



Iceland

The Icelandic regulatory environment

Gunnar Sturluson and Asgeir H Reykford

Logos
Reykjavík

Banking law in Iceland is in line with the framework established by the EU as Iceland is a member of the European Economic Area (EEA).

Banking in Iceland is given a legal framework in the Act on Financial Undertakings (161/2002). Supervision is exercised by the Icelandic Financial Supervisory Authority (FME) in accordance with the Act on Public Financial Supervision (87/1998).

There is a bill before Althingi, the Icelandic legislature, which will, if approved, amend the Act on Financial Undertakings (161/2002). It introduces a National Credit Registry with the FME so that the regulator can have an overview of large exposures on a national level. The bill will also introduce restrictions on incentive structures within banks, tighten the fit and proper rules for owners of qualified holdings in financial undertakings and introduce new requirements for internal audit functions believed to be an essential part of the bank governance framework. We presume that there will be significant changes to the laws governing banks and the financial market in the near future as Iceland continues to work its way out of the ruins after the collapse of the banking system during the autumn of 2008.

In November 2008 Althingi approved an interim provision to the Act on Foreign Exchange (87/1992) authorising the Central Bank of Iceland to restrict or stop certain types of cross-border capital movements and foreign exchange transactions. The provision is set to expire on November 30 2010. The Central Bank issued Rules on Foreign Exchange (370/2010) implementing the foreign exchange restrictions. Icelandic banks enjoy various exemptions from the Central Bank's rules.

The regulators

The Act on Public Financial Supervision (87/1998) is the legal framework for the activities of the financial supervisor, the FME. The FME is governed by a board of directors appointed by the Minister of Economic Affairs, one of which is nominated by the Central Bank. The cost of the FME is borne by the supervised entities on the basis of the Act on Payment of Cost Due to the Official Supervision of Financial Activities (99/1999). The FME's primary objective is to ensure that the financial services providers operate in accordance with the law and sound business practices. The FME's regulatory powers have been increased significantly since the banking collapse of 2008.

The Central Bank of Iceland operates in accordance with the Act on the Central Bank (36/2001). The Central Bank's main task is to promote price stability. It does undertake regulatory tasks in order to promote an efficient and safe financial system in Iceland. The Central Bank is the lender of last resort to the Icelandic banks.

Cross-border operations in Iceland

A foreign financial undertaking, which is established and holds an operating licence in another member state of the EEA, is allowed to establish a branch in Iceland or provide services in Iceland, after the FME has received a notification of the proposed activity from competent authorities in the undertaking's home state.

If a financial undertaking operating outside the EEA wishes to set up a branch or provide services in Iceland it will have to be authorised to do so by the FME according to the Act on Financial Undertakings (161/2002).

Restructuring the three large banks

Days before the bank collapse during the autumn of 2008 the FME was authorised by an emergency act to inter alia set up new banks. The banks founded by the FME took over the majority of the domestic assets and liabilities as well as operations of the old large multinational banks, i.e. Kaupthing Bank, Glitnir Bank and Landsbanki Islands.

New Kaupthing (now Arion bank), New Landsbanki (now NBI) and New Glitnir (now Íslandsbanki) were capitalized in 2009. The cost of the capitalisation was borne by the fallen banks, effectively the creditors of the old banks and the state. The restructuring negotiations were between the government of Iceland, the new banks and the fallen banks with input from their respective creditors. The fallen banks received equity or bonds, or both, from the new banks as payment for the assets transferred from the old to the new banks in 2008. Kaupthing Bank and Glitnir Bank chose equity in the new banks over bonds while Landsbanki Islands chose bonds and a small equity stake.

The bonds issued by NBI to its predecessor contain a mechanism to capture additional value of the transferred assets over a specific period.

The old banks' equity in the new banks is held through SPVs owned by the old banks. The FME granted the SPVs permission to own a qualified holding on the basis of certain conditions, among which was a duty to appoint independent board members, which the FME has to approve. The equity in the new banks, which is held by the state, is in the custody of a bank holding agency founded in 2009 for the specific purpose of holding such bank assets and to ensure transparency and sound business operations of the banks. Islandsbanki is 95% owned by Glitnir Bank and 5% is owned by the state. The equity of Arion bank is 87% in the hands of Kaupthing Bank and 13% in the hands of the state, whereas NBI is 81.3% owned by the state and 18.7% owned by its predecessor.

See also

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Western Europe (Regional Rankings)

Legislation guide

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Practice areas

- Financial and corporate

