



18 November 2011, with subsequent amendments

SI-79753

# Terms of Foreign Exchange Transactions

**according to the Investment Programme for capital account liberalisation**

## THE INVESTMENT PROGRAMME FOR CAPITAL ACCOUNT LIBERALISATION

1. The Central Bank of Iceland intends to hold foreign exchange auctions in order to exchange foreign currency for domestic currency, hereinafter referred to as *Icelandic krónur* or *krónur*, to be used for domestic investment. The transactions, hereinafter referred to as the Investment Programme, are an element in the removal of restrictions on capital movements with foreign currency, in accordance with the Central Bank's capital account liberalisation strategy, dated 25 March 2011, and are carried out with reference to Article 18, cf. Temporary Provision III of the Act on the Central Bank of Iceland, no. 36/2001, cf. also Temporary Provision I of the Foreign Exchange Act, no. 87/1992, with subsequent amendments. The Central Bank's aim with the transactions is to facilitate the removal of the capital controls without causing major exchange rate or monetary instability or jeopardising financial stability. Therefore, it is required that any investment deriving or proceeding from the transactions be subject to a long-term commitment period in Iceland and that it be carried out in accordance with these Terms of Foreign Exchange Transactions, hereinafter referred to also as the *Terms*.
2. In broad terms, transactions related to such investments take place as follows:
  - a. Upon fulfilling the pertinent conditions, investors intending to invest in Iceland in accordance with these Terms and to sell foreign currency at a domestic financial institution will be able to sell foreign currency to the Central Bank in a foreign currency auction in which the investor can invite the Central Bank to purchase foreign currency in an amount equal to the amount the investor sold in Iceland; cf. Articles 18 and 19 of the Terms.
  - b. Upon fulfilling all pertinent conditions, investors that have participated in or intend to participate in the Central Bank's New Investment Programme, cf. Article 13(m) of the Foreign Exchange Act, no. 87/1992, with subsequent amendments, may participate, with reference to a notification of new investment, provided that they relinquish their authorisation to sell the investments for foreign currency; cf. Articles 20(i) and (j)<sup>1</sup> of these Terms.
  - c. The transactions shall take place through an intermediary. Intermediaries shall submit applications for investors' proposed participation in the Central Bank auction, in accordance with these Terms and the Terms of Tender; cf. Articles 28-32 of the Terms. The names of the intermediaries can be found on the Central Bank of Iceland website.<sup>2</sup>
  - d. The Central Bank will review the applications and confirm participation in the auctions to be held; cf. Articles 11-17 of the Terms.
  - e. Following the auction, the Central Bank will notify intermediaries of the auction results. Finalisation will then take place in accordance with these Terms and the Terms of Auction. Krónur acquired by an investor in the transactions will be retained by the Central Bank and

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<sup>1</sup> Amended 21 December 2012.

<sup>2</sup> Amended 1 March 2012.

deposited to the intermediary's account, for the benefit of the investor, as soon as all of the conditions of the transactions have been fulfilled; cf. Articles 20-23 of the Terms.<sup>3</sup>

f. Terms of Auction will be issued, describing the transactions in further detail.

3. Furthermore, investors intending to invest as is specified in these Terms will be enabled to request exemptions so as to transfer krónur to Iceland, provided that the krónur have been owned continuously by the investor since 28 November 2008; cf. Articles 24-27 of the Terms.

