(i) in the third subparagraph, the words “, to the Standing Committee of the EFTA States” shall be inserted after the word “Commission”;

(ii) in the fourth subparagraph, the words “and the Standing Committee of the EFTA States” shall be inserted after the word “Commission”.

13. The following adaptation is inserted after adaptation (o):

‘(oa) In Article 36(5), as regards the EFTA States, the words “the European Parliament, the Council, the Commission” shall read “the Standing Committee of the EFTA States, the EFTA Surveillance Authority”.

14. The text of adaptation (q) is replaced by the following:

‘In Article 39:

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

- (ii) the following subparagraph shall be added in paragraph 2:

“When preparing a draft for the EFTA Surveillance Authority in accordance with this Regulation, the Authority shall inform the EFTA Surveillance Authority in the official language of the addressee, setting a time limit within which the EFTA Surveillance Authority may allow any natural or legal person, including a competent authority, which is the addressee of the decision to be taken, to express its views on the subject-matter of the decision, taking full account of the urgency, complexity and potential consequences of the matter.”;

- (iii) the following subparagraphs shall be added in paragraph 5:

“Where the EFTA Surveillance Authority has taken a decision pursuant to Article 18(3) or (4), it shall review that decision at appropriate intervals. The EFTA Surveillance Authority shall inform the Authority of forthcoming revisions, as well as of any developments that are relevant to the review.

The decision of the EFTA Surveillance Authority to amend or to revoke a decision shall be taken on the basis of drafts prepared by the Authority. In due time before any intended revision, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft.”;

- (iv) as regards the EFTA States, in paragraph 6 the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “the Authority”.’.

15. The text of adaptation (s) is replaced by the following:

‘In Article 43:

- (i) in paragraph 1, the words “and prepare drafts for the EFTA Surveillance Authority,” shall be inserted after the words “decisions of the Authority,”;
- (ii) in paragraphs 4, 5 and 6, the words “, the EFTA Surveillance Authority, the Standing Committee of the EFTA States” shall be inserted after the words “the Council”.’.

16. The following adaptation is inserted after adaptation (w):

‘(wa) The following subparagraph shall be added in Article 62(1)(b):

“The EFTA States shall participate in the contribution from the Union referred to in this point. For this purpose, the procedures laid down in Article 82(1)(a) of and Protocol 32 to the EEA Agreement shall apply *mutatis mutandis*.”.’.

17. The text of adaptation (x) is replaced by the following:

‘The following shall be added in Article 67:

“The EFTA States shall grant privileges and immunities to the Authority and its staff equivalent to those contained in Protocol (No 7) on the privileges and immunities of the European Union annexed to the Treaty on European Union and to the TFEU.”.’.

## Article 9

Point 31i (Regulation (EU) No 1095/2010 of the European Parliament and of the Council) of Annex IX to the EEA Agreement shall be amended as follows:

1. The following indent is added:

- **32019 R 2175**: Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 (OJ L 334, 27.12.2019, p. 1), as corrected by OJ L 131, 5.5.2022, p. 9.’.

2. The text of adaptation (b) is replaced by the following:

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

3. The following adaptation is inserted after adaptation (f):

- ‘(fa) In Article 3(3), the words “to the EFTA Surveillance Authority, to the Standing Committee of the EFTA States,” shall be inserted after the word “Commission,”.’.

4. The text of adaptation (g)(ii) is replaced by the following:

‘as regards the EFTA States, the second and third subparagraphs shall read as follows:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.

The EFTA Surveillance Authority shall review the decision referred to in the first two subparagraphs at appropriate intervals and at least every six months.

The EFTA Surveillance Authority shall as soon as possible after the adoption of the decision referred to in the first two subparagraphs inform the Authority of the expiry date. In due time before the expiry of the six-month period referred to in the third subparagraph, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft. The EFTA Surveillance authority may inform the Authority of any developments it considers relevant for the review.

Following at least two consecutive renewals, and based on proper analysis which aims to assess the impact on the customer or consumer, the EFTA Surveillance Authority may decide on the annual renewal of the prohibition.

An EFTA State may request the EFTA Surveillance Authority to reconsider its decision. The EFTA Surveillance Authority shall forward this request to the Authority. In that case the Authority shall, in accordance with the procedure set out in the second subparagraph of Article 44(1), consider preparing a new draft for the EFTA Surveillance Authority.

