

Act on Official Supervision of Financial Activities

No. 87, 16 June 1998

CHAPTER I

Objective and scope

Article 1

Objectives and definitions

This Act is intended to help ensure that the financial activities covered by the Act comply with the laws, regulations, rules and company statutes applicable in each instance to these activities.

For the purposes of this Act, “financial activities” shall mean all types of activities by companies, institutions and other parties referred to in Article 2.

For the purposes of this Act, “regulated entities” shall mean all parties subject to supervision by the Financial Supervisory Authority (FME) as provided for in Article 2.

Article 2

Regulated activities

Supervision as provided for in this Act shall cover the activities of the following parties:

1. commercial banks and savings banks,
2. credit institutions other than commercial banks and savings banks,
- [3. electronic money undertaking, as referred to in Articles 1 and 2 of the Act on Electronic Money Undertakings],¹⁾
- [4.]¹⁾ insurance companies,
- [5.]¹⁾ companies and individuals acting as insurance intermediaries,
- [6.]¹⁾ enterprises engaged in securities services,
- [7.]¹⁾ mutual funds (UCITS) and management companies of mutual funds,
- [8.]¹⁾ [stock exchanges and regulated OTC markets],²⁾
- [9.]¹⁾ central securities depositories,
- [10.]¹⁾ pension funds,
- [11.]¹⁾ parties other than those listed in Point 1 which are authorised by law to accept deposits.

The Act shall also cover supervision of activities other than those listed in the first paragraph for which supervision has been entrusted to the Financial Supervisory Authority under special legislation.

Supervision of the activities of domestic parties abroad and of foreign parties in Iceland shall be subject to the provisions of special legislation and international agreements to which Iceland is a party.

The Board of the Financial Supervisory Authority shall rule on cases where there is doubt as to whether activities are covered by this Article.

¹⁾ [Act 37/2002, Article 19.](#) ²⁾ [Act 11/2000, Article 1.](#)

CHAPTER II

Public administration

Article 3

Establishment

A special authority, the Financial Supervisory Authority (FME), shall undertake the supervision provided for in this Act. The Financial Supervisory Authority is a state authority with its own Board. It is responsible to the Ministry of Commerce.

Article 4

Board

The Board of the Financial Supervisory Authority shall be comprised of three members appointed by the Minister of Commerce for a four-year term. One appointee shall be nominated by the Central Bank. Alternates shall be appointed in the same manner. The Minister shall appoint the Chairman of the Board and determine the remuneration to its members.

The role of the Board is to specify the emphases in the work of the Financial Supervisory Authority and oversee its activities and operations. Major decisions shall be referred to the Board for approval or rejection.

Article 5

Director General. Personnel

The Director General of the Financial Supervisory Authority shall be engaged by the Board. The Director General is in charge of the day-to-day activities and operation of the Authority. The Board shall determine the Director General's terms of employment.

The Director General shall be responsible for hiring personnel for the Authority.

Article 6

Eligibility

Members of the Board shall have knowledge of the financial market and have good educational qualifications suited to this field. Care shall be taken when the Board is appointed to ensure sufficient diversity in the experience and qualifications of appointees.

The Director General shall have a university degree and extensive knowledge and experience of the financial market.

Members of the Board, and the Director General, must be legally competent and may never have been deprived of control over their own financial affairs. They must have an unblemished reputation and may not have, in connection with business operations, been convicted of a punishable offence under the Criminal Code or Acts on Public Limited Companies, Private Limited Companies, accounting, financial statements, bankruptcy or other special legislation applying to regulated entities.

Neither members of the Board, the Director General nor employees may be executives, employees, auditors, attorneys or actuaries of regulated entities.

The Members of the Board, Director General and employees shall not participate in dealing with cases connected to their own business or business with companies in which they have a holding, where they are Board members, hold positions of responsibility or in other respects have substantial interests at stake concerning regulated entities.

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The same shall apply to participation in dealing with cases concerning parties personally or financially connected to them.

The Minister shall set rules¹⁾ on transactions by Board members, the Director General and employees with regulated entities. These rules shall, for instance, provide for restrictions on their authorised financial obligations towards regulated entities or holdings in them.

¹⁾*Reg. 704/2001.*

Article 7

Consultative Committee of regulated entities

A special consultative committee composed of representatives from regulated entities shall operate in conjunction with the Authority.

The executives of the Financial Supervisory Authority shall hold regular meetings with the consultative committee. The consultative committee does not have power to make decisions in affairs of the Financial Supervisory Authority.