#### CONDITIONS FOR TRANSACTIONS

4. Resident or non-resident owners of foreign currency wishing to invest in Iceland in accordance with these Terms may have the option of participating in auctions under the Central Bank Investment Programme if the following conditions are fulfilled:
  - a. The investor intends to invest in accordance with the information provided to the Central Bank and in compliance with these Terms and/or the Terms of Auction. For the purpose of these Terms, the term investment refers to the commitment of capital to an asset or endeavour that is not intended to lose its value but to generate profit for the investor, including through resale when such resale is permitted.<sup>4</sup>
  - b. The capital that the investor intends to offer the Central Bank for purchase according to the Investment Programme and that s/he sells or has sold<sup>5</sup> to a domestic financial institution<sup>6</sup> entails the *inflow of new foreign currency*. This implies, among other things, that the capital concerned must not derive from current transactions, including foreign-currency loans extended by domestic lenders. For the purposes of this auction, revenues from current transactions are defined as is set forth in Article XXX, Item (d) of the International Monetary Fund Articles of Agreement.
  - c. The capital the investor intends to offer the Central Bank for purchase according to the Investment Programme<sup>7</sup> is not a deposit balance that is held in a foreign currency account with a domestic financial institution and predates these Terms. If the investor transferred foreign currency to Iceland prior to the date of these Terms, it was converted to domestic currency, and it was allocated to investments that meet the requirements set forth in Article 6, the investor is authorised to use those inflows of foreign currency and foreign exchange transactions to fulfil the requirements concerning the onshore portion of the transaction according to these Terms.<sup>8</sup>
  - d. The conditions set forth in Article 8 of these Terms, concerning the provisions for loans, and Article 7, concerning appropriate interest payments, shall apply, *mutatis mutandis*, in instances where the capital that a resident intends to offer the Central Bank for purchase according to the Investment Programme derive from foreign borrowing.<sup>9</sup>
  - e. The investor is the actual beneficial owner of the capital, so that the transactions are carried out for the account of the investor and not on behalf of another party or parties; and the investment is not a simulated transaction, conducted solely to so that the investor can profit from the underlying foreign exchange transaction without any profit deriving from the investment.<sup>10</sup>

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<sup>3</sup> Amended 1 March 2012.

<sup>4</sup> Amended 19 November 2012.

<sup>5</sup> Amended 22 March 2013.

<sup>6</sup> Amended 21 December 2012.

<sup>7</sup> Amended 21 December 2012.

<sup>8</sup> Amended 22 March 2013.

<sup>9</sup> Amended 1 March 2012.

<sup>10</sup> Amended 19 November 2012.

- f. The investor is not a domestic commercial bank, savings bank, or credit institution, nor do any of the above entities own a qualifying holding in the investor, pursuant to the Act on Financial Undertakings, no. 161/2002.<sup>11</sup> If the investor is an individual, he or she must be legally competent.<sup>12</sup>
  - g. The investor, or the legal entity on whose board the investor sits or for which the investor is responsible, is not justifiably suspected by the Central Bank Capital Controls Surveillance Unit of an alleged violation of the Foreign Exchange Act, no. 87/1992, with subsequent amendments,<sup>13</sup> has neither been indicted by a prosecutor nor been reported to the police by the Central Bank for violations of the Foreign Exchange Act, no. 87/1992, or rules set on the basis thereof, and cases resulting therefrom are still unresolved; nor proven to be in serious arrears with respect to any administrative fine or settlement arising from such violations.<sup>14</sup>
  - h. That the investor's transactions according to the Investment Programme do not entail a larger investment that, with consideration of imbalances between domestic and foreign cost factors, jeopardises the objectives set forth in Article 1 of the Terms; i.e., that transactions under the programme do not cause major exchange rate or monetary instability or jeopardise financial stability. The term larger investment refers to investments in an amount exceeding EUR 20 million or the equivalent in Icelandic krónur, based on the exchange rate listed by the Central Bank of Iceland on the date of the investor's application. Accordingly, the Central Bank reserves the right to limit the monetary amount of the investor's participation in larger investments either by limiting either the amount the investor may offer to sell to the Central Bank or by limiting the amount of krónur the investor may repatriate to Iceland.<sup>15</sup>
5. The transactions are subject to the requirement that the investor commit to a holding period of at least five years. The investor will be required to sign standard Central Bank terms and conditions, which include the following stipulations:
- a. The investor consents to an encumbrance prohibiting any direct or indirect disposal of the investment for a period of five years, including all hypothecation, forward agreements, or other derivatives.
  - b. The investor pledges to sign all documents in connection with encumbrances on the investment and shall lend any assistance necessary to ensure that the encumbrances are granted satisfactory legal protection.
  - c. Provisions authorising the Central Bank to redeem the investment in the event of a violation of the prohibition on disposal; and the Central Bank reserves full right, if necessary, to initiate legal action, seize assets, or take other legal or enforcement measures in order to carry out such redemption.<sup>16</sup>
  - d. The investor's pledge to provide all necessary information in its transactions with the Central Bank in order to demonstrate and verify that the Bank's conditions for the transactions are fulfilled.
  - e. In the case of investor whose securities have a listed bid and ask price on a public, organised securities market regularly operating within the Organisation for Economic Co-operation and Development (OECD) and/or the European Economic Area, the Terms signed by the investor may deviate from Items (a) to (c), provided that the investment by nature ensures that the five-year minimum commitment period is honoured.<sup>17</sup>
6. The Central Bank requires that the proposed investments be only of the following types:

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<sup>11</sup> Amended 17 December 2013.

