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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	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), Annex XII (Free movement of capital) and Annex XXII (Company law) to the EEA Agreement (Framework for the recovery and resolution of central counterparties)

COUNCIL DECISION (EU) …/…

of …

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), Annex XII (Free movement of capital) and Annex XXII (Company law) to the EEA Agreement (Framework for the recovery and resolution of central counterparties)

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area[1], and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

[1] OJ L 305, 30.11.1994, p. 6, ELI: http://data.europa.eu/eli/reg/1994/2894/oj.

Whereas:

(1) The Agreement on the European Economic Area[2] (the 'EEA Agreement') entered into force on 1 January 1994.

(2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Annex IX (Financial services), Annex XII (Free movement of capital) and Annex XXII (Company law) to the EEA Agreement.

[2] OJ L 1, 3.1.1994, p. 3, ELI: http://data.europa.eu/eli/agree_internation/1994/1/oj.

(3) Regulation (EU) 2021/23 of the European Parliament and of the Council[3], as well as three related legals acts, namely Commission Delegated Regulations (EU) 2023/450[4], (EU) 2023/451[5] and (EU) 2023/840[6], should be incorporated into the EEA Agreement.

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[3] Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, (EU) No 600/2014, (EU) No 806/2014 and (EU) 2015/2365 and Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132 (OJ L 22, 22.1.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/23/oj).

[4] Commission Delegated Regulation (EU) 2023/450 of 25 November 2022 supplementing Regulation (EU) 2021/23 of the European Parliament and of the Council with regard to regulatory technical standards specifying the order in which CCPs are to pay the recompense referred to in Article 20(1) of Regulation (EU) 2021/23, the maximum number of years during which those CCPs are to use a share of their annual profits for such payments to possessors of instruments recognising a claim on their future profits and the maximum share of those profits that is to be used for those payments (OJ L 67, 3.3.2023, p. 5, ELI: http://data.europa.eu/eli/reg_del/2023/450/oj).

[5] Commission Delegated Regulation (EU) 2023/451 of 25 November 2022 specifying the factors to be taken into consideration by the competent authority and the supervisory college when assessing the recovery plan of central counterparties (OJ L 67, 3.3.2023, p. 7, ELI: http://data.europa.eu/eli/reg_del/2023/451/oj).

[6] Commission Delegated Regulation (EU) 2023/840 of 25 November 2022 supplementing Regulation (EU) 2021/23 of the European Parliament and of the Council with regard to regulatory technical standards specifying the methodology for calculation and maintenance of the additional amount of pre-funded dedicated own resources to be used in accordance with Article 9(14) of that Regulation (OJ L 107, 21.4.2023, p. 29, ELI: http://data.europa.eu/eli/reg_del/2023/840/oj).

(4) Annex IX (Financial services), Annex XII (Free movement of capital) and Annex XXII (Company law) to the EEA Agreement should therefore be amended accordingly.

(5) The position of the Union within the EEA Joint Committee should therefore be based on the attached draft decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment of Annex IX (Financial services), Annex XII (Free movement of capital) and Annex XXII (Company law) to the EEA Agreement shall be based on the draft decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at …, …

For the Council
The President