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ANNEX 8

**ANNEX**

**to the**

**proposal for a Council Decision**

**on the position to be adopted, on behalf of the European Union,  
within the EEA Joint Committee concerning an amendment to Annex IX  
(Financial Services) to the EEA Agreement**

## ANNEX 8

### 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) No 513/2011 of the European Parliament and of the Council of 11 May 2011 amending Regulation (EC) No 1060/2009 on credit rating agencies<sup>1</sup> is to be incorporated into the EEA Agreement.
- (2) Regulation (EU) No 462/2013 of the European Parliament and of the Council of 21 May 2013 amending Regulation (EC) No 1060/2009 on credit rating agencies<sup>2</sup> is to be incorporated into the EEA Agreement.
- (3) The EU and EEA EFTA Ministers of Finance and Economy, in their conclusions<sup>3</sup> of 14 October 2014 regarding the incorporation of the EU ESAs Regulations into the EEA Agreement, welcomed the balanced solution found between the Contracting Parties, taking into account the structure and objectives of the EU ESAs Regulations and of the EEA Agreement, as well as the legal and political constraints of the EU and the EEA EFTA States.
- (4) The EU and EEA EFTA Ministers of Finance and Economy underlined that, in accordance with the two-pillar structure of the EEA Agreement, the EFTA Surveillance Authority will take decisions addressed to market operators in the EEA EFTA States. The EU ESAs will be competent to perform actions of a non-binding nature, also vis-à-vis EEA EFTA competent authorities and market operators. Action on either side will be preceded by, as appropriate, consultation, coordination or exchange of information between the EU ESAs and the EFTA Surveillance Authority.
- (5) To ensure integration of the EU ESAs’ expertise in the process and consistency between the two pillars, individual decisions and formal opinions of the EFTA Surveillance Authority addressed to one or more individual EEA EFTA competent authorities or market operators will be adopted on the basis of drafts prepared by the relevant EU ESA. This will preserve key advantages of supervision by a single authority. These principles will apply in particular to direct supervision by ESMA of credit rating agencies.
- (6) The Contracting Parties share the understanding that this Decision implements the agreement that was reflected in these conclusions, and should therefore be interpreted in line with the principles that they embody.

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<sup>1</sup> OJ L 145, 31.5.2011, p. 30.

<sup>2</sup> OJ L 146, 31.5.2013, p. 1.

<sup>3</sup> Council Conclusions on the EU and EEA EFTA Ministers of Finance and Economy, 14178/1/14 REV 1.

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

HAS ADOPTED THIS DECISION:

#### *Article 1*

The following is added in point 31eb (Regulation (EC) No 1060/2009 of the European Parliament and of the Council) of Annex IX to the EEA Agreement:

- ‘ - **32011 R 0513**: Regulation (EU) No 513/2011 of the European Parliament and of the Council of 11 May 2011 (OJ L 145, 31.5.2011, p. 30),
- **32013 R 0462**: Regulation (EU) No 462/2013 of the European Parliament and of the Council of 21 May 2013 (OJ L 146, 31.5.2013, p. 1).

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

- (a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)”, “competent authorities” and “sectoral competent authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities and sectoral competent authorities, respectively.
- (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. This includes in particular the duty to pass to each other, without undue delay, the information needed for each body to carry out its duties under this Regulation, such as the preparation of drafts by ESMA as set out in point (d). This extends to, amongst others, information received by either body as a result of applications for registration or replies to requests for information submitted to market operators, or obtained by either body during investigations or on-site inspections.

Without prejudice to Article 109 of this Agreement, ESMA and the EFTA Surveillance Authority shall pass to the other body any application, information, complaint or request which fall within the competence of that body.

In case of disagreement between ESMA and the EFTA Surveillance Authority with regard to the administration of the provisions of the Regulation, the Chairperson of ESMA and the College of the EFTA Surveillance Authority shall, taking into account the urgency of the matter, without undue delay convene a meeting to find consensus. Where such consensus is not found, the Chairperson of ESMA or the College of the EFTA Surveillance Authority may request that the Contracting Parties refer the matter to the EEA Joint Committee which shall deal with it in accordance with Article 111 of this Agreement which shall apply *mutatis mutandis*. In accordance with Article 2 of Decision of the EEA Joint Committee No 1/94 of 8 February 1994 adopting the Rules of Procedure of the EEA Joint Committee (OJ L 85, 30.3.1994, p. 60), a Contracting Party may request immediate organisation of meetings in urgent circumstances. Notwithstanding this paragraph, a Contracting Party may at any time refer the matter to the EEA Joint Committee at its own initiative in accordance with Articles 5 or 111 of this Agreement.

- (c) All references to national central banks under the Regulation shall not apply to Liechtenstein.

