

Parliamentary process Bill of Legislation

Entered into force on 1 January 2000. *EEA Agreement:* Annex IX, Directives 94/19/EC and 97/9/EC. *Amended by:* [Act no.76/2002](#) (entered into force on 17 May 2002). [Act no.139/2002](#) (entered into force 30 Dec. 2002; *EEA Agreement:* Annex IX, Directive 97/9/EC). [Act no.129/2004](#) (entered into force 31 Dec. 2005). [Act no.108/2006](#) (entered into force 1 Nov. 2006 in accordance with Advertisement C 1/2006). [Act no.125/2008](#) (entered into force 7 Oct. 2008). [Act no.98/2009](#) (entered into force 1 Oct. 2009, with the exception of Articles 69 and 70, which took effect on 1 Jan. 2010). [Act no.15/2011](#) (entered into force on 3 March 2011). [Act no.55/2011](#) (entered into force on 1 June 2011). [Act no.126/2011](#) (entered into force 30 Sept. 2011). [Act no.79/2012](#) (entered into force on 5 July 2012). [Act no.61/2015](#) (entered into force on 17 July 2015). [Act no.141/2018](#) (entered into force 1 Jan. 2019). [Act no.59/ 2019](#) (Entered into force 1 July 2019; took effect in accordance with the instructions of Article 2). [Act no.91/2019](#) (entered into force 1 Jan. 2020, with the exception of Article 133, which entered into force on 16 July 2019). [Act no.70/2020](#) (entered into force 1 Sept. 2020). [Act no.38/2021](#) (entered into force on 21 May 2021; *EEA Agreement:* Annex XXII, Directive 2014/59/EC. Annex IX, Directive 2017/2399). [Act no.115/2021](#) (entered into force 1 Sept. 2021, with the exception of Article 39, which took effect on 1 Nov. 2021, and the fifth paragraph of Article, 48 which takes effect on 28 February 2023; for jurisdictional limits see Article 147; *EEA Agreement:* Annex IX, Directives 2014/65/EEC, 2016/1034, Regulation [600/2014](#), [2016/1033](#), [2017/565](#), [2017/567](#)). [Act no.48/2022](#) (entered into force on 8 July 2022 with the exception of Point a of Article 6 which takes effect on 1 Jan 2023; *EEA Agreement:* Annex IX, Regulations [2015/63](#), [2016/1434](#)) [Act no.50/2022](#) (entered into force on 8 July 2022; *EEA Agreement:* Annex IX, Regulations [2017/2294](#), [2019/1011](#), [2021/527](#), [2019/2115](#), [2018/1717](#), Directive [2014/51/EU](#), Annex XXII, Directive 2004/25/EC).

Any mention in this Act of a Minister or Ministry, without specifying or referring to the function, refers to the **Minister of Finance and Economic Affairs** or the **Ministry of Finance and Economic Affairs**, which administers this Act. Information on the functions of Ministries as provided for in a Presidential Decree is available [here](#).

CHAPTER I Objective and organisation

Article 1

Objective

[The objective of this Act is to guarantee a minimum level of protection to depositors and customers of financial undertakings in the event of financial undertakings' difficulties as referred to in the provisions of this Act and the Act on Resolution of Credit Institutions and Investment Firms.]¹⁾

¹⁾*Act no.48/2022, Article 10.*

Article 2

*[Implementing body]*¹⁾

[The implementation of this Act is carried out by a special institution called the Icelandic Financial Institutions' Guarantee Fund, hereafter referred to as the Fund.]¹⁾ [The Fund is a self-governing foundation.]²⁾

¹⁾*Act no.48/2022, Article 11.* ²⁾*Act no.79/2012, Article 1.*

Article 3

*[Organisation of the Fund]*¹⁾

[Commercial banks, savings banks, investment firms and, as appropriate, credit institutions, management companies of UCITS and managers of alternative funds shall be members of the Fund, provided they are established in Iceland.]¹⁾ [The same shall apply to branches of these parties in the European Economic Area, in member states of the founding agreement of the European Free Trade Association (EFTA) and in the Faroe Islands.]²⁾ These parties, hereafter referred to as member undertakings, shall not be liable for any commitments entered into by the Fund beyond their statutory contributions to the Fund ...¹⁾. The Financial Supervisory Authority shall maintain a special record of member undertakings.

