

In connection with the implementation of the Act on the Treatment of Króna-Denominated Assets Subject to Special Restrictions, no. 37/2016, issues have arisen pertaining to specified Treasury-guaranteed bonds issued in Icelandic krónur and registered by foreign securities depositories.

Article 2, Item 1(c) of the Act defines offshore króna assets as bonds and bills issued by the Icelandic Treasury or bearing a Treasury guarantee, denominated in Icelandic krónur, and owned or held in custody by any of the following: foreign legal entities licensed to carry out legally defined activities in the financial markets, their branches, subsidiaries owned by them, or other foreign institutional investors that invest in financial instruments, including entities that engage in securitisation or other financing activities. It is therefore sufficient that either the registered owner or custodian of the asset fall within the definition in the provision, and in many cases, custodians are also the registered owners of the securities. It is clear that the term *custodian* as set forth in the provision extends to those entities that act as custodians of the securities in question in the conventional sense, but in connection with the interpretation of this provision, issues have arisen pertaining to the custodial role of securities depositories and how that role fits with the term *custodian* as used in the provision. One of the roles of securities depositories in registering title to securities is to undertake to hold them in custody. This custodianship role is an inalienable part of carrying out registration of title to securities.

According to Article 7, Paragraph 1 of the Act, the Central Bank resolves disputes and in other respects has the decision-making authority relating to the implementation of the Act. The second and third sentences of this provision state that a decision by the Central Bank is final at the administrative level and that appeal to the courts does not postpone the legal effect of such a decision. With reference to Article 7, it is the Central Bank of Iceland's interpretation that the custodianship role of foreign securities depositories does not fall within the scope of the term *custodian* as laid down in Article 2, Item 1(c) of the Act, as such custodianship is considered an inalienable part of carrying out registration of title to securities. With reference to this, bonds are not considered offshore króna assets pursuant to Article 2, Item 1(c) of the Act solely on the basis of their being registered with a foreign securities depository; however, custodians or registered owners may fall under the definition in Point (a) of the provision.

This entails that the provisions of the Act on the Treatment of Króna-Denominated Assets Subject to Special Restrictions, no. 37/2016, and rules set on the basis of that Act do not in any way restrict payments made by foreign securities depositories to other foreign securities depositories and domestic custodians in connection with bonds issued in Icelandic krónur. However, the domestic custodians are responsible for enforcing the restrictions laid down in Act no. 37/2016. Therefore, foreign securities depositories are still authorised to make payments in Icelandic krónur to other foreign securities depositories or domestic custodians in connection with bonds registered by them, in the same manner as they were before the Act entered into force, as such payments are not restricted by the provisions of the Act.

The aforementioned applies to the following entities:

*Foreign securities depositories:* Clearstream Banking S.A., Euroclear Bank SA/NV

*Domestic custodians:* Landsbankinn hf., Arion Bank hf., Íslandsbanki hf., Kvika banki hf.