



## Act

regarding authorisation for the Minister of Finance, on behalf of the State Treasury, to issue a state guarantee of the loans granted by the governments of the UK and the Netherlands to the Depositors' and Investors' Guarantee Fund of Iceland to cover payments to the depositors of Landsbanki Íslands hf.,

### Article 1

#### *State guarantee of the Icesave loan agreements*

The Minister of Finance, on behalf of the State Treasury, is authorised to issue a state guarantee to the Depositors' and Investors' Guarantee Fund in regard to the loans granted by the governments of the UK and the Netherlands, according to agreements dated 5 June 2009, to cover payment of the minimum compensation, *cf.* Article 10 of Act No 98/1999 on Deposit Guarantees and Investor-Compensation Scheme, to the depositors of Landsbanki Íslands hf. in the UK and the Netherlands. The guarantee covers the principal amount of each of the loans outstanding on the seventh anniversary date of the signing of the agreements, on 5 June 2016, together with interest thereon, with the reservations stipulated in this Act, and shall apply until 5 June 2024.

The state guarantee is subject to presentation to the authorities of the UK and the Netherlands of the reservations to the guarantee pursuant to this Act and their acceptance thereof. Furthermore, that the lenders, as stated in the loan agreements cited in paragraph 1, acknowledge that the obligations of the Depositors' and Investors' Guarantee Fund are subject to the same reservations as the state guarantee pursuant to this Act.

The state guarantee is otherwise limited by the provisions of the agreements and the reservations stipulated in this Act. The reservations are an integral part of the state guarantee.

### Article 2

#### *Preconditions for granting a state guarantee*

Preconditions for granting a state guarantee pursuant to this Act are:

1. That the loan agreements are interpreted according to the agreed guidelines approved between Iceland, the European Union and the respective Member States on 14 November 2008, taking into account the unprecedented and difficult situation in Iceland and the necessity of finding arrangements that allow Iceland to restore its financial system and its economy. This entails, i.a., that the negotiating Parties will comply with a substantiated and reasoned request from Iceland to revise the agreements pursuant to their provisions,
2. That the status of Iceland as a sovereign state prevents attachment of those of its assets that are critical for Iceland to carry out its obligations as a sovereign state in a satisfactory manner. The same applies to assets owned by the Icelandic state abroad, including assets of the Central Bank of Iceland, which are protected pursuant to general principles of international law,
3. That Iceland will continue to have undivided control over its natural resources and that the Icelandic authorities have the right to decide on their utilisation and form of ownership.

### Article 3

#### *Economic criteria*

The state guarantee pursuant to this Act is based on the financial burden, due to the guarantee, remaining within reasonable limits, thus enabling Iceland to restore its financial system and its economy. In order to monitor and assess the preconditions for the revision of the agreements, the Icelandic government shall take measures to ensure that the IMF will, by 5 June 2015, at the latest, carry out the Article IV review of the status of the national economy, in particular as regards national indebtedness and debt sustainability. In addition, the IMF review should contain an assessment of the changes that have taken place since the IMF review of 19 November 2008.

In assessing the preconditions for the revision of the agreements due account shall be taken of the state of the national economy and public finances at any given time, and an assessment of the outlook, with special consideration given, i.a., to currency issues, foreign exchange trends and balance on current account, economic growth and changes in domestic production, as well as population trends and the employment participation rate.

The state guarantee pursuant to this Act is subject to a limit on payments from the State Treasury. This maximum, for the period 2017-2023, is limited to 4% of the growth of the gross domestic product (GDP), *cf.* paragraph 4, measured in pounds Sterling with respect to the loan agreement with the government of the UK, and 2% of the growth of GDP measured in euros, with respect to the loan agreement with the government of the Netherlands. These percentages will be half those figures for the years 2016 and 2024. The payments shall be revised as soon as definitive figures for GDP are available.

The growth in Iceland's GDP, pursuant to paragraph 3, shall be measured from 2008 until the year of payment during the period 2016-2024, in pounds Sterling on the one hand, with respect to the loan agreement with the government of the UK, and in euros on the other, with respect to the loan agreement with the government of the Netherlands. The calculation of payments pursuant to paragraph 3 shall be based on the average CBI mid rate of exchange of the GBP and the EUR with respect to the ISK, on a yearly basis, and on an assessment of GDP, measured in accordance with the definition of Eurostat.

The debt service obligation of the loan agreements shall at no time exceed the maximum amount guaranteed by the state, *cf.* paragraph 3. If, at any time, it seems likely that the loan, with interest, will not be paid in full by the end of the loan period, due to the economic criteria, the Parties to the loan agreements shall hold timely discussions on how to proceed and the effect this has on the agreements and the obligations of the Depositors' and Investors' Guarantee Fund.