Further details concerning the consultative committee, including its appointment, shall be laid down in a Regulation.¹⁾

¹⁾*Reg. 562/2001.*

CHAPTER III Activities

Article 8

Supervision

[The Financial Supervisory Authority shall oversee that the activities of regulated entities are in accordance with laws, regulations, rules or company statutes governing such activities, and that they are in other respects consistent with sound and proper business practices.

The Financial Supervisory Authority is authorised to issue and publish general guidelines on the activities of regulated entities, provided that their substance concerns a group of regulated entities.

The provision of this Act shall apply, as appropriate, to supervision by the Financial Supervisory Authority, its inspections and information gathering as provided for in special legislation. The provisions of special legislation shall apply concerning the extent of the Financial Supervisory Authority's authorisations in other respects.]¹⁾

¹⁾[Act 11/2000, Article 2.](#)

Article 9

Inspection and access

[The Financial Supervisory Authority shall inspect the operations of regulated entities as often as deemed necessary. These entities must grant the Financial Supervisory Authority access to all their accounts, minutes, documents and other data in their possession regarding their activities which the Financial Supervisory Authority considers necessary.

In pursuit of its activities, the Financial Supervisory Authority may perform on-site checks or request information in such a manner and as often as it deems necessary.

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The Financial Supervisory Authority may appoint an expert to inspect certain aspects of the activities or operations of a regulated entity, or to undertake other specific supervision of such an entity. The expert shall be appointed for a specified period of no longer than four weeks at a time. The expert shall be provided with working facilities on the premises of the regulated entity and given access to all requested accounts, minutes, documents and other data possessed by the regulated entity. The expert shall be entitled to attend meetings of the Board of the regulated entity as an observer with the right to speak. The expert's obligation of confidentiality shall be as provided for in Chapter IV of this Act. The regulated entity shall bear the cost of the expert's work, in part or whole, as assessed by the Financial Supervisory Authority.

The Financial Supervisory Authority may perform special on-site investigations and may seize any material in accordance with provisions of the Criminal Proceedings Act, provided that there are cogent reasons to suspect that the regulated entity has violated laws or regulations applicable to its activities, or if there is reason to believe that inspections or actions by the Financial Supervisory Authority will not otherwise achieve their objective. Provisions of the Criminal Proceedings Act shall be applied when executing such measures.]¹

¹⁾[Act 11/2000, Article 3.](#)

Article 10

Comments and remedies

[Should it be revealed that a regulated entity does not comply with the law or other regulations governing their activities, the Financial Supervisory Authority shall insist that the situation be rectified within a reasonable time limit.

The Financial Supervisory Authority shall comment on any aspect of the situation or operation of a regulated entity which it considers in other respects unsound and inconsistent with proper business practices, even when the provisions of the first paragraph do not apply, and may also demand that this be rectified within a reasonable time limit.

When a situation such as that described in the first or second paragraphs arises, the Financial Supervisory Authority may call a meeting of the Board or executive of the regulated entity to discuss its comments and demands, and ways to rectify the situation. A representative of the Financial Supervisory Authority may chair the meeting and enjoy the right to speak and make proposals.]¹

¹⁾[Act 11/2000, Article 4.](#)

[Article 11

Penalties and daily fines

The Financial Supervisory Authority may levy daily fines on a regulated entity if it fails to provide requested information or to heed requests for rectification within a reasonable time limit. The fines shall be collected until the party has complied with the demands of the Financial Supervisory Authority. The daily fines may amount to ISK 10,000 – ISK 1,000,000 per day and may be determined as a proportion of certain figures in the regulated entity's operations. In determining the amount of daily fines, consideration may be had for the nature of the negligence or violation, and the financial strength of

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the regulated entity. Decisions regarding daily fines shall be made by the Board of the Financial Supervisory Authority.

The Financial Supervisory Authority may apply financial penalties to a regulated entity which violates decisions taken by the Authority. Such decisions may include demands for rectification, as referred to in Article 10. The amount of penalties may be ISK 10,000 – ISK 2 million. In determining the penalty amount, consideration shall be had for the seriousness of the violation and the financial strength of the regulated entity. Decisions regarding penalties shall be made by the Board of the Financial Supervisory Authority.

Decisions on penalties and daily fines may be referred to the Appeals Committee, as provided for in this Act, within seven days from the date the decision was made known to the entity concerned. If a decision is referred to the Appeals Committee, the penalty or fine may not be collected until a ruling has been issued.

Uncollected fines shall not be cancelled even if a regulated entity later complies with the Financial Supervisory Authority's demands, unless specifically decided by the Authority's Board.

