

# Iceland

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## Shareholders' authorization to sell part of their holdings in case of a takeover obligation

**Baldvin Bjorn Haraldsson**  
**Landwell**  
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The Icelandic financial sector's legal framework has undergone extensive transition in recent years. As Iceland is a member of the European Economic Area, EU directives have played a big part in these changes.

In July 2005, certain amendments to the Act on Securities Transactions (the Securities Act) came into force, some of which were based on Directive 2004/25/EC of the European parliament and of the council on takeover bids. As a result, the Securities Act now contains provisions regarding mandatory and voluntary bids, which apply to companies that have shares listed on a regulated securities market.

Under the Securities Act, a party that has directly or indirectly acquired a dominant holding in a listed company must, no later than four weeks after the acquisition, make a takeover bid to other shareholders in the company. The Securities Act defines a dominant holding as a party or parties acting in concert that have (i) acquired or otherwise control 40% of the voting rights in the company, or acquired a comparable portion of its share capital; (ii) acquired the right to appoint or remove a majority of members on the company's board of directors; or (iii) acquired the right to exercise a controlling influence over the company. The party, acting in concert with another party, who increases its shareholding, resulting in the mandatory bid threshold being reached, is the party that will become obliged to make a takeover bid. Lastly, the provision also states that the Financial Supervisory Authority is able to grant an exception from the above mentioned mandatory bid rule if special reasons recommend such action.

The rules on takeovers in Iceland are supervised by the Financial Supervisory Authority. However, following the amendments made to the Securities Act, a Takeover Panel was established in Iceland. The Takeover Panel is to some extent modeled on arrangements in the UK, but the objective of the Takeover Panel's establishment is to strengthen the equity markets by resolving wherever possible questions of uncertainty in connection with takeovers.

The Takeover Panel was set up by agreement between private parties, but not by law. The Takeover Panel's founders were the Icelandic Stock Exchange, associations of listed companies, the Financial Supervisory Authority, the Pension Funds' Association, the Bankers' and Securities Dealers' Association of Iceland, the

Association of Small Investors, the Central Bank of Iceland, the Icelandic Chamber of Commerce and the Ministry of Commerce. As it was not established under the law it does not therefore have any legal remedies. On the other hand, under the Securities Act the Financial Supervisory Authority can levy fines to anyone violating the provisions of the Act, unless more severe penalties are prescribed in accordance with other Acts.

Since its establishment, the Takeover Panel has only addressed two instances. Both instances concerned the issue of whether a party or parties acting in concert had reached the mandatory bid threshold.

In December 2005 the Icelandic Takeover Panel published an opinion which concluded that the Icelandic company, the Baugur Group, was obliged to make a takeover bid to other shareholders in another Icelandic company, the FL Group. Baugur was found to be acting in concert with the Icelandic company Oddaflug, and together they were holding 49.68% of the FL Group's share capital. Because Baugur was the party acting in concert, and had increased its shareholding resulting in the mandatory bid threshold being reached, Baugur became obliged to make a takeover bid. After the publishing of the Takeover Panel's opinion the companies acting in concert, Baugur and Oddaflug, sold part of their holdings in the FL Group to unconnected parties. Following those transactions the Takeover Panel published an announcement stating that, on the basis of those transactions, the Takeover Panel was of the opinion that an obligation to make a takeover bid no longer existed.

However, a debate has arisen regarding the Takeover Panel's conclusion, as to whether the above-mentioned provision of the Securities Act in fact allows shareholders to escape the takeover duty by selling part of their shares after they have reached the mandatory bid threshold.

As a result of this debate, the Financial Supervisory Authority published its interpretation of their legal remedies in situations like this. In the Financial Supervisory Authority's opinion the mandatory bid rule is implicit, that is, only the Financial Supervisory Authority is able to authorize an exemption from a mandatory bid. The result is that even though the obliged takeover party sells part of its shares, causing a shareholding below the mandatory bid threshold, the party can nevertheless be found in violation of its obligation to make a takeover bid, and be found guilty in a retributive case.

As a response to Financial Supervisory Authority's publication, the chairman of the Icelandic Takeover Panel published a newspaper article in which he stated the Takeover Panel's reasons for its interpretation in the FL Group case. The chairman points out that the Icelandic Securities Act is unclear on this issue. In his opinion, the Securities Act does not stipulate that it is mandatory for shareholders to apply for an authorization before deciding to sell part of

their holdings so they will be exempted by the Securities Act's mandatory bid rule.

