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The original Icelandic text, as published in the Law Gazette (Stjórnartíðindi), is the authoritative text. Should there be discrepancy between this translation and the authoritative text, the latter prevails.

Financial Services and Markets - Regulation No 307/1994 of a branch and a representative office of a credit institution established in a country outside the European Economic Area -

REGULATION
on a branch and a representative office of a credit
institution established in a country outside
the European Economic Area
No. 307 of 25 May 1994

CHAPTER I
General Provisions

Article 1

For the purpose of this Regulation the term "credit institution" means a commercial bank and a savings bank according to Act No. 43 of 1993, on Commercial Banks and Savings Banks, and on other credit institutions, according to Act No. 123 of 1993 on Credit Institutions other than Commercial Banks and Savings Banks.

A credit institution established in a country outside the European Economic Area and under the supervision of competent authorities in its home country can establish a branch or a representative office in this country, having acquired an authorisation by the Minister of Commerce.

Article 2

The provisions of Chapter XVII of Act No. 32 of 1978, the Act on Limited Companies, on foreign limited companies apply to branches of foreign credit institutions or agencies pursuant to this Regulation, where appropriate. The same applies to the provisions of Act No. 43 of 1993 on Commercial Banks and Savings Banks and to the provisions of Act No. 123 of 1993 on Credit Institutions other than Commercial Banks and Savings Banks.

CHAPTER II
Operating Licence

Article 3

An application for a licence to establish a branch or a representative office shall contain information concerning the items stated in Article 83, paragraph 2 of the Act on Commercial Banks and Savings Banks.

The application for a licence to establish a branch or a representative office shall be accompanied by the annual accounts of a credit institution for the last three financial years and other information specified in Article 139, paragraph 3 of the Act on Limited Companies.

The state may require that information accompanying an application pursuant to this Article shall be submitted in Icelandic translation which has been carried out by a state authorised translator.

An application shall also state the method of paying contributed capital and the total amount of contributed capital.

Article 4

Before an application for a licence is processed the Bank Inspectorate shall be asked to comment on it.

An operating licence shall contain the conditions for operations. Those shall be the same as for credit institutions with headquarters in Iceland which the Minister of Commerce has granted operating licences. The term "conditions for operations" means that a branch shall be subject to Icelandic law and jurisdiction, such as tax law on the administration of economic affairs and consumer affairs, as well as rules concerning the administration of monetary affairs.

All legal proceedings which arise from the operations of representative offices of foreign banks in this country shall be subject to Icelandic law and jurisdiction.

An application shall be rejected if there is a reason to doubt that the financial situation of a credit institution, its administration and other aspects affecting the basis for the intended operations is satisfactory.

Article 5

The contributed capital of a branch shall amount to a minimum of ISK 400 million and the contributed capital may at no time be less than this sum. This amount shall be linked to the rate of exchange of the European Currency Unit (ECU), based on the buying rate of the ECU on 11 May 1993. The operating licence will not be issued unless the contributed capital has been paid.

Article 6

The operations of a branch or a representative office may not commence unless an operating licence has been granted.

CHAPTER III Management and Activities

Article 7

The manager of a foreign branch or a representative office shall meet the conditions of Article 138 of the Act on Limited Companies and Article 38 of the Act on Commercial Banks and Savings Banks, as well as being able to speak the Icelandic language.

Article 8

A branch may grant all services pursuant to Article 44 of the Act on Commercial Banks and Savings Banks provided that the credit institution concerned is authorised to grant such services in its home country.

The representative office may provide information and consultation in this country on behalf of a foreign credit institution. A representative office is not permitted to accept deposits, grant loans, trade in securities or other operations provided for in Article 44 of the Act on Commercial Banks and Savings Banks.

CHAPTER IV Own Funds and Annual Accounts

Article 9

A branch shall at all times comply with the provisions of Article 54 and 55 of the Act on Commercial Banks and Savings Banks in respect of own funds and solvency ratio. Besides the items to be deducted from Own Funds Part A pursuant to Article 54, subparagraph 5 of the quoted Act, the claims and deposits of a branch in the credit institution which operates the branch, shall be deducted, irrespective of agreed periods of notice. The same applies to claims and deposits in other undertakings of a conglomerate, where appropriate.

Article 10

A branch and a representative office shall keep separate accounts.

A branch operating in this country according to this Regulation shall disclose the following information and material on account of the credit institution which the branch is part of, within four months after the end of the financial year:

1. Annual accounts and annual report.
2. Consolidated accounts and consolidated annual report.
3. The opinion of the party responsible for auditing annual and consolidated accounts.