All penalties and fines provided for in this Article are enforceable by execution. The same applies to rulings of the Appeals Committee.

Collected penalties and fines, net of collection cost, shall accrue to the National Treasury.

Further provisions on the determination and collection of penalties and fines may be laid down in a regulation.¹⁾²⁾

¹⁾[Reg. 560/2001.](#) ²⁾[Act 11/2000, Article 5.](#)

[Article 12

Notification obligation

If an infringement is serious and the regulated entity has, in the opinion of the Financial Supervisory Authority, committed a criminal offence, the Financial Supervisory Authority is obliged to notify the National Commissioner of the Icelandic Police thereof.

Demands, comments and proposed actions by the Financial Supervisory Authority as provided for in the fourth paragraph of Article 9, Article 11 and the first paragraph of this Article, shall be notified immediately to the Minister of Commerce, another Minister responsible for the area concerned, and the Board of the regulated entity or, if there is no Board, the entity concerned.

¹⁾[Act 11/2000, Article 5.](#)

CHAPTER IV

Confidentiality. Relations with supervisory authorities and the Central Bank of Iceland

[Article 13]¹⁾

Confidentiality

[Members of the Board, the Director General and employees of the Financial Supervisory Authority shall be bound by an obligation of confidentiality. They may not,

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upon penalty of sanctions under the Criminal Code regarding civil servants, divulge to unauthorised parties information, which they may acquire in the course of their work and which should remain secret, on activities of the Financial Supervisory Authority, the business and operations of regulated entities, related parties or others, unless a judge rules that they are obliged to provide information to a court or to the police, or that such information must be disclosed in accordance with the law. The same shall apply to attorneys, auditors, actuaries and experts working for or on behalf of the Financial Supervisory Authority. The obligation of confidentiality shall remain even after their employment ceases and confidential information may not be used for commercial purposes.

Information subject to obligations of confidentiality in accordance with laws applicable to regulated entities shall be subject to similar obligations of confidentiality after being delivered to the Financial Supervisory Authority.

Information as provided for in the first paragraph may be provided in a summarised form, so that individual regulated entities cannot be identified.

If a regulated entity declares bankruptcy or if forced liquidation takes place, information may be disclosed during civil proceedings which would otherwise be subject to obligations of confidentiality as provided for in the first paragraph. The obligation of confidentiality shall remain, however, concerning information on third parties involved in attempts to rescue a regulated entity.

Public discussion of confidential information by the party which the obligation is intended to protect shall not entitle employees of the Financial Supervisory Authority, or experts who are working or have worked on its behalf, to divulge confidential information.]²

¹⁾[Act 11/2000, Article 5.](#) ²⁾[Act 11/2000, Article 6.](#)

[Article 14]¹⁾

Relations with supervisory authorities

[The Financial Supervisory Authority may provide supervisory authorities of other member states of the EEA Treaty with information subject to obligations of confidentiality as provided for in Article 13, if such is part of co-operation between states in supervision of the activities of regulated entities and such provision of information is of use in implementing the supervision prescribed by law. Such information may only be provided on the condition that it is subject to obligations of confidentiality in the state concerned. Obligations of confidentiality, as provided for in the first paragraph of Article 13, shall apply to comparable information obtained by the Financial Supervisory Authority from supervisory authorities of other member states.

Agreements may be reached with supervisory authorities in states outside the European Economic Area for exchange of information, provided that obligations of confidentiality are observed in accordance with the provisions of this Article. The provisions of the first paragraph shall apply to exchange of information with authorities in Iceland or abroad involved in the bankruptcy or winding up of regulated entities, supervision of parties auditing them or performing actuarial assessment. The same shall apply to parties supervising these parties. For the purpose of encouraging stability and security in the financial sector, exchange of information shall also be authorised between super-

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visory authorities and the government and parties involved in investigating violations of company law.

If the information originates in another member state of the EEA, it may not be disclosed without the explicit consent of the competent authority which provided it and then only for purposes agreed to by that authority.]²

¹⁾[Act 11/2000, Article 5.](#) ²⁾[Act 11/2000, Article 7.](#)

[Article 15]¹⁾

Relations with the Central Bank of Iceland

The Director General of the Financial Supervisory Authority shall hold regular consultative meetings with representatives of the Central Bank. The Director General shall provide such information on the activities of the Financial Supervisory Authority as are necessary for the activities of the Central Bank.

The Financial Supervisory Authority shall provide the Central Bank with all the information in its possession useful for the Bank's activities. Should suspicions arise concerning deficiencies in the financial position of regulated entities which engage in transactions with the Central Bank, the Financial Supervisory Authority shall notify the Board of Governors of the Central Bank without delay.