[Arrangements for the Resolution Fund are governed by the Act on Resolution of Credit Institutions and Investment Firms, unless otherwise provided for by this Act.]¹⁾

¹⁾*Act no.48/2022, Article 12.* ²⁾*Act no.108/2006, Article 92.*

Article 4

Board of Directors and managing director

The Fund's Board shall consist of [four]¹⁾ directors appointed for a two-year term. [One shall be appointed following nomination by the Icelandic Financial Services Association, one following nomination by the Central Bank of Iceland and two by the Minister without nomination.]¹⁾ ... ¹⁾ [The Minister]²⁾ appoints the Board's chairperson. Alternates shall be appointed in the same manner. [A simple majority of votes shall determine the outcome of questions at Board meetings. In the case of a tie vote, the Chair's vote shall determine the outcome.]¹⁾

The Fund's Board may hire a managing director for the Fund or reach agreement with a legal entity for its operation and custody. The legal entity can be the Central Bank of Iceland or a custodian company governed by the Act on UCITS, Investment Funds and Institutional Investor Funds.

Directors and the managing director must be legally competent and may never have been deprived of control of their own estates. They must be [of good repute]³⁾ and may not have been convicted of a criminal act in connection with business operations, under the Penal Code or acts on public limited companies, private limited companies, accounting, annual financial statements, bankruptcy or public levies.

The Fund's directors and managing director are bound by a duty of confidentiality as provided for in the Act on [Resolution of Credit Institutions and Investment Firms].¹⁾

The Board of the Fund shall each year, or more often if deemed necessary, provide the Minister with a written account of their view as to whether premiums need to be collected in the Fund's Deposit Department.

The Board shall adopt Articles of Association for the Fund, which shall be subject to the approval of the Minister after receiving the opinion of the Central Bank. The tasks of the Fund's Board of Directors shall be laid down in more detail in its Articles of Association.¹⁾

¹⁾Act no.48/2022, Article 13. ²⁾Act no.126/2011, Article 289. ³⁾Act no.141/2018, Article 30.

Article 5

Annual General Meeting

An annual general meeting (AGM) shall be held before the end of March each year. The audited annual financial statements and the annual report of the Board of Directors must be presented at the AGM. ...¹⁾

Every member undertaking is entitled to attend the AGM. ...¹⁾

...¹⁾

¹⁾Act no.48/2022, Article 14.

CHAPTER II

Contributions to the Fund

[Article 5 a

*[Departments of the Fund]*¹⁾

The Fund operates as three independent departments: a Deposit Department, Securities Department and Resolution Fund.]¹⁾ ...¹⁾²⁾

¹⁾Act no.48/2022, Article 15. ²⁾Act no.79/2012, Article 2.

[Article 5 b

*[Deposit Department]*¹⁾

[The Deposit Department shall at all times have at its disposal available funds amounting to a minimum of 0.8% of the guaranteed deposits of all credit institutions licensed to operate in Iceland.]¹⁾

Deposit institutions must pay a premium to the [Deposit Department]¹⁾ of the Fund from the time they commence operation.

The premium shall consist of the total of the general premium provided for in the third paragraph and a premium calculated on the basis of a risk co-efficient, as provided for in the fourth paragraph, and be paid to the Fund's [Deposit Department]¹⁾. Disposition of funds from the Department shall be as provided for by law.

The general premium shall amount to [[0%]¹⁾ per year of all [guaranteed]²⁾ deposits up to ISK 10 billion and [0%]¹⁾ of [guaranteed]²⁾ deposits in excess of that],³⁾ as defined in this law, at the respective deposit institution ...²⁾ or [[0%]¹⁾ of [guaranteed]²⁾ deposits up to ISK 10 billion and [0%]¹⁾ of [guaranteed]²⁾ deposits there in excess of that amount on each quarterly due date].³⁾

In addition to the premium provided for in the third paragraph, the deposit institution shall pay a variable premium determined on the basis of a risk co-efficient determined by the Financial Supervisory Authority for each deposit institution. The risk co-efficient shall have a minimum value of 0 and a maximum value of 1, and the premium provided for in the third paragraph shall be multiplied by the risk co-efficient applicable at the end of the quarter for which the premium is paid.

