

Iceland

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The Icelandic regulatory environment

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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. Íslandsbanki 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.

Financial and corporate

Recommended firms	
Tier 1	
BBA Legal	
Logos Legal Services	
Tier 2	
Jonsson & Hall	
Landslog Law Offices	
Lex Law Offices	
Tier 3	
ADVEL Attorneys at Law	
Reykjavik Law Firm	

Iceland is a nation that is slowly recovering from the events of its own major financial disaster in 2008. The drama surrounding the three main banks - Kaupthing, Glitnir and Landsbanki - has dominated headlines over the last few years, and this nightmare is still apparent for many of the major institutions in Iceland. "The biggest issue has been the split of banks; by the government going bankrupt, the government has permitted new banks taking over old banks," says a partner.

The GDP growth this year is estimated at zero, and unemployment rates are rising to compound the pain. The country's attempt to join the EU and adopt the euro fell through due to fear about losing its fishing rights.

Firms are being kept busy with work being generated from the Icesave issue. One partner says, "This is a big issue right now, there are two main firms dealing with this at present."

Restructuring work is a pattern that has been emerging over the last 12 months. One partner says, "There has been a decrease in M&A work but we are seeing these deals via restructuring deals."

The effects of the Icelandic crisis are still apparent for many in Iceland, however lawyers are hopeful that 2011 will bring a stronger economy, and with it a return to investment-driven deals as opposed to distressed asset sales.

BBA Legal

"A very professional firm, they are up to speed on commercial matters and always on the ball," says one client. BBA retains its tier one position this year after commentators confirm that the firm has strengthened its position since 2009. "The firm are very good, one of the best in Iceland," says one peer.

One client says: "The team are always active and very responsive, we have used them for over ten years and they have always provided us with a first-class service."

The firm has been active on a number of cases over the last 12 months and has been

particularly active in work advising on renewable energy resources as well as the oil and gas sector.

One highlight saw the team act for Føroya Banki on the acquisition of the insurance company Vörour Tryggingar and life insurance affiliate Vörour Liftyggingar. This was the first takeover of an Icelandic insurance company by foreign investors.

Baldvin Björn Haraldsson is praised by client and rival peers alike for his approach. "He is very pragmatic, a focused lawyer that has a good grounding in the commercial department," says one client.

BBA Legal was also legal adviser to a syndicate of the three largest Icelandic banks; Islandsbanki, the new Kaupthing and NBI, in relation to a €116 million facilities agreement provided to Marel foods system. The deal was closed in May 2009.

The firm also advised Giltinir Bank regarding refinancing of LYFJA, one of the largest retailers in Iceland, in January 2010.

Elsewhere, Baldvin Björn Haraldsson advised Sabre Holdings in relation to its acquisition of Iceland-based Calidris, a revenue and business intelligence solution company.

Leading lawyers

Einar Baldvin Arnason
Katrín Helga Hallgrímsdóttir
Baldvin Björn Haraldsson
Ásgeir Ragnarsson

Logos Legal Services

"Logos are experts in their field, they have a deep knowledge of the markets and know what is going on," says one client of the firm. Logos maintained its tier one position again this year after market feedback showed that the firm holds a strong proportion of the market share.

One rival partner says: "The firm have had their hands on some noteworthy transactions." Another adds: "The firm provide leading work in their field. We are each other's main rivals, but we certainly give them the credit that is due to them for all their hard work."

The firm generates mixed feedback from clients. One commends the firm on its "professionalism", whilst another client describes the firm as having "a slower response time" than other firms in the market.

After the collapse of the Icelandic banks in 2008, the firm advised the resolution committees of the collapsed Icelandic banks, especially Glitnir bank and Landsbanki Island in relation to their disposal, restructuring and management of assets. Members of the team have also been advising creditors of the col-

lapsed banks on matters relating to the winding up of the banks and the trading of their debt instruments.

Another highlight saw a team led by Thorolfur Jonsson advise on the refinancing of the Sjova Insurance company. The firm also recently advised on the refinancing of Verne Holdings with the aim of enabling it to establish a data centre complex in Ireland. Under the refinancing, shareholders agreed to subscribe for new shares in Verne Holdings.

Another notable mandate was advising Nordural, a subsidiary of Century Aluminium, from the start of their operation in Iceland on various legal matters, including their project financing of a Greenfield aluminium smelter in Reykjanesbær, Iceland.

Elsewhere, the firm advised Glitnir on its acquisition of 95% of Islandsbanki, a local commercial bank. The value of the deal was valued at Ikr65 billion (€416 million).

Leading lawyers

Pétur Gudmundarson
Gudmundur Oddsson
Helga Óttarsdóttir
Gunnar Sturluson

Other ranked firms

Jonsson & Hall has been commended on the quality of its team. "They have a good team of lawyers and we would recommend our clients to go there, if we had to. They do similar work to us," says a competitor.

Clients point out that Hordur Felix Hardarson is a name to be mentioned. "They have a very good lawyer involved in restructuring and he is Hordur Hardarson. He is one of the most diligent, trustworthy, reliable lawyers I have ever met. He is an excellent litigator," says one.

Leading lawyers: Hordur Felix Hardarson

Commentators acknowledge that Landslog Law Offices are a smaller firm but nevertheless one that has a strong reputation in the market. In July 2010, the firm took steps to increase its capacity, merging with LM Logmenn bringing its combined capacity up to 12 partners.

Clients commend partner Vidar Lúdvíksson on his approach. "He is a rising star, he is working for cases regarding Icelandic banks. He is great, very competent," says a client. "We have had a number of dealings with him, he is an excellent lawyer - prudent and good to work with. He is always professional and a careful lawyer."