Information disclosed under the provisions of this Article shall be subject to obligations of confidentiality in accordance with this Act and the Act on the Central Bank of Iceland.

The Board of the Financial Supervisory Authority and the Board of Governors of the Central Bank shall conclude a special co-operation agreement laying down the details for implementation of this Article.

¹⁾[Act 11/2000, Article 5.](#)

CHAPTER V

Miscellaneous provisions

[Article 16]¹⁾

Reporting

[The Financial Supervisory Authority shall report to the Minister of Commerce on its activities no later than 15 September each year. Following that report, the Minister of Commerce shall account for the activities of the Financial Supervisory Authority to the Icelandic parliament *Althingi*.]²

¹⁾[Act 11/2000, Article 5.](#) ²⁾[Act 11/2000, Article 8.](#)

[Article 16a

In accordance with international obligations or conventions, to which Iceland is a party, the Financial Supervisory Authority shall issue notices listing certain individuals and legal entities; regulated entities must check specifically as to whether they have established business connections with these parties and are obliged to prevent any financial transfers, such as the delivery of funds, withdrawals, transfers, asset registration or other dealings, thus preventing those parties listed in notices from the Authority from receiving any payment or being able to make use of funds by other means.

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The Financial Supervisory Authority shall see to it by notifying the National Commissioner of the Icelandic Police that deposits of individuals and legal entities have been seized, if carrying out its supervision reveals that a regulated entity has violated the provision of the first paragraph and the seizure of assets has not taken place.]¹⁾

¹⁾[Act 50/2003, Article 1.](#)

[Article 17]¹⁾

Payment of the cost of supervision

[Regulated entities shall pay the cost of supervision by the Financial Supervisory Authority. Payment of costs shall be as provided for in the Act on Payment of Cost of Public Supervisions of Financial Activities.]²⁾

¹⁾[Act 11/2000, Article 5.](#) ²⁾[Act 99/1999, Article 9.](#)

[Article 18]¹⁾

Appeals Committee

[Decisions by the Financial Supervisory Authority may be referred to a special Appeals Committee.

The Appeals Committee shall be appointed by the Minister of Commerce for a three-year term. The Committee shall be comprised of three members. The Supreme Court shall nominate the Committee members and its chairman. An equal number of alternates shall be appointed in the same manner.

The Committee may call upon the services of experts when ruling in individual cases.

Costs incurred as a result of the Appeals Committee activities shall be paid from the National Treasury. The Minister of Commerce shall determine remuneration to Committee members.

Rulings by the Committee shall be issued within eight weeks of the time it received the objection. The Committee's rulings may not be appealed to the Minister of Commerce.

The Minister of Commerce may issue a Regulation²⁾ providing in detail for the tasks and working procedures of the Appeals Committee. Such a Regulation may also provide in detail for the scope of the Appeals Committee, what questions may be referred to it, and the time limits for appeals.]³⁾

¹⁾[Act 11/2000, Article 5.](#) ²⁾[Reg. 507/2000.](#) ³⁾[Act 11/2000, Article 9.](#)

[Article 19]¹⁾

Regulation

The Minister shall issue a Regulation²⁾ providing in detail for the activities of the Financial Supervisory Authority. It shall, for instance, provide for determining and collecting daily fines.

¹⁾[Act 11/2000, Article 5.](#) ²⁾[Reg. 560/2001, Reg. 244/2004.](#)

[Article 20]¹⁾

Sanctions

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Infringements against this Act shall be liable to fines or imprisonment for up to one year, unless more severe penalties are provided for violations under other legislation.

¹⁾[Act 11/2000, Article 5.](#)

[Article 21]¹⁾

Entry into force, etc.

This Act shall enter into force on 01 January 1999. From that same date the activities of Insurance Supervision (*Vátryggingareftirlit*) and the Banking Supervision section (*Bankaeftirlit*) of the Central Bank of Iceland shall cease.

Employees of Insurance Supervision and the Banking Supervision section of the Central Bank of Iceland, who are actively employed upon the entry into force of this Act, shall be entitled to a position with the Financial Supervisory Authority with their terms of employment and remuneration and trade union membership unaltered.

The Minister shall arrange for a review of the provisions of Article 16 by 1 January 2002.

The Financial Supervisory Authority shall assume the tasks entrusted to Insurance Supervision and the Banking Supervision section of the Central Bank under other legislation.

¹⁾[Act 11/2000, Article 5.](#)