

## EFTA COURT

### Action brought on 3 June 2022 by the EFTA Surveillance Authority against Iceland

(Case E-8/22)

An action against Iceland was brought before the EFTA Court on 3 June 2022 by the EFTA Surveillance Authority, represented by Kyrre Isaksen, Ingibjörg-Ólöf Vilhjálmsdóttir, and Melpo-Menie Joséphidès, acting as Agents of the EFTA Surveillance Authority, Avenue de Arts 19H, B-1000 Brussels, Belgium.

The EFTA Surveillance Authority requests the EFTA Court to:

- 1. Declare that Iceland has failed to fulfil its obligations under Article 7 of the EEA Agreement by failing to make the following Acts, as adapted by Protocol 1 to that Agreement, part of its legal order:**
  - a. Commission Delegated Regulation (EU) 2016/98 of 16 October 2015 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for specifying the general conditions for the functioning of colleges of supervisors, referred to at point 14e of Annex IX to the EEA Agreement,**
  - b. Commission Implementing Regulation (EU) No 710/2014 of 23 June 2014 laying down implementing technical standards with regard to conditions of application of the joint decision process for institution-specific prudential requirements according to Directive 2013/36/EU of the European Parliament and of the Council, referred to at point 14b of Annex IX to the EEA Agreement**
  - c. Commission Implementing Regulation (EU) 2016/99 of 16 October 2015 laying down implementing technical standards with regard to determining the operational functioning of the colleges of supervisors according to Directive 2013/36/EU of the European Parliament and of the Council, referred to at point 14f of Annex IX to the EEA Agreement,**
  - d. Commission Implementing Regulation (EU) 2016/100 of 16 October 2015 laying down implementing technical standards specifying the joint decision process with regard to the application for certain prudential permissions pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council, referred to at point 14ae of Annex IX to the EEA Agreement,**

- e. Commission Delegated Regulation (EU) No 527/2014 of 12 March 2014 supplementing Directive (EU) No 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the classes of instruments that adequately reflect the credit quality of an institution as a going concern and are appropriate to be used for the purposes of variable remuneration, referred to at point 14g of Annex IX to the EEA Agreement,**
- f. Commission Delegated Regulation (EU) No 604/2014 of 4 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile, referred to at point 14i of Annex IX to the EEA Agreement,**
- g. Commission Delegated Regulation (EU) No 1152/2014 of 4 June 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards on the identification of the geographical location of the relevant credit exposures for calculating institution-specific countercyclical capital buffer rates, referred to at point 14k of Annex IX to the EEA Agreement,**
- h. Commission Delegated Regulation (EU) 2016/861 of 18 February 2016 correcting Commission Delegated Regulation (EU) No 528/2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for non-delta risk of options in the standardised market risk approach and correcting Commission Delegated Regulation (EU) No 604/2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile, referred to at point 14al and 14i of Annex IX to the EEA Agreement,**
- i. Commission Delegated Regulation (EU) 2017/180 of 24 October 2016 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for benchmarking portfolio assessment standards and assessment-sharing procedures, referred to at point 14n of Annex IX to the EEA Agreement,**
- j. Commission Implementing Regulation (EU) 2016/2070 of 14 September 2016 laying down implementing technical standards for templates, definitions and IT-solutions to be used by institutions**

when reporting to the European Banking Authority and to competent authorities in accordance with Article 78(2) of Directive 2013/36/EU of the European Parliament and of the Council, referred to at point 14m of Annex IX to the EEA Agreement,

- k. Commission Delegated Regulation (EU) No 524/2014 of 12 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the information that competent authorities of home and host Member States supply to one another, referred to at point 14o of Annex IX to the EEA Agreement,
- l. Commission Implementing Regulation (EU) No 620/2014 of 4 June 2014 laying down implementing technical standards with regard to information exchange between competent authorities of home and host Member States, according to Directive 2013/36/EU of the European Parliament and of the Council, referred to at point 14p of Annex IX to the EEA Agreement,
- m. Commission Implementing Regulation (EU) 2017/1486 of 10 July 2017 amending Implementing Regulation (EU) 2016/2070 as regards benchmarking portfolios and reporting instructions, referred to at point 14m of Annex IX to the EEA Agreement,
- n. Commission Implementing Regulation (EU) 2019/439 of 15 February 2019 amending Implementing Regulation (EU) 2016/2070 as regards benchmark portfolios, reporting templates and reporting instructions to be applied in the Union for the reporting referred to in Article 78(2) of Directive 2013/36/EU of the European Parliament and of the Council, referred to at point 14m of Annex IX to the EEA Agreement;

## **2. Order Iceland to bear the costs of these proceedings**

*Legal and factual background and pleas in law adduced in support:*

- By this application, the EFTA Surveillance Authority seeks a declaration that Iceland has failed to adopt the measures necessary to make certain acts concerning the capital requirements framework for banks, incorporated into Annex IX (Financial Services) of the Agreement on the European Economic Area (“the EEA Agreement”) by Decisions of the EEA Joint Committee No 80/2019, 81/2019, 82/2019, 83/2019 and 17/2020, part of its internal legal order.
- The EFTA Surveillance Authority submits that Iceland has failed to fulfil its obligations under Article 7 of the EEA Agreement, by failing to make the acts part of its internal legal order within the time prescribed.