At the time of writing, a case is pending before a district court in Iceland where a minority shareholder has taken to court another party which had been obliged to make a takeover bid but subsequently sold part of its shareholding to avoid the takeover obligation. The case will presumably settle the issue, which has become the subject of debate between the Financial Supervisory Authority and the Takeover Panel in Iceland, of whether a shareholder can avoid a mandatory takeover bid by selling a part of its shareholding.

The verdict of the court, and whether that verdict will lead to further changes to the legal framework of Iceland's financial sector, remains to be seen at the time of writing.

## Banking

### Recommended firms

#### Tier 1

Lex Law Offices  
Logos Legal Services

#### Tier 2

Jonsson & Hall  
Landslog Law Offices  
Landwell

#### Tier 3

AM Praxis  
LM Attorneys

## Capital markets

### Recommended firms

#### Tier 1

Jonsson & Hall  
Landwell  
Lex Law Offices  
Logos Legal Services

#### Tier 2

Landslog Law Offices

#### Tier 3

AM Praxis  
LM Attorneys

## Mergers and acquisitions

### Recommended firms

#### Tier 1

Lex Law Offices  
Logos Legal Services

#### Tier 2

Jonsson & Hall  
Landslog Law Offices  
Landwell

#### Tier 3

AM Praxis  
Fulltingi Legal Services  
LM Attorneys  
Reykjavik Law Firm

### Jonsson & Hall

Jonsson & Hall has been present on the Icelandic legal market for over 30 years and in that time the firm has undergone a succession of mergers. There are six partners and four associates at Jonsson & Hall, and the team is steadily making more of an impact on the market.

Peer review of the firm is highly complimentary: "Jonsson & Hall has brilliant, experienced personnel and has very few weak links," said one. As for individual plaudits, the "excellent" name partner Gunnar Jonsson is described as "very capable", and there is also a lot of respect for Hordur Felix Hardarson, who is "very strong... he does his work very well". Since July 2005, Jonsson & Hall has represented the entrepreneur Jon Asgeir Johannesson in his high-profile fraud investigation, which has affected its visibility in other areas of the market.

There is little doubt that business will return to the usual capacity soon, though, as Jonsson & Hall is still "a very strong law firm" that has the ability to attract top-drawer clients such as Opin Kerfi, Shell Iceland and many international banks. The firm remains a member of the State Capital Global Law Firm Group, which provides it with access to international legal expertise.

#### Leading lawyers

Hordur Felix Hardarson  
Gunnar Jonsson

#### Key contact partner

Gunnar Jonsson

### Landslog Law Offices

Landslog Law Offices is a medium-sized firm of five partners and three associates, and provides advice on a wide spectrum of financial, corporate and commercial issues. The firm is particularly renowned for its capital markets work, although the Icelandic market is quite sluggish at the moment in this area. However, competitors are also aware that Landslog Law Offices is "very strong in M&A" too.

In particular, Jóhannes Sveinsson is seen as "a good, strong M&A lawyer" and is also well respected for his many contract law writings. Aside from this, Sveinsson's main role is as managing partner of Landslog Law Offices. His pedigree in elevated roles comes not only from his excellence in handling tricky transactions, but also from his experience gained from two years as vice-chairman of the Icelandic Bar Association and seven years as a law lecturer at the University of Iceland.

The firm has an illustrious and lengthy client list that includes Samkaup, Lyfja, Merck International, IceTec and Iceland Prime Contractor.

#### Leading lawyer

Jóhannes Sveinsson

#### Landwell

Landwell offers advice on general corporate and commercial issues, M&A and project finance in Icelandic, English, French, German and Dutch. It is a medium-sized law firm of three partners and five associates that consistently handles a large amount of work for a wide ranging clientèle. However, Landwell is looking to expand, and has hired two new associates over the past year – in summer 2005 Ingibjörg Gudbjartsdóttir started as an associate, and in October 2005 Rannveig Borg Sigurdardóttir was brought in at the same level from Allen & Overy's Luxembourg operation.

