

Draft bill on Financial Stability, Council 24 April 2013

Bill

On Financial Stability Council

(Submitted to the Althing at the xxx legislative assembly 200X-200Y.)

CHAPTER I

Objective and definitions

Article 1

Objective

The objective of this legislation is to promote and preserve financial stability in the public interest, bolster the resilience of the financial system and curb the accumulation of systemic risk. For this purpose, a special council, the Financial Stability Council, shall be established with a defined mandate.

Article 2

Definitions

For the purpose of this Act, the following definitions shall apply:

1. *The member institutions of the Financial Stability Council:* The Central Bank of Iceland and Financial Supervisory Authority (FME).
2. *Financial system:* All legal entities engaged in financial activities, pursuant to the Act on the Official Supervision of Financial Activities, i.a. public lending funds and pension funds, as well as financial markets and infrastructures.
3. *Financial crisis:* A situation in which there is a deterioration in a significant proportion of assets in the financial system or in which failures in the financial markets disrupt financial stability.
4. *Financial markets:* Financial markets is to be understood as credit markets, securities markets, currency markets and the relevant interbank market.
5. *Financial stability:* A condition in which there are no interruptions or significant disruptions in the activities of the financial system and the system is sufficiently resilient to withstand shocks and imbalances, without them having a significantly negative impact on the mediation of credit and payments, as well as the distribution of risk.
6. *Infrastructure:* Infrastructure refers to established payment and settlement systems, as well as supervisory bodies, such as the Central Bank of Iceland and the Financial Supervisory Authority.
7. *Systemic risk:* When the interaction between the financial system and the economy entails procyclicality, and financial undertakings become vulnerable to the actions of other parties or they are likely to be unable to meet their obligations, due to financial or operational difficulties, and risk scenarios may pose a threat to financial stability, with a corresponding negative impact on the economy.

CHAPTER II
Financial Stability Council

Article 3
Composition

The Financial Stability Council is composed of the Minister responsible for the Treasury and fiscal policy, who acts as chairperson, the Minister responsible for financial markets, the Governor of the Central Bank and the Director General of the Financial Supervisory Authority. The chairperson convenes Council meetings twice a year, or more often, if a Council member deems it necessary. The Financial Stability Council establishes its rules of procedure and keeps minutes from its meetings.

The member institutions of the Council shall provide the Council with the services it requires to perform its function and shall bear the related costs. The administration of the Financial Stability Council and preparation of its meetings shall be handled by the Central Bank of Iceland.

Article 4
General tasks

The Financial Stability Council is a forum for consultation, exchange of information and policy-making on financial stability and it coordinates and determines public preparedness and responses in the event of a financial crisis.

The Financial Stability Council makes public financial stability policy, on the basis of analyses conducted by the Systemic Risk Committee, and oversees its implementation. The Financial Stability Council shall analyse the condition and outlook for the country's financial market, how systemic risk is being monitored in the financial system, and assess priorities regarding necessary coordinated response plans and other measures that may be deemed necessary to ensure that the objectives of this legislation are met.

Among other things, the Council evaluates, on the basis of analyses and recommendations submitted by the Systemic Risk Committee, economic imbalances, risks in the financial system, undesirable incentives and other factors that are likely to pose a risk to financial stability.

Based on proposals from the Systemic Risk Committee, the Financial Stability Council shall define:

- which measures, excluding the Central Bank of Iceland's monetary policy instruments, are deemed necessary in each case, to have an impact on the financial system with the aim of promoting and preserving financial stability;
- the systemic importance of legal entities and markets, which by the nature of their activities, can have an impact on financial stability; and
- situations which may threaten financial stability.

The Council can initiate public debate and issue opinions and direct recommendations to take actions in order to reduce or prevent further threats to financial stability, if it deems it necessary, as well as evaluating the results achieved by such actions.

Article 5
Special tasks

The Financial Stability Council coordinates government actions in the event of a financial crisis. In the event of situations arising, likely to threaten financial stability, the Financial Stability Council can direct recommendations to the competent authorities on the measures that need to be taken to address the situation.