Article 11

If the information and material pursuant to Article 10 are in accordance with or equivalent to the information and material compiled in accordance with Directive 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions, published in the special edition of EEA-acts No. 36, cf. an advertisement in the C-division of the Official Gazette No. 31 of 1993, and if the conditions of reciprocity for credit institutions and financial institutions within the European Economic Area are satisfied in the country outside the European Economic Area where the credit institution's headquarters are located, the branch is not required to disclose the annual accounts on its operations, but the following information shall be disclosed.

1. Revenues and expenditures of the branch which can be traced to items 1, 3, 4, 6, 7, 8 and 15 in Article 27 or item 4 and 9 in part A and items 1-4 and 7 in part B of Article 28 of the above Directive 86/635/EEC.
2. Average number of employees in a branch.
3. Total claims and liabilities related to a branch, broken down into those which concern credit institutions on the one hand and those which concern other customers on the other hand as well as the total amount of such claims and liabilities denominated in Icelandic kronur.
4. Total assets and amounts corresponding to items 2-6 on assets, 1-3 on liabilities and 1-2 on off-balance sheet items as defined in Article 4 and comparable articles in the above Directive 86/635/EEC and -- in the instances referred to in items 2, 5, and 6 on assets -- the breakdown of securities depending on whether they have been defined as financial fixed assets or not according to Article 35 in the above Directive 86/635/EEC.
5. The contributed capital of a branch.

The information under subparagraphs 1-5, of this Article shall be confirmed by a public accountant, certified according to Icelandic law, regarding their correctness and whether they comply with the annual accounts. All the information shall be sent to the Bank Inspectorate within ten days from endorsement but at the latest three months after the end of the financial year.

Article 12

If a branch fails to meet the conditions under Article 11, paragraph 1, the annual accounts shall be compiled and disclosed for each financial year in accordance with rules on the compilation of annual accounts of commercial banks and savings banks, cf. Article 57 of the Act on Commercial Banks and Savings Banks. In addition, an annual report shall be compiled on the operations of the branch. The annual accounts and the board of directors' report shall be signed by of the manager of the branch. The annual accounts shall also be signed by a certified public accountant.

Article 13

The Bank Inspectorate can require that the information and material pursuant to Articles 10-12 be submitted in Icelandic translation which has been carried out by a state authorised translator.

CHAPTER V Supervision

Article 14

The Bank Inspectorate of the Central Bank of Iceland is in charge of supervising the branches which operate under this Regulation, pursuant to the provisions of Act No. 36 of 1986 on the Central Bank of Iceland, Act on Commercial Banks and Savings Banks

and, where appropriate, pursuant to other operating authorisations which it may have. A branch and a representative office shall provide the Central Bank of Iceland with all the information needed for statistical purposes pursuant to the provisions of the Act on the Central Bank of Iceland.

CHAPTER VI

Dissolution of Branches and Representative Offices, etc.

Article 15

A branch shall be dissolved if it fails to comply with the conditions for acquiring an operating licence unless the Minister of Commerce grants a special exemption in this respect. The same applies to a representative office.

A branch or a representative office shall be dissolved if they are deprived of their operating licence.

Article 16

If own funds of a branch drop below the limits laid down in Article 9 of this Regulation, this shall be dealt with pursuant to Chapter VIII of the Act on Commercial Banks and Savings Banks. The same applies in case of the circumstances specified in Article 68 of the same Act.

Article 17

In case of a credit institution's insolvency, dissolution or closure in any other way, the manager of the branch or a representative office shall immediately, or within fourteen days at the latest, notify this to the Bank Inspectorate or, where appropriate, to the Register of Companies or the Public Register of Businesses. The Bank Inspectorate is in charge of supervising the dissolution of the branch or representative office.

Article 18

The manager of a branch or a representative office shall immediately notify the Bank Inspectorate if the operating licence of a credit institution is revoked in its home country. The Bank Inspectorate shall ensure that the operating licence of the branch or representative office be revoked in this country.

CHAPTER VII

Entry into Force, Penalties, etc.

Article 19

If a manager or a certified public accountant of a branch or a representative office fail to carry out the duties assigned to them according to law or this Regulation, the Bank Inspectorate is permitted, under the provisions of Article 41 in the Act on the Central Bank of Iceland, to decide penalties in the form of daily fines.

Article 20

This Regulation, which is adopted in accordance with provisions in Article 85, paragraph 2 of Act No. 43 of 1993 on Commercial Banks and Savings Banks, and Article 13, paragraph 3 of Act No. 123 of 1993 on Credit Institutions other than Commercial Banks and Savings Banks, enters into force immediately. At the same time, Rules No. 230 of 1987 on Representative Offices of Foreign Banks shall cease to apply.

Ministry of Commerce, 25 May 1994.