Where the Authority amends or revokes any decision parallel to the decision adopted by the EFTA Surveillance Authority, the Authority shall, without undue delay, prepare a draft for the EFTA Surveillance Authority.”’.

5. The following adaptation is inserted after adaptation (g):

‘(ga) References to Union law in Articles 9a and 17a shall be understood as referring to the EEA Agreement.’.

6. The following adaptations are inserted after adaptation (h):

‘(ha) In Article 16a:

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

“The Authority may, upon a request from the Standing Committee of the EFTA States or from the EFTA Surveillance Authority, or on its own initiative, provide opinions to the Standing Committee of the EFTA States and to the EFTA Surveillance Authority on all issues related to its area of competence.”;

- (ii) the following subparagraph shall be inserted in paragraph 4:

“The Authority may, upon a request from the Standing Committee of the EFTA States or from the EFTA Surveillance Authority provide technical advice to the Standing Committee of the EFTA States and the EFTA Surveillance Authority in the areas set out in the legislative acts referred to in Article 1(2)”.

- (hb) In Article 16b:

- (i) in paragraph 1, the words “the Standing Committee of the EFTA States and the EFTA Surveillance Authority,” shall be inserted after the words “Union institutions and bodies,”;
- (ii) in paragraph 1, the words “of the Union” shall read “of the Contracting Parties to the EEA Agreement”;
- (iii) the following subparagraph shall be inserted in paragraph 5:

“The Authority shall forward questions that require the interpretation of the EEA Agreement to the Commission and to the EFTA Surveillance Authority. The Commission and the EFTA Surveillance Authority shall consult each other on questions requiring the interpretation of the EEA Agreement with a view to submitting a joint answer. The Authority shall publish any answers provided by the Commission and/or by the EFTA Surveillance Authority.”.

7. The text of adaptation (i)(iv) is replaced by the following:

‘the following subparagraph shall be added in paragraph 2:

“Where the Authority outlines how it intends to proceed with a case and, where appropriate, investigates an alleged breach or non-application of the EEA Agreement with regard to a competent authority of an EFTA State, it shall inform the EFTA Surveillance Authority of the nature and purpose of the investigation and provide it regularly thereafter with the updated information necessary for the EFTA Surveillance Authority to appropriately perform its tasks under paragraphs 4 and 6.”.’.

8. The text of adaptation (i)(vii) is replaced by the following:

‘as regards the EFTA States, in the first subparagraph of paragraph 6, the words “Without prejudice to the powers of the Commission pursuant to Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority pursuant to Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”, and the words “the Authority” shall read “the EFTA Surveillance Authority”.’.

9. The following adaptation is inserted after adaptation (i):

‘(ia) In paragraphs 1 and 3 of Article 17a, the words “and the EFTA Surveillance Authority” shall be inserted after the words “the Authority”.’.

10. The text of adaptation (k) is replaced by the following:

‘In Article 19:

- (i) in paragraphs 1, 1a and 3a, the words “or, as the case may be, the EFTA Surveillance Authority,” shall be inserted after the words “the Authority”;
- (ii) in paragraph 3, the words “in the EU Member States” shall be inserted after the words “shall be binding on the competent authorities concerned”;
- (iii) the following subparagraphs shall be added in paragraph 3:

“Where exclusively competent authorities of the EFTA States are concerned, and where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the EFTA Surveillance Authority may take a decision requiring those authorities to take specific action, or to refrain from certain action, in order to settle the matter, and to ensure compliance with the EEA Agreement. The decision of the EFTA Surveillance Authority shall be binding on the competent authorities concerned. The decision of the EFTA Surveillance Authority may require competent authorities to revoke or amend a decision that they have adopted or to make use of the powers which they have under the relevant provisions of the EEA Agreement.

Where competent authorities of one or more EU Member States and one or more EFTA States are concerned, and where such authorities fail to reach an agreement within the conciliation phase referred to in paragraph 2, the Authority and the EFTA Surveillance Authority may take a decision requiring the competent authorities of respectively the EU Member States and the EFTA States concerned to take specific action, or to refrain from certain action, in order to settle the matter, and to ensure compliance with the EEA Agreement. The decisions of the Authority and the EFTA Surveillance Authority shall be binding on the competent authorities concerned. The decisions of the Authority and the EFTA Surveillance Authority may require competent authorities to revoke or amend a decision that they have adopted or to make use of the powers which they have under the relevant provisions of the EEA Agreement.

Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”;

- (iv) in paragraph 4, as regards the EFTA States, the words “Without prejudice to the powers of the Commission pursuant to Article 258 TFEU” shall read “Without prejudice to the powers of the EFTA Surveillance Authority pursuant to Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”, the words “the Authority” shall read “the EFTA Surveillance Authority” and the words “Union law” shall read “the EEA Agreement”;

(v) in paragraph 4, the following subparagraph shall be added:

“Decisions by the EFTA Surveillance Authority shall, without undue delay, be adopted on the basis of drafts prepared by the Authority at its own initiative or at the request of the EFTA Surveillance Authority.”.

11. The text of adaptation (n) is replaced by the following:

‘In Article 22(4), the words “, the EFTA Surveillance Authority or the Standing Committee of the EFTA States,” shall be inserted after the words “the European Parliament, the Council or the Commission”.’.

12. The following adaptations are inserted after adaptation (n):

‘(na) In Article 28(3), the following subparagraph is inserted:

“When the competent authorities have delegated tasks and responsibilities to the Authority pursuant to paragraph 1 that are directed at natural and legal persons established in an EFTA State and result in direct obligation on these entities, the Authority shall request the EFTA Surveillance Authority to take such measures. Decisions, interim decisions, notifications, simple requests, revocations of decisions and other measures of the EFTA Surveillance Authority under this paragraph shall be based on a draft by the Authority.”.

(nb) In Article 30(7), the words “, to the Standing Committee of the EFTA States and to the EFTA Surveillance Authority” shall be inserted after the word “Commission”.

(nc) In Article 33(3):

(i) in the third subparagraph, the words “, to the Standing Committee of the EFTA States” shall be inserted after the word “Commission”;

(ii) in the fourth subparagraph, the words “and the Standing Committee of the EFTA States” shall be inserted after the word “Commission”.

13. The following adaptation is inserted after adaptation (o):

‘(oa) In Article 36(5), as regards the EFTA States, the words “the European Parliament, the Council, the Commission” shall read “the Standing Committee of the EFTA States, the EFTA Surveillance Authority”.

14. The text of adaptation (q) is replaced by the following:

‘In Article 39:

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

- (ii) the following subparagraph shall be added in paragraph 2:

“When preparing a draft for the EFTA Surveillance Authority in accordance with this Regulation, the Authority shall inform the EFTA Surveillance authority in the official language of the addressee, setting a time limit within which the EFTA Surveillance Authority may allow any natural or legal person, including a competent authority, which is the addressee of the decision to be taken, to express its views on the subject-matter of the decision, taking full account of the urgency, complexity and potential consequences of the matter.”;

- (iii) the following subparagraphs shall be added in paragraph 5:

“Where the EFTA Surveillance Authority has taken a decision pursuant to Article 18(3) or (4), it shall review that decision at appropriate intervals. The EFTA Surveillance Authority shall inform the Authority of forthcoming revisions, as well as of any developments that are relevant to the review.

The decision of the EFTA Surveillance Authority to amend or to revoke a decision shall be taken on the basis of drafts prepared by the Authority. In due time before any intended revision, the Authority shall submit to the EFTA Surveillance Authority conclusions, accompanied if necessary by a draft.”;

- (iv) as regards the EFTA States, in paragraph 6, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “the Authority”.’.

15. The text of adaptation (s) is replaced by the following:

‘In Article 43:

- (i) in paragraph 1, the words “and prepare drafts for the EFTA Surveillance Authority,” shall be inserted after the words “decisions of the Authority,”;
- (ii) in paragraphs 4, 5 and 6, the words “, the EFTA Surveillance Authority, the Standing Committee of the EFTA States” shall be inserted after the words “the Council”.’.

16. The following adaptation is inserted after adaptation (w):

‘(wa) The following subparagraph shall be added in Article 62(1)(b):

“The EFTA States shall participate in the contribution from the Union referred to in this point. For this purpose, the procedures laid down in Article 82(1)(a) of and Protocol 32 to the EEA Agreement shall apply *mutatis mutandis*.”.’.