<sup>12</sup> Amended 7 May 2013.

<sup>13</sup> Amended 21 December 2012.

<sup>14</sup> Amended 1 March 2012.

<sup>15</sup> Amended 19 November 2012.

<sup>16</sup> Amended 1 March 2012.

<sup>17</sup> Amended 19 November 2012.

- a. Purchase of dematerialised securities registered in accordance with the Act on Electronic Registration of Title to Securities, no. 131/1997, upon satisfaction of the following:
  - i. That the securities are capital shares issued by a limited liability company or limited partnership, cf. the Act on Public Limited Companies, no. 2/1995, that is registered in Iceland according to a certificate of incorporation; or<sup>18</sup>
  - ii. That the securities are *bonds* issued by Icelandic legal entities with a history of operations extending back two years, where the entities' annual accounts for the last two years specify regular payments of *operating expenses* as defined in the first sentence of Article 31, Item 1 of the Income Tax Act, no. 90/2003;<sup>19</sup>
  - iii. *but*, in all instances, the dematerialised securities shall be issued in Icelandic krónur and held in an account in the name of the investor with a custodian referenced by the Central Bank on its website (or elsewhere).
- b. Purchase of real estate in Iceland, including paying down or paying in full mortgage liens held by domestic credit institutions and established in connection with change of ownership of the property.<sup>20</sup>
- c. Purchase of unit share certificates or capital shares in mutual funds and investment funds, including institutional investment funds, upon fulfilment of the following:
  - i. That such funds are established and operate in accordance with the Act on Mutual Funds, Investment Funds, and Institutional Investment Funds, no. 128/2011; and
  - ii. That they are operated by a management company with which the Central Bank has concluded an agreement on fund management in accordance with the Investment Programme for capital account liberalisation.<sup>21</sup>

Investments made by funds in which investments are permitted according to Item (c) are not limited to the types specified in Article 6, nor are they subject to the requirements set forth in Articles 7 and 8 concerning dividend payments and lending.

7. The investor's obligations shall not prevent it from receiving normal return on its investment free of encumbrances, such as dividends or rent payments, provided that the return is appropriate and the revenues generated by the investment are in accordance with the nature and risk of the investment; and are therefore not in contravention of the encumbrances concerning long-term investment. This shall apply to any type of calculated income from assets, such as dividends, rent, and interest payments. In assessing this, the Central Bank may consider, among other things, whether payment of dividends on equity instruments, as well as discounts and any other income on securities in excess of assessed risk, is considered abnormal; or whether there are hidden dividend payments; or whether these are simulated transactions that could be equivalent to actual disposition of the investment prior to the expiry of the encumbrances.
8. Investments according to Article 6 in dematerialised bonds shall fulfil the following conditions in particular:
  - a. The time period between the actual investment and its maturity must be at least 10 years.
  - b. Payment of principal may first begin five years from the date of the actual investment, and annual payments of principal shall not total more than one-fifth of the original principal amount for the duration of the security. Bond series that have been issued in connection with previous auctions according to the Investment Programme are considered to fulfil the above-specified conditions.<sup>22</sup>

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<sup>18</sup> Amended 1 March 2012.

<sup>19</sup> Amended 17 December 2013.

<sup>20</sup> Amended 1 March 2012.

<sup>21</sup> Amended 1 March 2012.

<sup>22</sup> Amended 1 March 2012.