In banking and finance, Landwell has had another busy year. In March 2006 the firm advised a Kaupthing Bank subsidiary in relation to the £400 million refinancing of areas in the Laurel Pub Company. Another highlight came when the firm represented BNP Paribas regarding the acquisition of Landsbanki Islands by Kepler Securities, a deal in which Landwell's focus was on the security in electronic registered shares in Iceland. At the time of writing, the firm was acting for Goldman Sachs and Linklaters' London office regarding a €1.1 billion facility agreement as financing for the acquisition of Icelandic shares, and advising Síminn in connection with a ISr15 million bond issue and a ISr10 billion bond interest takeout facility.

In a further crossover with Landwell's successful and well regarded capital markets department, the firm advised a Barclays-led syndicate on the £500 million senior financing of the Bakkavör Group's acquisition of Geest Making Bak Group and a £100 million bond issue of the Iceland Stock Exchange. In June 2005, the capital markets team counselled the Bank of Scotland on the IPO of Mosaic, the parent company of retail clothing stores Oasis, Karen Millen, Whistles and Coast. However, the standout deal for the firm on the capital markets side came at the end of 2005 when Landwell advised Lansbanki on the ISr10 billion listing of new Avion Group shares, noteworthy for being the largest new listing in the history of the Iceland Stock Exchange.

Landwell has also flourished in M&A. In August 2005, Katrin Hallgrimsdóttir and the "very capable" Baldvin Haraldsson represented a consortium that contained Exista, Kaupthing Bank, MP Investment Bank and four pension funds in relation to the €834 million privatization of Iceland Telecom. This was followed by advice given to Strax Holdings at the end of the year in relation to its acquisition of More Mobilfunkzubehör, a leading European provider of mobile phone accessories.

The two stars at Landwell are generally considered to be Baldvin Haraldsson and Asgeir Ragnarsson, who are seen by the market as "widely educated with good connections". While both are under pressure from doing "considerable legal work", they remain "great to work with".

#### Leading lawyers

Baldvin Haraldsson  
Asgeir Ragnarsson

#### Key contact partners

Baldvin Haraldsson  
Asgeir Ragnarsson

#### Lex Law Offices

2006 has been a year of consolidation for the firm as it returns to its former name: Lex Law Offices. Last year's merger with Nestor Logmenn had meant that the firm operated under the moniker Lex-Nestor Law Offices for a short time. However, another rebranding has prompted this further change. The most important thing though is that the market perceives Lex Law Offices' 13 partners and six associates to be "definitely tier one".

Helgi Jóhannesson leads the firm, and also sits as chairman of the Icelandic Bar Association, a position he has held since March 2005. He is described as "the leading lawyer at the firm", while his colleague Ólafur Haraldsson is seen as "a leading partner who has been directing its banking team very effectively". Commentators have noticed that Haraldsson is "becoming stronger in the market". Thorunn Gudmundsdóttir is also seen by competitors as "really good".

The middle of 2005 saw the firm handle a great deal of in-depth due diligence work. Firstly, Lex Law Offices performed due diligence for the Landssími Íslands deal, and advised on financing for a client bidding for shares in the company that were owned by the Icelandic state. At the same time, the firm worked for Kaupthing Banki regarding a due diligence exercise on Össur, and in particular on Össur's acquisition of Royce Medical Holdings.

This rich seam of work continued into 2006, when Lex Law Offices successfully provided due diligence services on the Icelandair Group, LazyTown and Olíufélag Íslands. From November 2005 to June 2006, the firm represented the Atorka Group in a complicated and drawn-out restructuring, which included multiple divisions and mergers between smaller subsidiaries.

#### Leading lawyers

Ólafur Haraldsson  
Helgi Jóhannesson

#### Key contact partner

Helgi Jóhannesson

#### LM Attorneys

The lawyers at LM Attorneys "are not quite as active in the banking market, but are strong when they are". In Kristján Thórbergsson and Johannes Bjornsson, LM Attorneys is seen to have "two of the best practitioners in Iceland", but they tend to focus more on domestic matters and in areas that fall outside the ambit of the *IFLR1000*, such as debt collection. Thórbergsson's "reputation is very good and he has a lot of experience as well", and the "excellent" Bjornsson is marked by peers as "a very good corporate finance lawyer". One commentator goes as far as saying that he is "very sound ... one of the best".