The due dates for the general and risk-weighted premium are as follows:

- a. The due date for the 1st quarter is 1 June.
- b. The due date for the 2nd quarter is 1 September.
- c. The due date for the 3rd quarter is 1 December.
- d. The due date for the 4th quarter is 1 March of the following year.

Premiums are non-refundable. However, the Board of the [Insurance Fund for Financial Undertakings]¹⁾ may decide to refund premiums that have been overpaid due to calculation errors.

No later than 30 days after the end of each quarter, deposit institutions must have provided the Fund with information on the sum of their assets and items on which the assessment referred to in the third and fourth paragraphs is based. The information shall be provided in the format determined by the Fund. ... ⁴⁾ The Central Bank of Iceland is obliged to provide the Fund with the information it needs in order to verify information provided by financial undertakings under this Article. The Fund shall inform deposit institutions of the amount of the premium at least seven days before the due date.

Should a deposit institution fail to provide the information required of it under the seventh paragraph, the Fund may estimate the deposit institution's premium provided for in the third and fourth paragraphs. Such a premium shall be at least twice the most recent quarterly premium of the respective deposit institution, and may not be refunded even if all necessary information is submitted in full at a later date.

Premiums must be paid in ISK and the same applies to distributions from the department.

If a deposit institution that is obliged to pay a premium to the Fund fails to pay a quarterly premium on the due dates specified in the third to fifth paragraphs a 5% surcharge is applied to the premium for each day past the due date, for five days. If the undertaking has not paid the premium and surcharge by that time, the Fund's management will notify the Financial Supervisory Authority of the undertaking's default.

Notwithstanding the provisions of the tenth paragraph, the board of the [Guarantee Fund for Financial Undertakings]¹⁾ is authorized in exceptional cases to grant a grace period for the payment of the premium if special reasons exist for so doing.

In the event of default on the payment of the deposit institution's premium, the Fund's board is authorised to transfer funds equivalent to the deposits that have accumulated by the deposit institution in question since the due date to its account with the Central Bank of Iceland until the premium has been paid.

If a deposit institution is deprived of its authorisation to accept deposits or its entire operating license, this shall not prejudice the interests of parties who benefit from insurance protection.

...¹⁾⁵⁾

¹⁾ [Act no.48/2022, Article 16.](#) ²⁾ [Act no.70/2020, Article 103.](#) ³⁾ [Act no.59/2019, Article 1.](#) ⁴⁾ [Act no.91/2019, Article 87.](#) ⁵⁾ [Act no.79/2012, Article 2.](#)

Article 6

[Resolution Fund]

[The Resolution Fund shall at all times have at its disposal available funds amounting to a minimum of 1% of the guaranteed deposits of all credit institutions licensed to operate in Iceland.

Payments to the Resolution Fund are governed by the Act on Resolution of Credit Institutions and Investment Firms.]¹⁾

¹⁾ [Act no.48/2022, Article 17.](#)

Article 7
Securities Department

The total assets of the Fund's Securities Department shall be a minimum of ISK 100 million.

If the Fund's total assets do not reach the minimum referred to in the first paragraph, member undertakings must pay a fee to the Fund no later than on 1 March each year, amounting to a total of ISK 20 million, until the Fund has reached the required minimum size. Each member undertaking shall pay a minimum fee of ISK 50,000. The annual payment, net of the minimum fee, is divided into two equal parts calculated on the following contribution bases:

1. The share of the member undertaking in the aggregate amount of [trading in financial instruments by member undertakings]¹⁾ during the previous year with customers who are insured under Article 9.
2. The share of the member undertaking in the aggregate number of business accounts held with member undertakings in connection with securities trading. The number of business accounts pursuant to [item (d) [of Point 16]²⁾ and item (a) [of Point 67]²⁾ of the first paragraph of Article 4 of the Markets in Financial Instruments Act]¹⁾ shall be added together. Business accounts referred to in item (c) of Point 1 and item (a) of Point 2 have double weight in the total. Business accounts with a balance exceeding ISK 1.7 million, based on the EUR exchange rate as of 5 January 1999, shall also have double weight in the total.