- c. The securities may not contain authorisations for prepayment/reduction of principal.
  - d. Interest payments, cf. the provisions of Article 7 on dividend payments, shall be appropriate and based on market terms.
9. If, for any reason, the investment is redeemed while the encumbrances remain in effect, the Central Bank requires that the investor allocate the capital deriving from the redemption to investments in accordance with the Investment Programme, in consultation with the Central Bank. The investment shall be committed for the remainder of the encumbrance period. For the purposes of this provision, the term redemption refers to any obligation resting with the investor to sell or transfer the investment; it also applies if the investor is forced to accelerate a claim or take any other action that converts the investment to money or other form of value.
10. Furthermore, the Central Bank requires that in no instance, direct or indirect, may the proposed investment be made in support of any of the following:
- a. Foreign investment. The term foreign investment applies with direct or indirect investment in foreign assets, including, but not limited to, securities issued by foreign parties, loans granted to or between foreign parties, or real estate located outside Iceland.
  - b. Purchase by a limited liability company of its own shares.<sup>23</sup>
  - c. Lending in foreign currency.
  - d. Investment in assets other than those listed in Article 6, including any of the following:
    - i. Investments in aircraft, cf. the Act on Registration of Rights to Aircraft, no. 21/1966, unless for the purchase of aircraft in normal connection with the investor's investment or business operations.
    - ii. Investment in ships and/or chattels in general, in the sense of Chapters V-VII of the Act on Public Registration of Title, no. 39/1978, unless for the purchase of ships and/or chattels in normal connection with the investor's investment or business operations.
    - iii. Claims against financial institutions that have been handled according to the procedures set forth in Chapter XII of the Act on Financial Undertakings, no. 161/2002.
    - iv. Derivatives contracts.
    - v. Other investments that can be considered equivalent to those in Items (i)-(iv).
  - e. Financing of current transactions other than those not considered purchases of inputs necessary for the investor's regular business operations or for the set-up or operation of the investment. Current transactions are defined as is set forth in Article XXX, Item (d) of the International Monetary Fund Articles of Agreement.

#### **APPLICATION FOR PARTICIPATION**

11. The investor's application to participate in Central Bank auctions shall be sent to the Central Bank through an intermediary; cf. the provisions on intermediaries in these Terms.
12. The application for participation must be accompanied by the following information and documents, as applicable in each instance, and in the form requested by the Central Bank:
- a. Terms of foreign exchange transactions with the Central Bank of Iceland, signed by the investor; cf. Article 5.
  - b. A copy of the agreement between the investor and the intermediary concerning the service provided by the intermediary to the investor, in confirmation of the intermediary's authorisation to act on behalf of the investor.
  - c. Settlement guarantees for accepted bids in the auction:<sup>24</sup>

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<sup>23</sup> Amended 1 March 2012.

<sup>24</sup> Amended 1 March 2012.

- i. A settlement guarantee, issued by a domestic commercial bank, providing to the Central Bank an irrevocable guarantee of payment of foreign currency for an accepted bid in an auction. The guarantee shall remain valid from the time the intermediary submits the offer in the auction on behalf of the investor until full payment of foreign currency in accordance with the bid has been delivered to the Central Bank in the manner stipulated in these Terms or the Terms of Auction. In addition to guaranteeing fulfilment of the bid, the bank guarantee shall guarantee the payment of penalty interest and other collections costs. The guarantee shall be in the form decided by the Central Bank.
- ii. Confirmation of transfer of funds; in place of a settlement guarantee issued by a domestic commercial bank, the intermediary may deposit foreign currency (EUR) to the Central Bank's account no later than 24 hours before the auction, in an amount equal to the estimated auction value. If auction transactions do not take place as provided for in Article 20, Paragraph 1, and with reference to Article 12, Item (c), the Central Bank shall reimburse the funds the intermediary deposited to the Central Bank's account on behalf of the investor to guarantee fulfilment.<sup>25</sup> The intermediary shall also be authorised, notwithstanding the provisions of Article 13(b), Paragraph 2 of the Foreign Exchange Act, no. 87/1992, cf. Article 13(o) of the same Act, to reimburse to the investor any foreign currency that has been imported to Iceland by the investor for participation in the Investment Programme but has not been accepted in an auction; cf. Article 20, Paragraph 1 and Article 12(c) of these Terms.<sup>26</sup>
- d. The investor shall prove its identity to the Central Bank in a manner comparable to that provided for in Article 5, Paragraph 1, Items (a) and (b) of the Act on Measures to Prevent Money Laundering and Terrorist Financing, no. 64/2006. In addition, the investor, if s/he is an individual, shall provide information on his/her name and national ID number and shall submit confirmation of his/her legal address.
- e. If the investor is a legal entity, it shall submit a copy of the company's (investor's) Articles of Association and a list of shareholders and owners of the investing entity. The Central Bank shall be informed of ownership of the investor and of who is the beneficial owner, in a manner comparable to that provided for in Article 3, Items 4(a) and (b) of the Act on Measures to Prevent Money Laundering and Terrorist Financing, no. 64/2006, without consideration of statements therein concerning minimum holdings, voting rights, or assets.
- f. A confirmation that due diligence has been carried out in accordance with the Act on Measures to Prevent Money Laundering and Terrorist Financing, no. 64/2006, by the intermediary or another party that either satisfies the requirements set forth in that Act or is considered by the Central Bank to satisfy requirements comparable to those in the Act and is subject to supervision comparable to the supervision of Icelandic financial institutions.
- g. The investor shall confirm that it is the actual beneficial owner of the capital, so that the transactions are carried out for the account of the investor and not on behalf of another party or parties. In addition, the investor shall confirm whether it intends to base its participation on the sale of foreign currency to a domestic financial institution or on notification of new investment according to the Central Bank's New Investment Programme.
- h. Information on the type of investment according to Article 6 the investor intends to undertake.
- i. If the proposed investment involves subscription for new shares in a limited liability company, whether through the establishment of a company or a share capital increase, information must be submitted stating the company's intentions concerning the disposal of