The Council evaluates when a financial crisis is considered to be imminent or to have erupted and is responsible for ensuring that the necessary measures are taken.

The chairperson of the Financial Stability Council shall keep the cabinet informed of the situation and the Council's responses.

Article 6
Responses to recommendations

Should the entity to whom recommendations have been directed fail to carry them out, it shall submit in writing its justification for not complying within a reasonable time limit. The Financial Stability Council is authorised to publish this justification in whole or in part.

CHAPTER III
Systemic Risk Committee

Article 7
Composition

The Systemic Risk Committee operates under the Financial Stability Council and is made up of two representatives from each of the Council's member institutions. The Governor of the Central Bank is the chairperson of the committee. In addition to the Director General of the Financial Supervisory Authority, the Committee comprises the Deputy Governor of the Central Bank of Iceland and one representative nominated by the Director General of the Financial Supervisory Authority.

Permanent Secretaries of the Ministries or officials nominated by them from the Ministries responsible for the Treasury, fiscal policy and financial markets shall be non-voting members with the right to speak and make proposals.

The Systemic Risk Committee shall meet at least four times a year or more often if a committee member representing a member institution of the Financial Stability Council deems it necessary. The Committee establishes its rules of procedure, which must be endorsed by the Financial Stability Council. The rules of procedure shall, among other things, provide specifications on the preparation and presentation of arguments for decisions and revisions of the rules of procedure. They shall also state which criteria and indices the Systemic Risk Committee's decisions shall be based on.

The Central Bank of Iceland hosts the Committee and is responsible for its records and documentation.

Article 8
Functions and tasks

The Systemic Risk Committee conducts evaluations of the condition and outlook for the financial

system, systemic risk and financial stability. The Systemic Risk Committee utilises the joint analytical work conducted by the Central Bank of Iceland and the Financial Supervisory Authority, as stipulated in the collaboration agreement between these institutions, pursuant to the Central Bank of Iceland Act and the Act on the Official Supervision of Financial Activities. The Systemic Risk Committee coordinates the application of policy instruments available to these institutions pertaining to financial stability, and submits proposals to the Financial Stability Council on suggested recommendations for action.

CHAPTER IV **Miscellaneous provisions**

Article 9 *Confidentiality*

The member institutions shall submit to the Financial Stability Council and the Systemic Risk Committee any information and data, which these institutions have in their possession and which the Council and Committee consider necessary to be able to perform their roles. The information that is gathered under the terms of this provision, and the data that is produced within the framework of the committee or discussions in the committee are subject to an obligation of confidentiality, pursuant to the Act on the Official Supervision of Financial Activities and the Act on the Central Bank of Iceland.

Article 10 *Transparency*

Once a year and more often if necessary, the Financial Stability Council shall brief the Althing on the main aspects of its work. The activities of the Financial Stability Council shall be publicly reported. The rules of procedure of the Financial Stability Council and Systemic Risk Committee shall be publicly published.

The chairperson of the Financial Stability Council shall keep the Prime Minister informed of its work.

The provisions of the Administrative Procedures Act and the Information Act regarding access to data do not apply to minutes and documents, which have been prepared for the Financial Stability Council and the Systemic Risk Committee or are still on their agenda.

Article 11 *Conditions of eligibility*

The members of the Systemic Risk Committee are not authorised to perform other tasks, which could call their impartiality into question.

CHAPTER V **Entry into force, etc.**

Article 12 *Entry into force*

This Act shall enter into force on xx.xx.xxxx.

CHAPTER IV
Amendments to other laws

Article 13

Amendments to Act on the Central Bank of Iceland

With the entry into force of this Act, the following amendments shall be made to Act No. 36/2001, on the Central Bank of Iceland, with subsequent amendments:

a. The following amendments shall be made to Art. 3 of the Act:

1. A new paragraph shall be added to the article, becoming Para 2, and reading as follows:
The Central Bank of Iceland shall promote financial stability.