LM Attorneys' five lawyers have a strong ability to handle corporate and financial work, and it will be interesting to see whether the firm can translate its abilities into increased visibility in the market over the coming year.

#### Leading lawyers

Johannes Bjornsson  
Kristján Thórbergsson

#### Logos Legal Services

Logos Legal Services can trace its heritage in Iceland back to 1907, and since that time it has become one of the largest firms in the country. Services are offered in Icelandic, English, Danish, German and French, which is a sign that the firm is actively aware of the importance of international clients. Indeed, Logos

Legal Services has opened a small, one-partner, one-associate office in London to aid business links. Naturally though, the main office remains in Reykjavik, where 12 partners and 17 associates form a well respected team. This team keeps its clients satisfied too. One large international company explained that it primarily uses Logos because it is “very good and has served us well in the past”. However, despite such impressive credentials, the market has highlighted one disappointment for the firm. In April 2006, the “very good” Óttar Pálsson left his role as a partner at Logos Legal Services to go in-house at Glitnir Banki. Analysts have described events as “a significant blow, but Logos Legal Services are still a tier one firm”.

This year the firm has been particularly strong in M&A. In January 2006, for example, Logos Legal Services advised Danish investors FL Group in relation to its Ikr15 billion acquisition of Sterling, Europe’s fourth-largest low-cost airline. Another big deal saw the firm represent Burdará on Giant Bidco’s acquisition of the Big Food Group in June 2005.

In banking meanwhile, Logos Legal Services has continued its close working relationship with Kaupthing Banki. At the end of 2005 it advised the bank in relation to the Ikr34 billion privatization of Síminn, and in March 2006, Kaupthing turned to Logos for advice again on the Síminn board’s Ikr14 billion interest takeout facility. In addition to this regular work, the firm has managed to maintain a client list that includes Landsbanki Islands, Deutsche Bank and Össur. Logos worked with the latter on a €313 million acquisition and leveraged financing in August 2005.

The firm has also handled a fair amount of project finance work by Icelandic standards. Most notably, it was hired by Nordurál in respect of its €300 million smelter expansion, and advised Icelandic Prime Contractors in March 2006 regarding the €150 million development of the Reykjavik Concert Hall.

Logos Legal Services has enjoyed a fruitful year across the board, and the market underlines the “strong” Gunnar Sturluson as the main reason for this. One commentator said that “he is the most visible partner and he has been successful at creating a brand”. However, not all the praise was reserved for Sturluson; Pétur Gudmundarson, Helga Óttarsdóttir and Jakob Möller were also described as “stars”. In addition, Arnar Jónsson was mentioned as a rising talent at the firm. With such a wealth of talent, Logos Legal Services is perfectly equipped to recover from the loss of Pálsson.

#### Leading lawyers

Pétur Gudmundarson  
Jakob Möller  
Helga Óttarsdóttir  
Gunnar Sturluson

#### Key contact partners

Pétur Gudmundarson  
Jakob Möller  
Helga Óttarsdóttir  
Gunnar Sturluson

#### Other notable firms

AM Praxis is a small firm of five lawyers and three associates. Whilst Hróbjartur Jónatansson is the key contact at the firm, it is Thórarinn Thórainsson who is widely seen as the leading lawyer of the outfit. AM Praxis offers services in all areas of financial law and has experience of representing domestic and multinational banks, insurance companies and property developers.

2006 marks the fifth anniversary of Fulltingi Legal Service’s presence in the Icelandic legal market. While the firm is most known at the moment for its burgeoning personal injury and tort litigation department, it also has a steady corporate and capital

markets operation. In September 2005, Fulltingi closed its role in the Ikr1.15 billion sale of three of Alfesca HF’s subsidiaries, in which it sat on the opposite side of the table to Landwell. Alfesca HF was formerly known as the Sif Group.

Reykjavik Law Firm is a growing office of eight partners, three associates and six support staff. The firm offers a large spread of expertise across its lawyers. In particular, Ólafur Gardarsson stands out for his excellent reputation in M&A and corporate law. Similarly Steinar Þór Gudgeirsson is equally renowned for his efforts in bankruptcy and due diligence proceedings. Other specializations at Reykjavik Law Firm include intellectual property, tax, competition and commercial contracts. The Association of European Lawyers member attracts clients such as Microsoft, Samskip, SP Finance, Glitnir Finance, Nyherji and Brimborg.