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<sup>25</sup> Amended 19 November 2012.

<sup>26</sup> Amended 12 February 2013.

the share capital contribution. This information may include investment plans, copies of the minutes of shareholders' meetings or board meetings, or other documents of this type.

- j.* If the proposed investment involves the purchase of bonds, the issuer's annual accounts for the last two years must be submitted, together with information specifying the issuer's plans for disposal of the capital deriving from the bond issue, such as investment plans, copies of the minutes of shareholders' meetings or board meetings, or other documents of a similar type.<sup>27</sup>
  - k.* In other respects, any information that the Central Bank may request and is not listed above, and that enables the Central Bank to ensure that the conditions for the transactions are fulfilled.
13. In all instances, in submitting information and documents according to Article 12, all possible attempts shall be made to draw particular attention (with annotation on copies of documents or underscores in text) to information stating in what respects the conditions for the transactions are fulfilled. If the Central Bank so requests, foreign documents shall be provided in Icelandic translation.
  14. Applications shall be presented in a timely enough manner that the Central Bank has time to review their contents before the advertised auction. The minimum time that the Central Bank requires to review applications is 14 business days. Furthermore, the Central Bank reserves the right to require that only those applications that have been approved one week before the date of the auction may serve as the basis for participation in the auction.
  15. When an application has been received, the Central Bank shall determine, as appropriate, whether the application and the proposed investment are in the form stipulated in these Terms and the issued Terms of Auction, whether the investor fulfils all formal requirements, whether the proposed investment as described in the application and accompanying documents satisfies the Central Bank's conditions, whether there are obvious flaws in the accompanying documents, and whether the intermediary is authorised to interact with the Central Bank on behalf of the investor. If the Central Bank is of the opinion that there are circumstances preventing the use of the application as the basis for transactions with the Bank, it shall return the application as soon as possible, together with a short statement explaining the reason for the rejection. The investor may then submit another application, and the process may be repeated as often as necessary until the application fulfils all conditions.
  16. When it has been determined that the application fulfils all conditions, the Central Bank shall confirm the Terms with the investor and shall so notify the intermediary. This approval shall remain valid unless the investor no longer fulfils the Central Bank's conditions for the transactions, circumstances change so that the proposed investment is no longer consistent with the application, or the investor withdraws the application.
  17. The Central Bank's approval of an investor does not entail any position towards the investor, nor is the Central Bank responsible for ensuring that the investor is authorised by law to undertake such an investment; cf., for instance, the Act on the Right to Ownership and Use of Real Property, no. 19/1966, or the Competition Act, no. 44/2005; nor does it entail a confirmation that the premises of the investor are correct as regards legal protection of encumbrances and collateral for the transactions, or other factors pertaining to settlement and finalisation of the transactions, as applicable in each instance.<sup>28</sup>

## TRANSACTIONS

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<sup>27</sup> Amended 17 December 2013.

<sup>28</sup> Amended 19 November 2012.

18. An investor that the Central Bank confirms as a counterparty in transactions according to these Terms and that has sold,<sup>29</sup> sells, or intends to sell foreign currency at a domestic financial institution may participate in foreign currency auctions and sell foreign currency to the Central Bank.<sup>30</sup>
19. The foreign currency auction will be held in accordance with Terms of Auction issued by the Central Bank. The Terms of Auction, which will apply to the transactions according to the Investment Programme, will include the total amount of euros that Central Bank is offering to purchase, as well as further items concerning settlement and other important information about the transactions.