17. The text of adaptation (x) is replaced by the following:

‘The following shall be added in Article 67:

“The EFTA States shall grant privileges and immunities to the Authority and its staff equivalent to those contained in Protocol (No 7) on the privileges and immunities of the European Union annexed to the Treaty on European Union and to the TFEU.”.’.

## Article 10

Point 311 (Regulation (EU) 2016/1011 of the European Parliament and of the Council) of Annex IX to the EEA Agreement shall be amended as follows:

1. The following indent is added:

- **32019 R 2175**: Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 (OJ L 334, 27.12.2019, p. 1), as corrected by OJ L 131, 5.5.2022, p. 9.’.

2. The text of adaptation (a) is replaced by the following:

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

3. Adaptations (b) to (e) are renumbered as adaptations (f) to (i), respectively.

4. The following adaptations are inserted after adaptation (a):

- ‘(b) Unless otherwise provided for in this Agreement, the European Securities and Markets Authority (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.

- (c) Decisions, interim decisions, notifications, simple requests, revocations of decisions and other measures of the EFTA Surveillance Authority under Articles 34, 35, 48b(1), 48c(3), 48d(5), 48e(1), 48f(1), 48g(1) and 48i(8) 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.
- (d) In Article 34(1a), the words “or, as the case may be, to the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.
- (e) In Article 40, the following paragraph shall be inserted after paragraph 1:

“1a. For the purposes of this Regulation, the EFTA Surveillance Authority shall be the competent authority for administrators of critical benchmarks as referred to in points (a) and (c) of Article 20(1) which are established in an EFTA State.”.

5. The following adaptations are inserted after adaptation (i):

- ‘(j) The following shall be added in Article 48a:

“The powers conferred on the EFTA Surveillance Authority, any official of the EFTA Surveillance Authority or any other person authorised by the EFTA Surveillance Authority by Articles 48b to 48d shall not be used to require the disclosure of information or documents that are subject to legal privilege.”.

(k) In Article 48b:

- (i) in paragraph 1, the words “or, in the case of persons established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
- (ii) in paragraph 1, as regards the EFTA States, the second subparagraph shall read as follows:

“At the request of the EFTA Surveillance Authority, competent authorities shall submit that request for information to contributors to critical benchmarks referred to in points (a) and (c) of Article 20(1) of this Regulation and shall share the information received without undue delay with the EFTA Surveillance Authority.”;

- (iii) in paragraphs 3 and 5, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;

- (iv) as regards the EFTA States, the text of point (g) of paragraph 3 shall read as follows:

“indicate the right to have the decision reviewed by the EFTA Court in accordance with Article 36 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

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

“The EFTA Surveillance Authority shall, without undue delay, forward the information received under this Article to ESMA.”.

(l) In Article 48c:

(i) in paragraph 1, the words “or, in the case a person subject to investigation is established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

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

“Officials of and other persons authorised by ESMA shall be entitled to assist the EFTA Surveillance Authority in the carrying out of its duties under this Article and have the right to participate in investigations upon ESMA’s request.”;

(iii) in paragraphs 2 to 4, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;

- (iv) in paragraph 3, as regards the EFTA States, the second sentence shall read as follows:

“The decision shall specify the subject matter and purpose of the investigation, the periodic penalty payment provided for in Article 48g and the right to have the decision reviewed by the EFTA Court in accordance with Article 36 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

- (v) in paragraph 6, as regards the EFTA States, the second subparagraph shall read as follows:

“For the purposes of point (b), the national judicial authority may ask the EFTA Surveillance Authority for detailed explanations, in particular relating to the grounds the EFTA Surveillance Authority has for suspecting that an infringement of this Regulation has taken place and the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the investigation or demand that it be provided with the information on the file of ESMA and the EFTA Surveillance Authority. The lawfulness of the EFTA Surveillance Authority’s decision shall be subject to review only by the EFTA Court in accordance with the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”.