### Article 4

#### *Legal criteria*

As yet, it has not been settled whether the member states of the EEA Agreement should be held liable regarding a minimum guarantee vis-à-vis depositors, including in the event of systemic failure of the financial market. Nevertheless, Iceland has concluded agreements with the UK and the Netherlands, although it has not waived its right to have this issue decided upon. In the event that a competent adjudicator rules, at a later date, that Iceland and other member states of the EEA Agreement do not bear such a responsibility, the state guarantee shall, pursuant to this Act, be conditional on

discussions taking place between Iceland and the other Parties regarding the effects of such a ruling on the loan agreements and on the obligations of the Icelandic state.

Pursuant to this Act, a state guarantee is conditional on the assets of Landsbanki Íslands hf. being distributed, upon its settlement or that of its bankruptcy estate, according to Icelandic legislation applicable on 5 June 2009, including Act No 2/1993 on the European Economic Area. A precondition for the guarantee is that the Depositors' and Investors' Guarantee Fund seek the ruling of competent adjudicators in order to establish whether its claims have priority over other claims originating from the same deposits upon such distribution. In the event of such an outcome, discussions shall be initiated with the Parties to the loan agreements on how to handle the assets from the estate of Landsbanki Íslands hf. and the effects of this on the agreements and the commitment of the Depositors' and Investors' Guarantee Fund.

Should no discussions take place pursuant to paragraph 1 or 2, or if the discussions do not lead to an outcome, Althingi may limit the state guarantee pursuant to this Act as the case may merit.

## Article 5

### *Revision of the loan agreements*

The decision to request discussions on amendments to the loan agreements, in accordance with the review provisions contained therein, shall be taken with the consent of Althingi. The decision shall be based, i.a., on the preconditions for the state guarantee and criteria pursuant to this Act. An assessment of whether to request a revision shall be concluded no later than 5 October 2015 and the result shall be submitted to Althingi before the end of 2015.

## Article 6

### *Parliamentary control*

The Ministry of Finance, the Ministry of Business Affairs and the Central Bank of Iceland shall assess, at regular intervals, the development of total debt, debt service burden and debt sustainability of the State Treasury and the national economy, including on account of the state guarantee pursuant to this Act.

The Minister of Finance shall, once a year and for the first time before 1 March 2010, inform Althingi on the implementation of the agreements and the assessment pursuant to paragraph 1 of this Article. The Minister's report shall, i.a., outline whether the recovery of assets from the estate of Landsbanki Íslands hf. is notably different from that anticipated when the agreements were concluded (75%), and include an assessment of the debt service burden as a ratio of GDP.

In carrying out its control regarding the implementation of the general budget, the Budget Committee shall, i.a., assess how the obligations pursuant to the loan agreements and this Act have developed. The Committee shall work in close cooperation with the Icelandic National Audit Office, which shall be entitled to all necessary information from the Ministry of Finance, the Central Bank of Iceland and the Depositors' and Investors' Guarantee Fund.

The Budget Committee is authorised to seek counsel from domestic and foreign experts in carrying out its control pursuant to this Act. Costs in relation thereto are covered by the State Treasury.

## Article 7

### *Terms of the state guarantee granted to the Depositors' and Investors' Guarantee Fund of Iceland*

The Minister of Finance sets further conditions regarding the guarantee for the Depositors' and Investors' Guarantee Fund in a separate agreement with the Guarantee Fund, in particular as regards the disclosure of information to Althingi, control of the finances of the Guarantee Fund, and the recovery of assets from the estate of Landsbanki Íslands hf.

## Article 8

### *Recovery of deposits*

The government shall forthwith take all necessary measures to recover the money deposited into the Icesave accounts. For that purpose, the government shall no later than 15 October 2009 instigate cooperation with competent parties, including the relevant authorities in the UK, the Netherlands and the European Union, and request their assistance in tracing the deposits from the Icesave accounts. The Icelandic government shall no later than 31 December 2009 draw up a plan on how to attempt recovery of any money found.

In order to minimise the state guarantee pursuant to this Act, the government shall, in consultation with competent parties, also take measures to ensure that those who may be financially liable for the obligations arising from the Icesave accounts will repay this loss.

## Article 9

This Act shall enter into force immediately. The provisions of Act No 121/1997 on State Guarantees, with the exception of Article 5 of that Act, shall not apply to the guarantee covered by this Act.

*Adopted by Althingi, 28 August 2009*

