

## NOTICES FROM MEMBER STATES

**Extract from the Decision concerning Glitnir banki hf. pursuant to Directive 2001/24/EC of the European Parliament and of the Council on the reorganisation and winding-up of credit institutions**

(2011/C 22/03)

On 22 November 2010, the Reykjavík District Court ruled that Glitnir banki hf., Regulation. No 550500-3530, Sóltún 26, Reykjavík ('the bank'), was to be wound up as provided for in the general rules of Part B of Chapter XII of Act No 161/2002, cf. however Points 3 and 4 of Temporary Provision V of the same Act, and with the legal effect arising from Point 2 of the same provision, as amended by Article 2 of Act No 132/2010. On 8 October 2008 the Icelandic Financial Supervisory Authority (FME) had assumed the authority of the shareholders' meeting and appointed a Resolution Committee for the bank. According to an authorisation in Act No 129/2008, cf. Act No 21/1991, the bank was granted a moratorium by a ruling of the District Court on 24 November 2008. This moratorium has since then been extended three times, most recently on 13 August 2010 until 24 November 2010. Further extension was not authorised by law.

Act No 44/2009, which entered into force on 22 April 2009, amended the nature and substance of a financial undertaking's moratorium. In accordance with Point 2 of Temporary Provision II of Act No 44/2009 (Temporary Provision V of Act No 161/2002), the provisions of the first paragraph of Article 101, Article 102, Article 103 and Article 103(a) of Act No 161/2002, as amended by the first paragraph of Article 5 and Articles 6-8 of Act No 44/2009, apply to the moratorium in the same manner as if the bank had been placed in winding-up proceedings with a court ruling on the date of the entry into force of the Act. It stated, however, that the winding-up proceedings should be referred to as a moratorium as long as this was authorised. Act No 44/2009 furthermore stated that once such a moratorium expired, the undertaking should automatically, and without a specific court ruling being required, be regarded as being in winding-up proceedings according to general rules. A Winding-up Board was appointed for the bank by a decision of the Reykjavík District Court on 12 May 2009.

An invitation to creditors to lodge claims was published and the time limit for lodging claims was determined to be 26 November 2009. In addition to the invitation, the advertisement pointed out the time limits which had to be observed. Three meetings have been held on claims lodged and one more is scheduled for 14 April 2011. At that meeting, presentation of decisions by the Winding-up Board on recognising claims against the bank is expected to be concluded.

Act No 132/2010, which came into effect on 17 November 2010, amended Act No 161/2002 to the effect that before an undertaking's authorised moratorium expires, its Resolution Committee and Winding-up Board could jointly request that a court rule that the undertaking be placed in winding-up proceedings under general rules, if in the court's assessment the substantial requirements of Point 3 of the second paragraph of Article 101 of the Act were then fulfilled. If such a request were acceded to by the court, those measures taken during the undertaking's moratorium, from the entry into force of Act No 44/2009, would remain unaltered.

A request for such a ruling was submitted by the Resolution Committee and Winding-up Board and a ruling pronounced on 22 November 2010, on the basis of the Act as amended by Act No 132/2010. The court found that the conditions of the Act for a ruling on winding-up proceedings were satisfied.

The bank's assets amount to approximately ISK 783 billion (based on the current prospects for recovery and the ISK exchange rate as of 30 September 2010) and its liabilities approximately ISK 2,838 billion. The bank was therefore insolvent, in the assessment of the court, and its payment difficulties were unlikely to be temporary, cf. Point 3 of the second paragraph of Article 101 of Act No 161/2002.

The court's decision furthermore confirms that, as provided for by law, the measures taken during the undertaking's moratorium following the entry into force of Act No 44/2009 shall remain valid, which means, for instance, that the appointment of the bank's Resolution Committee and Winding-up Board remains in force, together with all those measures taken on the basis of Articles 101-103 and 103(a) of Act

No 161/2002, cf. further Point 2 of Temporary Provision V of the Act. The ruling also confirms that the date of the entry into force of Act No 44/2009, which is 22 April 2009, shall continue to be used as reference for determining priority of claims and other legal effect which is determined by the date a ruling is pronounced on winding-up.

Reykjavík, 30 November 2010.

*Winding-up Board of Glitnir banki hf.*

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