(m) In Article 48d:

(i) in paragraph 1, the words “or, in the case of persons established in the EFTA States, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

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

“The EFTA Surveillance Authority shall, without undue delay, forward the information obtained under this Article to ESMA.”;

(iii) in paragraphs 2 to 8, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iv) in paragraph 5, as regards the EFTA States, the second sentence shall read as follows:

“That decision shall specify the subject matter and purpose of the inspection, the date on which it is to begin and indicate the periodic penalty payments provided for in Article 48g, as well as the right to have the decision reviewed by the EFTA Court in accordance with the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”;

(v) as regards the EFTA States, paragraph 10 shall read as follows:

“10. Where a national judicial authority receives an application for the authorisation of an on-site inspection provided for in paragraph 1 or the assistance provided for in paragraph 7, that authority shall verify the following:

- (a) the decision adopted by the EFTA Surveillance Authority referred to in paragraph 5 is authentic;
- (b) any measures to be taken are proportionate and not arbitrary or excessive.

For the purposes of point (b), the national judicial authority may ask the EFTA Surveillance Authority for detailed explanations, in particular relating to the grounds the EFTA Surveillance Authority has for suspecting that an infringement of this Regulation has taken place and the seriousness of the suspected infringement and the nature of the involvement of the persons subject to the coercive measures. However, the national judicial authority shall not review the necessity of the investigation or demand that it be provided with the information on the file of ESMA and the EFTA Surveillance Authority. The lawfulness of the EFTA Surveillance Authority’s decision shall be subject to review only by the EFTA Court in accordance with the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”.

(n) In Article 48e:

- (i) in paragraph 1, the words “or, in the case of persons established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
- (ii) in the first subparagraph of paragraph 2, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;
- (iii) in point (h) of paragraph 2, as regards the EFTA States, the word “ESMA” shall read “ESMA and the EFTA Surveillance Authority”;
- (iv) the following shall be added in paragraph 3:

“Without undue delay, the EFTA Surveillance Authority shall notify any action taken pursuant to paragraph 1 to the person responsible for the infringement and shall communicate it to the competent authorities and to the Commission. ESMA shall publicly disclose any such action on its website within 10 working days from the date when it was adopted. The EFTA Surveillance Authority shall also make public any of its own actions on its website within 10 working days from the date when it was adopted.

The disclosure to the public referred to in the third subparagraph shall include the following:

- (a) a statement affirming the right of the person responsible for the infringement to have the decision adopted reviewed by the EFTA Court;
  - (b) where relevant, a statement affirming that such proceedings have been instituted and specifying that actions brought before the EFTA Court do not have suspensory effect;
  - (c) a statement asserting that it is possible for the EFTA Court to suspend the application of the contested decision in accordance with Article 40 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”.
- (o) In Article 48f:
- (i) in paragraph 1, the words “or, in the case of persons established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
  - (ii) in paragraph 2, as regards the EFTA States, the words “Union law” shall read “provisions of the EEA Agreement”;
  - (iii) in paragraph 3, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.

- (p) In Article 48g:
- (i) in paragraph 1, the words “or, in the case of persons established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
  - (ii) in paragraph 4, as regards the EFTA States, the words “ESMA” and “ESMA’s” shall read “the EFTA Surveillance Authority” and “the EFTA Surveillance Authority’s”, respectively.
- (q) In Article 48h:
- (i) in paragraph 1, the following shall be added:  
  
“The EFTA Surveillance Authority shall also disclose to the public every fine and periodic penalty payment that it has imposed pursuant to Articles 48f and 48g, subject to the conditions laid down in this paragraph as regards the disclosure of fines and periodic penalty payments by ESMA.”;
  - (ii) in paragraph 3, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;
  - (iii) in paragraph 3, as regards the EFTA States, the words “the European Parliament, the Council” shall read “ESMA, the Standing Committee of the EFTA States”;

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

“The Standing Committee of the EFTA States shall determine the allocation of the amounts of the fines and periodic penalty payments collected by the EFTA Surveillance Authority.”.

