

NOTICES FROM MEMBER STATES

Extract from the decision concerning Landsbanki Íslands hf. pursuant to Directive 2001/24/EC of the European Parliament and of the Council on the reorganisation and winding-up of credit institutions

(2010/C 341/05)

The Reykjavík District Court, ruled on 22 November 2010, that Landsbanki Íslands hf., Reg. No 540291-2259, Austurstræti 16, Reykjavík, (the 'bank') shall be subjected to winding-up proceedings in accordance with the general rules in Section B of Chapter XII of Act No 161/2002, subject to points 3 and 4 of Interim Provision V of the same Act and with the legal effect entailed by point 2 of the same provision, as amended by Article 2 of Act No 132/2010.

On 7 October 2008, the Financial Supervisory Authority assumed the powers of a shareholders' meeting and appointed a resolution committee for the bank. As authorised by Act No 129/2008, cf. Act No 21/1991, the bank was granted permission for a moratorium on its debts by a decision of the court on 5 December 2008. This permission was further extended on three occasions, the last one on 31 August 2010, expiring on 5 December 2010 at the latest with no further extension permitted by law.

Act No 44/2009 entered into force on 22 April 2009, which entailed changes in the nature and substance of a debt moratorium granted to a financial undertaking. According to point 2 of Interim Provision II of Act No 44/2009 (Interim Provision V of Act No 161/2002), the debt moratorium was subject to the provisions of the first paragraph of Article 101, and Articles 102, 103 and 103(a) of Act No 161/2002, as amended by the first substantive paragraph of Article 5, 6, 7 and 8 of Act No 44/2009, as if the undertaking had been subjected to winding-up proceedings by a court decision on the date that the Act took effect. However, it was provided that the winding-up proceedings should be referred to as an authorised debt moratorium for as long as the authorisation remained valid. Act No 44/2009 also provided that once the authorisation expires, the undertaking shall, without a specific court ruling, automatically be deemed to be in winding-up proceedings following the general rules. The winding-up board was appointed by a decision of the District Court of Reykjavík on 29 April 2009.

A notice to creditors was published and the time limit for submitting claims expired on 30 October 2009. Moreover, advertisement 2009/C 125/08 on the extension of the moratorium of the bank was published in the *Official Journal of the European Union*. The advertisement contained an invitation to lodge a claim and drew attention to time limits to be observed. Submitted claims have been addressed at three meetings and two further meetings have been scheduled for 1 December 2010 and 19 May 2011. At that point discussions are scheduled to be concluded on the admission of claims.

Act No 132/2010, which entered into force on 17 November 2010, further amends Act No 161/2002 to provide that before the moratorium granted to the undertaking expires, the Resolution Committee and the Winding-up Board may jointly request that the undertaking be placed in winding-up under general rules, by a court ruling, provided the substantial provision of point 3 of the second paragraph of Article 101 of the Act are satisfied. If the petition is granted, action taken during the undertaking's moratorium after the entry into force of Act No 44/2009 shall remain unaltered.

The ruling on 22 November 2010 was applied for and granted pursuant to the amendment effected by Act No 132/2010. The Court's decision concludes that conditions of law required for a decision on winding-up proceedings are fulfilled. The bank's assets amount to approximately ISK 1 138 billion (based on current recovery estimates and the currency rate of ISK pr. 30 September 2010) with liabilities which amount to approximately ISK 3 427 billion. Accordingly, the bank is insolvent and unable to discharge in full its debts to creditors, and the possibility has been excluded that the payment difficulties are temporary in nature, cf. point 3 of the second paragraph of Article 101 of Act No 161/2002. The Court's decision also confirms that in accordance with the cited provision, as it stands following the enactment of Act No 132/2010,

measures taken in the course of an undertaking's moratorium on debts after the entry into force of Act No 44/2009 shall remain unaltered and that this signifies, inter alia, that the appointment of the Resolution Committee and the Winding-up Board of the bank shall remain in effect, and the same applies to all measures based on Articles 101, 102, 103 and 103(a) of Act No 161/2002, cf. point 2 of Interim Provision V of the same Act. This also confirms that the ranking of claims and other legal effects normally determined by the date that a decision on winding-up proceedings is pronounced shall in this instance be determined by the date of entry into force of Act No 44/2009, i.e. 22 April 2009.

Reykjavík, 25 November 2010.

Winding-up Board of Landsbanki Íslands hf.

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