2. The following shall be added to Para 3: “and Para 2.”

b. Art. 4 of the Act shall read as follows:

The Central Bank of Iceland shall undertake tasks consistent with its role as central bank, such as maintaining currency reserves, monitoring the debt position of the economy, promoting an efficient and sound financial system, providing the necessary support to the domestic and external payment systems and collaborating with domestic and foreign authorities to ensure that its affairs are conducted as effectively as possible.

c. The first sentence of Art. 23 Para. 1 shall read as follows: The Minister shall appoint the Governor of the Central Bank and two deputy governors for a term of five years at a time.

d. Sentences 9 and 10 of Art. 24 Para 2 shall be deleted.

e. The following amendments shall be made to Art. 29 of the Act:

1. The word “directly” in the first line of Para 1 shall be followed by: and as often as deemed necessary,

2. A new sentence shall be added to Para 1, and read as follows: They are obliged to provide the Central Bank with the information and documents it considers necessary to fulfil its role; failure to do so shall be liable to penalties as provided for in Art. 37. Legal provisions on confidentiality shall not limit the obligation to disclose information and access to documents.

3. A new paragraph, becoming Para. 2, shall be added to the article, and read as follows: The Central Bank can request information and documents from other authorities, irrespective of their obligations of confidentiality.

f. The following amendments shall be made to Art. 35 of the Act:

1. Para 4 shall read as follows:

The Governor of the Central Bank shall have regular consultative meetings with the Director General of the Financial Supervisory Authority. Notwithstanding the Bank’s obligation of confidentiality, the Central Bank shall provide the Financial Supervisory Authority with all the information in its possession, which may be of use to the Financial Supervisory Authority’s activities. The Central Bank is authorised to collaborate with the Financial Supervisory Authority in the collection and processing of information. Should any suspicions arise regarding shortcomings in the financial positions of regulated entities, which conduct financial transactions with the Central Bank, the Director General of the Financial Supervisory Authority shall immediately be informed. 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 Official Supervision of Financial Activities.

2. A new paragraph shall be added, as follows:

The Central Bank of Iceland and Financial Supervisory Authority shall make a special

collaboration agreement between the two institutions. The agreement shall contain special provisions for the exchange of information between the Central Bank and Financial Supervisory Authority and the institutions' joint analytical work on financial stability and systemic risks, in accordance with the Act on the Financial Stability Council. This collaboration agreement shall be revised every two years.

Article 14

Amendments to the Act on the Official Supervision of Financial Activities

With the entry into force of this Act, the following amendments shall be made to Act No. 87/1998, on the Official Supervision of Financial Activities, with subsequent amendments:

a. A new sentence shall be added to Art. 1 Para. 1, and read as follows: In its activities, the Financial Supervisory Authority shall promote financial stability.

a. A new sentence shall be added to Art. 8 Para. 1, and read as follows: In evaluating the scope of the supervision subject to this Act, with regard to i.a. the issuing of rules, the Financial Supervisory Authority shall take into account the size, systemic importance, nature and scope of the activities of the relevant regulated entity and how multifaceted it is.

c. Art. 9 Para. 5 is deleted.

d. Art. 14 Para. 4 shall read as follows: In connection with the investigation of specific cases, other authorities are obliged to provide the Financial Supervisory Authority with the relevant information and documents, irrespective of their obligations of confidentiality.

e. Art. 15 Para. 2 shall read as follows:

The Financial Supervisory Authority shall provide the Central Bank with all the information in its possession, which may be of use to the Bank's activities, irrespective of obligations of confidentiality. The Financial Supervisory Authority is authorised to work in collaboration with the Central Bank for the collection of information. Should any suspicions arise regarding shortcomings in the financial positions of regulated entities, which conduct financial transactions with the Central Bank, the Director General of the Financial Supervisory Authority shall be informed immediately.

f. Art. 15 Para. 4 shall read as follows:

The Financial Supervisory Authority and Central Bank of Iceland shall make a special collaboration agreement between the two institutions. The agreement shall contain special provisions on the exchange of information between the Financial Supervisory Authority and the Central Bank and the institutions' joint analytical work on financial stability and systemic risks, in accordance with the Act on the Financial Stability Council. This collaboration agreement shall be revised every two years.