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Barnier

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Commissioner Michel Barnier
European Commission
B-1049 BRUSSELS

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Deposit Guarantee Scheme Directive

Thank you for our video conference meeting 14 September 2011 regarding the deposit guarantee scheme directive.

It is – as you certainly are well aware of – very important for Norway to be able to maintain our present level of coverage of 2 million NOK per depositor per bank. I am very pleased with the ECON proposal for a new Article 5.3a in the directive, which will allow Norway to maintain our present coverage level for depositors with their main residence in Norway. I was therefore very surprised to hear that the Commission is of the opinion that Article 5.3a cannot be included into the directive due to legal obstacles.

I would therefore like to take this opportunity to underline the importance of involving the EEA EFTA States in the legislative process of the EU. The EU should, especially under special circumstances like the matter at hand, endeavour to incorporate specific concerns from the EFTA side into new EU legislation.

The EEA EFTA States have a legitimate right to be involved in the legislative process in the EU where one of the fields of application of the EEA Agreement is concerned. This right is inherent in the very structure of the EEA Agreement, as well as in the underlying intentions and premises. To this effect, the Agreement also contains specific provisions that ensure involvement of the EEA EFTA States before new EU legislation is adopted, as stated in Article 99 EEA and other relevant provisions such as Articles 81, 100 and 101 EEA.

When the EEA Agreement was negotiated, it was deemed natural and fair by all parties that EEA EFTA States should – in the appropriate way – be included in discussions on future EU legislation for the internal market. This is an essential part of the careful balance of rights and obligations in the EEA Agreement. It ensures a democratic legitimacy in the drafting of legislation that will eventually be incorporated into the EEA Agreement. Furthermore, the involvement of the EEA EFTA States facilitates the well-functioning of the internal market and the participation of EEA EFTA economic operators in this market.

The involvement of the EEA EFTA States in the legislative

process is regulated in the EEA Agreement itself, which cannot be altered or weakened by internal EU procedures. Moreover, as far as I can see, neither EU Treaties, nor Council Regulation 2894/94 concerning arrangements for implementing the EEA Agreement prevents the EU from incorporating the concerns of EEA EFTA States into EU legislation.

Finally, I would like to stress that the involvement of EEA EFTA States in the EU legislative processes and possible adaptations when the legislation is incorporated into the EEA Agreement, are two separate questions that arise at different stages. I firmly believe that the one does not exclude the other.

I look forward to your rapid and hopefully positive reply regarding this legal issue.

Yours sincerely,

Sigbjørn Johnsen

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