If the total assets of the department still fall short of the required minimum, each member undertaking shall submit a guarantee statement. In their guarantee, each member undertaking shall undertake to render a special contribution to the Department if the Department is obliged to refund securities or cash as provided for in Chapter III for any undertaking which is a member of the Fund.

The guarantee must amount to the same percentage of the shortfall as the percentage of the member undertaking's payments in the combined payments of all member undertakings when the first payment is made after it is clear that the Department's total assets fall short of the required minimum. Claims for contributions to the Department, however, may not each year exceed an amount equivalent to one-fifth of the minimum size of the Fund. Member undertakings are obliged to pay to the Fund upon its request and when the aforementioned circumstances exist.

Notwithstanding the provisions of the first and second paragraph, the Board of Directors of the Fund may purchase insurance from a recognised insurance company in the European Economic Area to cover possible losses. If the Fund purchases insurance, however, at least one-fifth of the minimum size of the Department provided for in the first paragraph must be in securities or cash.

A new member undertaking that [provides investment services or engages in investment activities under the Act on Markets in Financial Instruments]¹⁾ must pay separately to the department on 1 March of each year for five years from the time it commences operation in Iceland. This payment shall amount to the same percentage of ISK 20 million as its percentage of the contribution bases referred to in the second paragraph. The payment must be made for the first time a full year after the commencement of operations. In addition, the company concerned shall submit a statement of guarantee equivalent to four times the first year's payment.

Payments to the Department are non-refundable. Member undertakings are obliged to provide the Fund with information as provided for in this Article.

¹⁾[Act No.115/2021, Article 148.](#) ²⁾[Act no.50/2022, Article 26.](#)

Article 8 ... ¹⁾

¹⁾ *Act no.48/2022, Article 18.*

CHAPTER III
Distributions from the Fund

Article 9
Distributions from the Fund

An instance may arise where a member undertaking is unable, in the estimation of the Financial Supervisory Authority, to render payment of the value [of guaranteed]¹⁾ deposits, securities or cash, the repayment or delivery of which a customer has demanded from the member undertaking in accordance with the applicable terms and conditions. The Fund is then obliged to pay the customer of the member undertaking the value of a [guaranteed]¹⁾ deposit from the [Deposit Department]²⁾ and the value of securities and cash linked to transactions in securities from the Securities Department. The Fund's obligation to pay also becomes active if the estate of a member undertaking is placed in liquidation under the Act on [Financial Undertakings]³⁾ [or during the resolution proceedings of a credit institution, if the conditions of [Article 82 of the Act on Resolution of Credit Institutions and Investment Firms, no. 70/2020](#) are met]²⁾. [When reimbursing the value of [guaranteed]¹⁾ deposits from its [Deposit Department]²⁾ the Fund is authorised to make such payments in accordance with the terms and conditions applying to the [guaranteed]¹⁾ deposit or security, for example, as regards the lock-in period, notice of termination and such aspects. Reimbursement of the value of [guaranteed]¹⁾ deposits, securities or cash can always be made in ISK, regardless of whether they were originally in another currency. The Fund may use claims of the respective financial undertaking against a customer for set-off against the customer's claim for payment of the value of a [guaranteed]¹⁾ deposit.]⁴⁾

[Payments to each depositor shall amount to the total of their insurable deposits with the relevant member company, but shall never exceed the equivalent of EUR 100,000 in ISK.]¹⁾

An opinion from the Financial Supervisory Authority shall be available no later than three weeks after it first receives confirmation that the relevant member undertaking has not paid its customer or delivered securities as it should have done.

