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DECISION OF THE EEA JOINT COMMITTEE No 71/2024

of 15 March 2024

amending Annex IX (Financial services) to the EEA Agreement [2024/1626]

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) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) ([1]) is to be incorporated into the EEA Agreement.

(2) Regulation (EU) 2019/1238 specifies cases in which the European Insurance and Occupational Pensions Authority (EIOPA) may temporarily prohibit or restrict certain financial activities, and lays down conditions thereto, in accordance with Article 9(5) of Regulation (EU) No 1094/2010 of the European Parliament and of the Council ([2]). For the purposes of the EEA Agreement, these powers are to be exercised by the EFTA Surveillance Authority as regards the EFTA States, in accordance with point 31h of Annex IX to the EEA Agreement and under the conditions prescribed therein. To ensure integration of the expertise of EIOPA in the process and consistency between the two pillars of the EEA, such decisions of the EFTA Surveillance Authority will be adopted on the basis of drafts prepared by EIOPA. This will preserve key advantages of supervision by a single authority.

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

(4) The Contracting Parties share the understanding that this Decision implements the agreement that was reflected in the conclusions ([3]) of the EU and EEA EFTA Ministers of Finance and Economy of 14 October 2014 regarding the incorporation of the EU ESAs Regulations into the EEA Agreement.

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

HAS ADOPTED THIS DECISION:

Article 1

Annex IX to the EEA Agreement shall be amended as follows:

1. The title of Chapter IV shall be replaced by the following:

'IV. **Occupational Retirement Provisions and Pensions**'

2. The following is inserted after point 31d (Directive (EU) 2016/2341 of the European Parliament and of the Council):

'31da. **32019 R 1238**: Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1).

([1]) OJ L 198, 25.7.2019, p. 1.
([2]) OJ L 331, 15.12.2010, p. 48.
([3]) Council Conclusions on the EU and EEA EFTA Ministers of Finance and Economy, 14178/1/14 REV 1.

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

(a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms Member 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.

(b) Unless otherwise provided for in this Agreement, the European Insurance and Occupational Pensions Authority (EIOPA) 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) References to the powers of EIOPA under Articles 9(5) and 19 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council shall be understood as referring, in the cases provided for and in accordance with point 31h of this Annex, to the powers of the EFTA Surveillance Authority as regards the EFTA States.

(d) Unless otherwise provided for in this Agreement, references to Union law shall be understood as referring to the EEA Agreement.

(e) In Article 18(3), as regards the EFTA States, the words "application of this Regulation" shall read "entry into force of Decision of the EEA Joint Committee No 71/2024 of 15 March 2024".

(f) In Article 41(1)(g), as regards the EFTA States, the words "non-cooperative jurisdiction for tax purposes identified in the applicable Council's conclusions on the list of non-cooperative jurisdictions for tax purposes" shall read "non-cooperative jurisdiction identified by the national legislation of the EFTA State concerned".

(g) In Article 65:

(i) in paragraph 2, the words "or, as regards the EFTA States, the EFTA Surveillance Authority" shall be inserted after the word "EIOPA";

(ii) in paragraphs 3, 4, 5, 7 and 8, the words "or, as the case may be, the EFTA Surveillance Authority" shall be inserted after the word "EIOPA";

(iii) in paragraph 4, the words "without issuing the opinion" shall be replaced by "without EIOPA issuing the opinion";

(iv) in paragraph 6, the words "any decision" shall be replaced by the words "each of its decisions";

(v) in paragraph 6, the words "The EFTA Surveillance Authority shall publish on its website notice of each of its decisions to take any action under this Article. A reference to the publication of the notice by the EFTA Surveillance Authority shall be posted on EIOPA's website." shall be inserted after the word "Article.".

(h) In Article 66(3) and (4), the words ", the EFTA Surveillance Authority" shall be inserted after the words "competent authorities".

(i) In Article 74, as regards the EFTA States, the second subparagraph shall read as follows:

"This Regulation shall apply no later than 12 months after the date of entry into force of the Decisions of the EEA Joint Committee containing the delegated acts referred to in Articles 28(5), 30(2), 33(3), 36(2), 37(2), 45(3) and 46(3).".'

Article 2

The text of Regulation (EU) 2019/1238 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 16 March 2024, provided that all the notifications under Article 103(1) of the EEA Agreement have been made (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 15 March 2024.

For the EEA Joint Committee
The President
Nicolas VON LINGEN

(*) Constitutional requirements indicated.