- (d) Decisions, interim decisions, notifications, simple requests, revocations of decisions and other measures of the EFTA Surveillance Authority under Articles 6(3), 15(4), 16(2), 16(3), 17(2), 17(3), 20, 23b(1), 23c(3), 23d(4), 23e(5), 24(1), 24(4), 25(1), 36a(1) and 36b(1), shall, without undue delay, be adopted on the basis of drafts prepared by ESMA at its own initiative or at the request of the EFTA Surveillance Authority.
- (e) In Article 3(1)(g), the words “Union law” shall be replaced by the words “the EEA Agreement”.
- (f) In Article 6(3):
- (i) the words “or, in the case of a credit rating agency established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
- (ii) the following subparagraphs shall be added:
- “In the case of a group of credit rating agencies consisting of at least one credit rating agency established in an EFTA State and at least one credit rating agency which has its registered office in an EU Member State, ESMA and the EFTA Surveillance Authority shall jointly ensure that at least one of the credit rating agencies in the group is not exempted from complying with the requirements of points 2, 5, and 6 of Section A of Annex I and Article 7(4).
- The EFTA Surveillance Authority and ESMA shall inform each other of any developments that are relevant to the adoption of acts under this paragraph.”
- (g) In Article 8b(2), the words “Union law” shall be replaced by the words “the EEA Agreement”.
- (h) In Articles 8d(2) and 18(3), the following shall be added:
- “ESMA shall include on that list registered credit rating agencies established in an EFTA State.”
- (i) In Article 9, the words “or the EFTA Surveillance Authority with regard to EFTA States” shall be inserted after the word “ESMA”.
- (j) In Article 10(6) and in point 52 of Part I of Annex III, the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.
- (k) In Articles 11(2) and 11a(2), the following subparagraph shall be added:
- “ESMA shall publish information submitted by credit rating agencies established in an EFTA State under this Article.”
- (l) In Article 14:
- (i) in paragraphs 2 and 5, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;
- (ii) in paragraph 4, the words “or, in the case of a credit rating agency established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”.
- (m) In Article 15:
- (i) in paragraph 1, the words “or, in the case of a credit rating agency established in an EFTA State, to the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

- (ii) in paragraph 2, the words “or, where they mandate a credit rating agency established in an EFTA State, to the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”;
  - (iii) in paragraph 4, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.
- (n) In Article 16, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.
- (o) In Article 17:
- (i) in paragraphs 1, 2 and 4, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;
  - (ii) in paragraph 3, the words “and, as regards each credit rating agency established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”.
- (p) In Article 18:
- (i) in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;
  - (ii) paragraph 2 shall be replaced by the following:  
“ESMA and the EFTA Surveillance Authority shall communicate to each other, the Commission, EBA, EIOPA, the competent authorities and the sectoral competent authorities, any decision under Article 16, 17 or 20.”
- (q) In Article 19(1), the following subparagraphs shall be added:
- “As regards credit rating agencies established in an EFTA State, fees shall be charged by the EFTA Surveillance Authority on the same basis as fees charged to other credit rating agencies in accordance with this Regulation and with the Commission regulation referred to in paragraph 2.
- The amounts collected by the EFTA Surveillance Authority in accordance with this paragraph shall be passed on to ESMA without undue delay. ”
- (r) In Article 20:
- (i) in paragraph 1, the words “or, in the case of a credit rating agency established in an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
  - (ii) in the second sentence of paragraph 2, the words “or, in the case of a credit rating agency established in an EFTA State, not to prepare a draft for the EFTA Surveillance Authority to that effect,” shall be inserted after the word “concerned”.
- (s) In Article 21:
- (i) in paragraph 1, the words “or the EFTA Surveillance Authority in the case of credit rating agencies established in an EFTA State,” shall be inserted after the word “ESMA”;
  - (ii) in paragraph 5, the following shall be added:  
“ That report shall also include the EFTA credit rating agencies registered under this Regulation pursuant to a decision of the EFTA Surveillance Authority.

The EFTA Surveillance Authority shall inform ESMA of all information necessary for the performance of its obligation under this paragraph.”;

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

“The EFTA Surveillance Authority shall present annually to the Standing Committee of the EFTA States a report on supervisory measures taken and penalties imposed by the EFTA Surveillance Authority under this Regulation, including fines and periodic penalty payments.”.