#### **SETTLEMENT OF TRANSACTIONS**

20. If transactions take place between the Central Bank and the investor following an auction, the investor shall submit to the Central Bank, in the form the Central Bank requires or suggests, the following information and documents, as applicable in each instance, thereby fulfilling the conditions for settlement of the transactions:
  - a. Information on the investment, stating what it is and how it conforms to the provisions of these Terms and/or the Terms of Auction.
  - b. If the investment involves dematerialised securities, whether bonds, shares in a limited liability company, or unit share certificates and/or shares issued by an investment fund, a copy of the prospectus for the securities shall be submitted in all instances.
  - c. In the case of an investment in dematerialised securities – that is, bonds or shares issued by a limited liability company – a statement of encumbrance concerning the five-year holding period must be signed by the investor and submitted, together with a statement from the custodian of the dematerialised securities, confirming the registration of the encumbrance; furthermore, in the case of dematerialised capital shares, a statement must be submitted from the board of the limited liability company, confirming that it has received the encumbrance and entered it to its register of shares.
  - d. In case of an investment in real estate, the investor shall submit a copy of the certificate of registration of the property, together with a copy of the purchase agreement or an accepted purchase offer that is free of provisos concerning payment other than those pertaining to financing with foreign exchange purchases in Central Bank auctions.
  - e. Furthermore, in the case of real estate purchases, the investor must submit a signed statement of encumbrance concerning the five-year holding period for the property in question, specifying also that the statement has been registered for the entire property (property code number).<sup>31</sup>
  - f. In the case of a proposed investment for the purchase of share capital or unit share certificates in a mutual fund, investment fund, or institutional investment fund, the investor shall submit a copy of the rules set for the fund by its management company, together with a copy of the fund's investment strategy.
  - g. Furthermore, in the case of purchase of unit share certificates or shares in mutual funds, investment funds, or institutional investment funds, a statement of encumbrance concerning the five-year holding period, signed by the investor, shall be submitted, together with a signed statement from the fund's management company confirming its awareness of the encumbrance on the investor's holdings.
  - h. A confirmation that the investor has sold foreign currency to a domestic financial institution, cf. Article 18, and that the proceeds have been used for an investment that meets the

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<sup>29</sup> Amended 22 March 2013.

<sup>30</sup> Amended 18 November 2011, at 18:25 hrs.

<sup>31</sup> Amended 19 November 2012.



requirements set forth in Article 6 of the Terms.<sup>32</sup> Parties utilising the authorisation contained in Article 13(m) of the Foreign Exchange Act, no. 87/1992, with subsequent amendments, and sold foreign currency for Icelandic krónur are considered to have fulfilled the provisions of the first sentence, provided that the new investment meets the requirements set forth in Article 6 of the Terms.<sup>33</sup> However, the investor must formally relinquish to the Central Bank the authorisation to sell the new investment and purchase foreign currency for the proceeds of the sale, according to Article 13(m). Upon transferring the new investment according to participation in the Investment Programme, the same shall apply as to the sale of a new investment according to Article 13(m), with the exception that neither dividends nor losses are calculated on the new investment pursuant to Article 13(m). Euros that the investor requests to use as fulfilment of sale to a domestic financial institution (the onshore portion) shall therefore be equivalent to those received if the new investment had been sold on the date of the auction advertisement. The ISK amount of the new investment and the Central Bank central exchange rate versus the euro shall be based on the date of the auction advertisement. No actual foreign exchange transaction will take place, however.<sup>34</sup>

- i.* A statement from the investor, relinquishing the authority to sell the investment according to the New Investment Programme, if applicable.
  - j.* A new investment for which the right of sale is relinquished according to Article 2(b) and Article 20(i) shall be bound by encumbrances in accordance with Article 5 of the Terms.<sup>35</sup>
  - k.* In other respects, any information and data that the Central Bank may require and that enable the Bank to ensure that the conditions of the transactions are fulfilled.
21. Settlement of the transactions will be carried out in accordance with the Terms of Auction. In broad terms, this will be done as follows: as soon as possible after the Central Bank has given notice that it accepts the offer, the intermediary acting on behalf of the investor participating in the auction delivers to the Central Bank the foreign currency approved for purchase. Against this delivery, the Central Bank will deposit the investor's ISK holding to the intermediary's special account with the Central Bank. When it has been demonstrated that all requirements for the transactions have been met, disbursement of the krónur will be authorised.
22. For as long as the long-term investment requirements remain in effect, the Central Bank may request that the investor provide information pertaining to the conditions of the transactions, if it considers such information necessary.
23. The provisions of the first sentence of Article 13(b), Paragraph 3 of the Foreign Exchange Act shall not prevent the investor from allocating the krónur intended for investment according to the Investment Programme for the planned investment in accordance with these Terms.