(r) In Article 48i:

(i) in the first sentence in paragraph 1, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) in paragraph 1, as regards the EFTA States, the words “ESMA shall appoint an independent investigation officer within ESMA to investigate the matter” shall read “the EFTA Surveillance Authority shall appoint an independent investigation officer within the EFTA Surveillance Authority to investigate the matter following consultations with ESMA”;

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

“The investigation officer appointed by the EFTA Surveillance Authority shall not be involved or have been directly involved in the supervision of the benchmarks to which the infringement relates and shall perform his or her functions independently from the College of the EFTA Surveillance Authority and ESMA’s Board of Supervisors.”;

- (iv) in paragraphs 2, 5 and 7, as regards the EFTA States, the words “and the EFTA Surveillance Authority” shall be inserted after the words “ESMA’s Board of Supervisors”;
- (v) in paragraph 4, as regards the EFTA States, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
- (vi) in paragraphs 8 and 11, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;
- (vii) in paragraph 8, the following subparagraph shall be added:

“The EFTA Surveillance Authority shall provide ESMA with all information and files necessary for the performance of its obligations under this paragraph.”;
- (viii) in paragraph 9, as regards the EFTA States, the words “or of the EFTA Surveillance Authority” shall be inserted after the words “Board of Supervisors”.

(s) In Article 48j:

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

“Before preparing any draft for the EFTA Surveillance Authority pursuant to Articles 48f, 48g and 48e, ESMA shall give the persons subject to the proceedings the opportunity to be heard on its findings. ESMA shall base its drafts only on findings on which the persons subject to the proceedings have had an opportunity to comment.

The EFTA Surveillance Authority shall base its decisions pursuant to Articles 48f, 48g and 48e only on findings on which the persons subject to the proceedings have had an opportunity to comment.

The third and fourth subparagraphs of this paragraph shall not apply if urgent action pursuant to Articles 48e is needed in order to prevent significant and imminent damage to the financial system. In such a case, ESMA may prepare a draft and the EFTA Surveillance Authority may adopt an interim decision. ESMA shall give the persons concerned the opportunity to be heard as soon as possible after preparing such a draft.”;

(ii) in paragraph 2, as regards the EFTA States, the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority” and the words “ESMA’s internal preparatory documents” shall read “the internal preparatory documents of ESMA and the EFTA Surveillance Authority”.

- (t) In Article 48l(1), the following subparagraphs shall be added:

“As regards any administrators referred to in Article 40(1) which are established in an EFTA State, fees shall be charged by the EFTA Surveillance Authority on the same basis as fees charged to other administrators referred to in Article 40(1) in accordance with this Regulation and with the delegated acts referred to in paragraph 3.

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

- (u) In Article 48m:

- (i) in paragraph 1, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted before the words “may delegate specific supervisory tasks”;
- (ii) in paragraphs 2 to 5, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
- (iii) in paragraph 5, the words “or, as the case may be, the EFTA Surveillance Authority’s” shall be inserted after the word “ESMA’s”;

(iv) the following paragraph shall be added:

“6. ESMA and the EFTA Surveillance Authority shall consult each other prior to any delegation of a task pursuant to this Article.”.

(v) In Article 48n, as regards the EFTA States:

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

(ii) the words “1 January 2022” shall read “the date of entry into force of Decision of the EEA Joint Committee No .../... of [this decision]”;

(iii) the words “before 1 October 2021” shall read “more than three months before the date of entry into force of Decision of the EEA Joint Committee No .../... of [this decision]”;

(iv) the following paragraph shall be added:

“6. The EFTA Surveillance Authority shall, where relevant and without undue delay, forward copies of any files, working documents, records and working papers received pursuant to this Article to ESMA.”.

*Article 11*

The texts of Regulations (EU) 2019/2175, as corrected by OJ L 131, 5.5.2022, p. 9, and (EU) 2019/2176 and Directive (EU) 2019/2177 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 12*

This Decision shall enter into force on ..., provided that all the notifications under Article 103(1) of the EEA Agreement have been made\*.

*Article 13*

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 President*

*The Secretaries*

*To the EEA Joint Committee*

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

**Joint Declaration by the Contracting Parties**  
**to Decision No .../...**  
**incorporating Regulation (EU) 2019/2175**  
**of the European Parliament and of the Council into the Agreement**

The Parties acknowledge that the incorporation of Regulation (EU) 2019/2175 of the European Parliament and of the Council into the Agreement is without prejudice to the direct application of Protocol 7 on the privileges and immunities of the European Union to the nationals of EFTA States in the territory of each Member State of the European Union, pursuant to Article 11 of that Protocol.

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