(t) In Article 23, the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(u) In Article 23a, the words “or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(v) In Article 23b:

(i) in paragraph 1, the words “or, in the case of a credit rating agency or persons involved in credit rating activities, rated entities and related third parties, third parties to whom the credit rating agencies have outsourced operational functions or activities and persons otherwise closely and substantially related or connected to credit rating agencies or credit rating activities, established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the word “ESMA”;

(ii) as regards the EFTA States, in paragraphs 2, 3 and 5, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iii) as regards the EFTA States, 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) in paragraph 5, the following subparagraph shall be added:

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

(w) In Article 23c:

(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) as regards the EFTA States, in paragraphs 2, 3, 4 and the first and second sentences of paragraph 6, the word “ESMA” shall read “the EFTA Surveillance Authority”;

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

“The decision shall specify the subject matter and purpose of the investigation, the periodic penalty payments provided for in Article 36b 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, in the third sentence of paragraph 6, the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority”;

(vi) as regards the EFTA States, the fourth sentence of paragraph 6 shall read as follows:

“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.”.

(x) In Article 23d:

(i) in paragraph 1, the words “or, in the case of legal 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) as regards the EFTA States, in paragraphs 2 to 7 and the first and second sentences of paragraph 9, the word “ESMA” shall read “the EFTA Surveillance Authority”;

(iv) in paragraph 2, 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 on-site inspections upon ESMA’s request.”;

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

“The decision shall specify the subject matter and purpose of the investigation, specify the date on which it is to begin and indicate the periodic penalty payments provided for in Article 36b as well as 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.”;

(vi) as regards the EFTA States, in the third sentence of paragraph 9, the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority”;

(vii) as regards the EFTA States, the fourth sentence of paragraph 9 shall read as follows:

“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.”.

(y) In Article 23e:

(i) as regards the EFTA States, in paragraph 1, first sentence, the words “ESMA shall appoint an independent investigating officer within ESMA to investigate the matter” shall read “the EFTA Surveillance Authority shall appoint an independent investigating officer within the EFTA Surveillance Authority to investigate the matter following consultations with ESMA.”

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

“The investigating officer appointed by the EFTA Surveillance Authority shall not be involved or have been involved in the direct or indirect supervision or registration process of the credit rating agency concerned and shall perform his functions independently from the College of the EFTA Surveillance Authority and ESMA's Board of Supervisors.”;

(iii) as regards the EFTA States, in paragraphs 2, 3 and 4, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA's Board of Supervisors”;

(iv) in the third subparagraph of paragraph 2, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(v) as regards the EFTA States, in paragraph 5, after the words “and 36c,”, the remainder of the sentence shall read as follows:

“the EFTA Surveillance Authority shall decide if one or more of the infringements listed in Annex III has been committed by the persons who have been subject to investigation, and in such case, will take a supervisory measure in accordance with Article 24 and impose a fine in accordance with Article 36a.

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

(vi) in paragraph 6, the words “or the EFTA Surveillance Authority” shall be inserted after the words “ESMA’s Board of Supervisors”;

(vii) as regards the EFTA States, in paragraph 8, the word “ESMA” shall read “the EFTA Surveillance Authority”.

(z) In Article 24:

(i) in paragraph 1, the words “or, in the case of a credit rating agency established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the words “ESMA’s Board of Supervisors”;

(ii) as regards the EFTA States, in paragraphs 2 and 4, the words “ESMA’s Board of Supervisors” shall read “the EFTA Surveillance Authority”;

(iii) in paragraph 4, the words “ESMA’s decision” shall be replaced by the words “the decision of ESMA or the EFTA Surveillance Authority, as the case may be,”;

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

“Without undue delay, the EFTA Surveillance Authority shall notify any decision adopted pursuant to paragraph 1 to the credit rating agency established in an EFTA State concerned and shall communicate any such decision to the competent authorities and the sectoral competent authorities, the Commission, ESMA, EBA and EIOPA. ESMA shall make public any such decision 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 decisions on its website within 10 working days from the date when it was adopted.

When making public a decision of the EFTA Surveillance Authority as referred to in the third subparagraph, ESMA and the EFTA Surveillance Authority shall also make public the right for the credit rating agency concerned to have the decision reviewed by the EFTA Court, the fact, where relevant, that such proceedings have been instituted, specifying that actions brought before the EFTA Court do not have suspensory effect, and the fact 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.”;

(za) In Article 25:

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

“Before preparing any draft for the EFTA Surveillance Authority under Article 24(1), ESMA's Board of Supervisors shall give the persons subject to the proceedings the opportunity to be heard on the findings. ESMA's Board of Supervisors shall base its drafts only on findings on which the persons subject to the proceedings have had the opportunity to comment.

The EFTA Surveillance Authority shall base its decisions under Article 24(1) only on findings on which the persons subject to the proceedings have had the opportunity to comment.

The third and fourth subparagraphs shall not apply if urgent action is needed in order to prevent significant and imminent damage to the financial system. In such a case the EFTA Surveillance Authority may adopt an interim decision, and the persons concerned shall be given the opportunity to be heard by ESMA's Board of Supervisors as soon as possible after the decision is taken”;

(ii) in paragraph 2, the words “ESMA’s file” shall read “the file of ESMA and the EFTA Surveillance Authority”.