#### **APPLICATIONS FOR TRANSFER OF OFFSHORE KRÓNUR**

24. An investor that sells (or intends to sell) foreign currency at a domestic financial institution will be able to apply to the Central Bank for authorisation to import offshore krónur provided they have been owned continuously by the investor since 28 November 2008.\* The Central Bank reserves the right to limit the total amount of offshore krónur that may be imported to Iceland at any given time. In other respects, such transport of offshore krónur shall be subject to the following conditions:

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<sup>32</sup> Amended 22 March 2013.

<sup>33</sup> Amended 21 December 2012.

<sup>34</sup> Amended 1 March 2012.

<sup>35</sup> Amended 21 December 2012.

\*For the purposes of this section of these Terms, offshore krónur are Icelandic krónur owned or held in custody by foreign financial statements in their financial statements.

- a. The amount of offshore krónur that an investor may request to import shall be equivalent to the amount of foreign currency that the investor sells (or plans to sell) to a domestic financial institution at the so-called investment exchange rate. The Central Bank will issue a notification specifying the investment exchange rate, which will be based on the exchange rate determined by the Bank's auction.
  - b. Capital movements of offshore krónur for investment according to the Investment Programme are exempt from the first sentence of Article 13(b), Paragraph 3, cf. Article 13(o) of the Foreign Exchange Act, provided that the Central Bank has confirmed that the offshore krónur have been owned continuously by the investor from 28 November 2008 until the date of investment. The investor shall import the offshore krónur to Iceland for investment according to the Investment Programme within four weeks from the date of the confirmation from the Central Bank of Iceland; cf. Article 26 of these Terms.
  - c. In confirmation of continuous ownership, the investor shall submit the appropriate documentation so that it can be determined beyond dispute that the investor has held uninterrupted ownership; such as a bank statement dated no later than 28 November 2008, plus a new bank statement no more than two weeks old, plus a statement of activity showing all transactions on the account concerned during the period in question. The above-specified statements shall be confirmed by the financial institution concerned.
  - d. Parties that have utilised the New Investment Programme may request to import offshore krónur to Iceland. The application shall be based on inflows of foreign currency reported to the Central Bank according to the New Investment Programme; however, the investor must relinquish the authority to sell the investment for foreign currency; cf. Article 13(m), Paragraph 5 of the Foreign Exchange Act.
  - e. The investor shall fulfil all of the requirements set forth in Article 4, but so that the references in Items (b) and (c) to the funds the investor intends to offer for sale to the Central Bank apply to the funds the investor intends to offer for sale to a domestic financial institution.
  - f. The transfer of offshore krónur shall be subject to the condition that the investor plan to invest for at least five years. In other respects, the transfer of offshore krónur shall be subject to all of the conditions set forth in Article 5 as regards the investor's consent to the encumbrance containing provisions on the Central Bank's right of redemption, the investor's obligation to lend any assistance necessary to ensure that the encumbrances are granted satisfactory legal protection, and the obligation concerning information disclosure.<sup>36</sup>
  - g. The proposed investments shall be the same as those specified in Article 6, but they shall also be subject to the provisions in Article 7 (dividends on investments), Article 8 (terms concerning dematerialised debt instruments), Article 9 (redemption of the investment), and Article 10 (general restrictions on investment).
25. The investor's application to transfer offshore krónur shall be sent to the Central Bank via an intermediary; cf. the provisions on intermediaries in these Terms. The following shall apply to the applications:
- a. The application shall be accompanied by all of the information and documentation listed in Article 12, as applicable in each instance, and in the form requested by the Central Bank, with the exception of Item a of that Article. Furthermore, the documents shall be annotated as is specified in Article 13, so as to draw attention to important points.
  - b. When an application has been received, the Central Bank shall determine, as appropriate, whether the application and the proposed investment are in the form stipulated in these Terms, whether the investor fulfils all formal requirements, whether the proposed investment as described in the application and accompanying documents satisfies the Central Bank's

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<sup>36</sup> Amended 1 March 2012.

conditions, whether there are obvious flaws in the accompanying documents, and whether the intermediary is authorised to interact with the Central Bank on behalf of the investor.

