



ORDER OF THE PRESIDENT

16 July 2020

(Withdrawal of a request for an Advisory Opinion)

In Case E-6/20,

Pintail AG

and

Finanzmarktaufsicht

REQUEST to the Court from *Beschwerdekommision der Finanzmarktaufsicht* (Board of Appeal of the Financial Market Authority) for an Advisory Opinions under Article 34 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice,

THE PRESIDENT,

makes the following

Order

- 1 By letter dated 28 May 2020, registered at the Court on 9 June 2020, a request was made to the Court by a ruling of 28 May 2020 of the Board of Appeal of the Financial Market Authority for an advisory opinion in a case pending before it between *Pintail AG* and *the Finanzmarktaufsicht*, on the following questions:
 1. *Must the terms “activity” and “business activity”, as they are used in Directives 2009/110/EC and 2007/64/EC (respectively (EU) 2015/2366), be understood as synonyms; if not, what is the difference?*
 2. *Must “activity” or “business activity” of an authorised electronic money institution within the meaning of Directive 2009/110/EC be understood as meaning the issuance of electronic money, offering to issue electronic*

money or at least the activities of an electronic money institution that are subject to authorisation (strict interpretation) or does a sufficiently tangible business action also already suffice, for example, the conduct of other business activities, as is provided for in Article 6(1)(e) of Directive 2009/110/EC, to the extent that this action is directed, in accordance with objective criteria and genuinely, towards the issuance of electronic money and not completely trivial (broad interpretation)? Should a broad interpretation be required: What is the difference between a business action of that kind and purely preparatory actions?

3. *Using which criteria must the term of ceasing to engage in business, as is provided for in Article 12(1)(a) of Directive 2007/64/EC (respectively, Article 13(1)(a) of Directive (EU) 2015/2366), be interpreted?*
 4. *Does it make a difference in the interpretation whether the Member State has implemented Article 12(1)(a) of Directive 2007/64/EC (respectively, Article 13(1)(a) of Directive (EU) 2015/2366) in such a way that following 6 months of inactivity the authorisation is withdrawn by active conduct on the part of the authorities or in a such a way that the lapse arises by operation of law (ex lege) and the authority merely determines this afterwards?*
- 2 By letter dated 3 July 2020, registered at the Court on 13 July 2020, the Board of Appeal of the Financial Market Authority withdrew the request for an Advisory Opinion.


On those grounds,

THE PRESIDENT

Hereby orders:

Case E-6/20 is removed from the Register.

Luxembourg, 16 July 2020


Olafur Johannes Einarsson
Registrar


Páll Hreinsson
President