(zb) In Articles 26 and 27(1), the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(zc) In Article 27(2), the words “or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.

(zd) In Article 30:

(i) in paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted before the words “may delegate specific supervisory tasks”;

(ii) in paragraphs 2, 3 and 4 the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;

(iii) the following paragraph shall be added:

“5. Prior to the delegation of a task, the EFTA Surveillance Authority and ESMA shall consult each other.”.

(ze) In Article 31:

- (i) in the second subparagraph of paragraph 1, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”;
  - (ii) in paragraph 2, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the notifying competent authority may request that ESMA”;
  - (ii) in paragraph 2, the following subparagraph shall be added:
 

“If the request from a national competent authority concerns a credit rating agency established in an EFTA State, ESMA shall consult the EFTA Surveillance Authority without undue delay.”.
- (zf) In Article 32:
- (i) in paragraph 1, the words “, the EFTA Surveillance Authority” shall be inserted after the first use of the word “ESMA”;
  - (ii) in paragraph 1, the words “, for the EFTA Surveillance Authority” shall be inserted after the second use of the word “ESMA”;
  - (iii) in paragraph 1, the words “or the EFTA Surveillance Authority” shall be inserted after the third use of the word “ESMA”;
  - (iv) in paragraph 2, the words “, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.
- (zg) In Article 35a(6), the words “or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.
- (zh) In Article 36a:
- (i) in paragraph 1, the words “or, in the case of a credit rating agency established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the words “ESMA’s Board of Supervisors” and “ESMA”;
  - (ii) as regards the EFTA States, in paragraph 2, the word “ESMA” shall read “the EFTA Surveillance Authority”.
- (zi) In Article 36b:
- (i) in paragraph 1, the words “or, in the case the credit rating agency or person concerned is established in an EFTA State, the EFTA Surveillance Authority,” shall be inserted after the words “ESMA’s Board of Supervisors”;
  - (ii) in paragraph 4, the words “or, as the case may be, of the EFTA Surveillance Authority’s decision” shall be added after the words “ESMA’s decision”.
- (zj) In Article 36c:
- (i) in paragraph 1, the following subparagraphs shall be added:
 

“Before preparing any draft for the EFTA Surveillance Authority under Article 36a or points (a) to (d) of Article 36b(1), ESMA's Board of Supervisors shall give the persons subject to the proceedings the opportunity to be heard on the findings. ESMA's Board of Supervisors shall base its drafts only on findings on which the persons subject to the proceedings have had the opportunity to comment.

The EFTA Surveillance Authority shall base its decisions under Article 36a or points (a) to (d) of Article 36b(1) only on findings on which the persons subject to the proceedings have had the opportunity to comment.”;

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

(zk) In Article 36d:

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

“The EFTA Surveillance Authority shall also disclose to the public every fine and periodic penalty that it has imposed pursuant to Articles 36a and 36b, subject to the conditions laid down in this paragraph as regards the disclosure of fines and periodic penalties by ESMA”;

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

(iii) as regards the EFTA States, in paragraph 3, the words “the Court of Justice of the European Union” shall read “the EFTA Court”;

(iv) in paragraph 4, 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.”.

(zl) Article 40a shall not apply as regards the EFTA States.

(zm) In point 7 of Part I and point 3 of Part II of Annex IV, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.’

#### *Article 2*

The texts of Regulations (EU) No 513/2011 and (EU) No 462/2013 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

#### *Article 3*

This Decision shall enter into force on [...], provided that all the notifications under Article 103(1) of the EEA Agreement have been made\*, or on the day of the entry into force of Decision of the EEA Joint Committee No .../... of ...<sup>4</sup> [incorporating Regulation (EU) No 1095/2010], whichever is the later.

#### *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*.

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

<sup>4</sup> OJ L ...

Done at Brussels, .

*For the EEA Joint Committee  
The President*

*The Secretaries  
to the EEA Joint Committee*

## **Declaration by the EFTA States**

### **to Decision No .../... incorporating Regulations (EU) No 513/2011 and (EU) No 462/2013 into the Agreement**

Regulation (EC) No 1060/2009, as amended by Regulations (EU) No 513/2011 and (EU) No 462/2013, notably regulates the use for regulatory purposes of credit ratings issued by third country credit rating agencies, lays down the conditions under which the Commission may recognise the legal and supervisory framework of a third country as equivalent to the requirements of the Regulation, and further provides for the possibility for third country undertakings to be certified by ESMA so as to facilitate the use of their credit ratings. The incorporation of this Regulation into the EEA Agreement is without prejudice to the scope of the EEA Agreement as regards third country relations.