- c. The minimum time that the Central Bank requires to review applications is 15 business days.
  - d. If the Central Bank is of the opinion that there are circumstances preventing the use of the application as the basis for the transfer of offshore krónur in accordance with the above, it shall return the application as soon as possible, together with a short statement explaining the reason for the rejection. The investor may then submit another application, and the process may be repeated as often as necessary until the application fulfils all conditions.
  - e. When it has been confirmed that the application satisfies all conditions, the Central Bank shall so notify the intermediary. This approval shall remain valid unless the investor no longer fulfils the Central Bank's conditions for the transactions, circumstances change so that the proposed investment is no longer consistent with the application, or the investor withdraws the application.
26. When the Central Bank has notified that intermediary that the investor's application satisfies all conditions, the investor shall submit to the Central Bank the information and documentation described in Article 20, with the exception of Item (i) of that Article, thereby fully satisfying the conditions for transfer of offshore krónur. When it has been demonstrated that all conditions have been fulfilled, the investor shall, within four weeks, import to Iceland the offshore krónur to which the Central Bank's confirmation pertains.
27. For as long as the long-term investment requirements remain in effect, the Central Bank may request that the investor provide information pertaining to the conditions relating to the offshore krónur, if it considers such information necessary.

## **INTERMEDIARIES**

28. The parties authorised to act as intermediaries vis-à-vis the Central Bank on behalf of investors are financial institutions that fulfil both of the following conditions:
- a. the party concerned is a financial undertaking that is either licensed to operate on the basis of Article 20, Paragraph 1, Item 7(b) of the Act on Financial Undertakings, no. 161/2002, (commercial banks, savings banks, and credit institutions), or licensed to operate on the basis of Article 25, Paragraph 1, Items 2(c) and (e) of the Act on Financial Undertakings, no. 161/2002 (securities firms authorised to provide investment advice and foreign exchange services);
  - b. the intermediary in question has signed a co-operation agreement with the Central Bank.
29. Intermediaries provide the investor the services agreed upon by the parties; however, at a minimum, the intermediation shall involve the following: advisory services provided to the investor on the preparation of applications for participation in auctions or for transport of krónur subject to restrictions; compilation of information and accompanying documentation; submittal of applications in the name of the investor; communications with the Central Bank on behalf of the investor; settlement of transactions; and other tasks deriving from the transaction arrangements
30. Intermediaries must sign a co-operation agreement with the Central Bank, stipulating the intermediary's position vis-à-vis the Central Bank.
31. Furthermore, intermediaries may guarantee the delivery of foreign currency in foreign currency auctions, provided that they have the required operating licence, in lieu of a bank guarantee submitted to the Central Bank by the investor.
32. In addition, intermediaries must establish a special account with the Central Bank, to be used solely for settlement of transactions, unless the intermediation involves only the transfer of krónur subject to restrictions.

## OTHER ITEMS

33. Investors' applications for participation shall be submitted by intermediaries, on behalf of their clients, to the Central Bank of Iceland in electronic form to the Central Bank website, mailto: together with scanned copies of all accompanying documents. The originals of the documents that must be sent to the Central Bank in physical form (e.g., terms vis-à-vis investors and original encumbrance documents) shall be addressed to:  

Central Bank of Iceland  
Att'n: Project Management, Capital Account Liberalisation  
Kalkofnsvegur 1  
150 Reykjavík
34. In other respects, the Central Bank will provide intermediaries with necessary information and instructions. Queries may be directed to the Project Management Team by phone (+354 569-9600) or e-mail (verkefnisstjorn@sedlabanki.is). **Interested investors are requested to consult an intermediary.**
35. The Central Bank will publish on its website a list of the conditions upon which financial institutions may act as intermediaries.
36. The investor bears all expenses pertaining to the transactions, including expenses for movement of capital and any fees charged by the intermediary for its services.
37. References to the investor in these Terms apply also to investor groups, as appropriate. The wording of the Terms does not restrict participation by more than one investor in a single investment. In cases involving such investor groups, the provisions of these Terms shall apply to all of the investors jointly.
38. These Terms may be amended or adapted in some respect without further notice. The contents of these Terms are not binding as regards auction transactions except insofar as the Terms of Auction refer to these Terms. Interested investors are encouraged to acquaint themselves with the validity and contents of the Terms as current at any given time.
39. These Terms have been translated into English; however, the Icelandic original shall be considered the authoritative text.