[A deposit refers to a balance in an account held by a customer with a deposit institution, including accrued interest and indexation, and transfers in traditional retail banking operations, which the deposit institution is obliged to repay according to law and the agreed terms and conditions, and the customer's share of a deposit option account of a pension savings custodian at the deposit institution. Borrowings by a deposit institution, equity accounts, wholesale deposits and pooled accounts, other than the accounts holding deposit options of a pension savings custodians, are not considered deposits.]⁵⁾

[An insurable deposit refers to a deposit that is not exempt from guarantee pursuant to the ninth paragraph.

A guaranteed deposit as referred to in the first paragraph shall mean that portion of the insurable deposit that is within the amount limits laid down in the second paragraph.]¹⁾

Securities as referred to in the first paragraph shall mean securities that are in the custody or under the management or administration of a member undertaking, which it must repay or return according to the terms and conditions applicable to dealings between a member undertaking and an investor by law or according to agreements.

Cash as referred to in the first paragraph shall mean an investor's cash deposited with a member undertaking in connection with securities transactions.

[The following [are excluded from]¹⁾ the guarantee provided for in the first paragraph:

1. ...¹⁾
2. deposits related to cases where there has been a conviction for money laundering,
3. ...¹⁾
4. deposits of the state, municipalities, their institutions and undertakings where a majority is owned by public entities,
5. ...¹⁾
6. ...¹⁾
7. deposits that are not registered under a name (bearer deposits),
8. deposits of pension funds other than the customer's share of a deposit account option of a pension savings custodian at a deposit institution,
- [9. deposits of other credit institutions for their own benefit and on their own account,
10. the capital base of credit institutions and investment firms as structured according to the Act on Financial Undertakings,
11. deposits of financial institutions as defined in the Act on Financial Undertakings,
12. deposits of investment firms as defined in the Act on Financial Undertakings,
13. deposits of insurance companies and reinsurance companies as defined in the Act on Insurance Activities,
14. deposits of funds for collective investment (UCITS),
15. bonds issued by a credit institution and obligations due to own bills, as well as debt instruments].¹⁾]⁵⁾

Arrangements for distributions from the Fund shall be provided for in more detail in a regulation.

[The resolution authority provided for in the Act on Resolution of Credit Institutions and Investment Firms shall decide on distributions from the Resolution Fund. Distributions from the Resolution Fund shall be effected according to the instructions of the resolution authority.]²⁾

¹⁾Act no.70/2020, Article 103. ²⁾Act no.48/2022, Article 19. ³⁾Act no.115/2021, Article 148. ⁴⁾Act no.125/2008, Article 8. ⁵⁾Act no.79/2012, Article 5.

Article 10

Amount available for distribution

[Should an instance arise where the assets of the Fund's Deposit Department are not sufficient to pay the total amount of the guaranteed deposits of the member undertakings concerned, distributions from the available assets of the Department shall be divided *pro rata* among creditors. Additional payment cannot cannot subsequently be demanded from the Fund even if creditors' losses have not been fully compensated.

Should an instance arise where the assets of the Fund's Securities Department are not sufficient to pay the total amount of securities and cash of the member undertakings concerned, distributions from that Department shall be divided among creditors so that the claim of each of them is fully compensated up to ISK 1.7 million, while any amounts in excess of that shall be compensated *pro rata* from the available assets of the Department, This amount shall be linked to the EUR exchange rate, based on the purchase price of 5 January 1999. Additional payment cannot cannot subsequently be demanded from the Fund even if creditors' losses have not been fully compensated.]¹⁾

If the assets of the Fund's [Deposit or Securities Department]²⁾ are insufficient and its Board considers it urgent, the Fund may borrow to pay creditors.

If distributions are made from [the Fund's Deposit or Securities Department]²⁾ it shall assume the creditors' claims on the member undertaking or estate concerned. [Claims of the

Fund shall have priority as provided for in the Act on Resolution of Credit Institutions and Investment Firms];³⁾ otherwise, it is enforceable by execution without prior adjudication or settlement.]⁴⁾

[The Resolution Authority shall determine the amount of distributions from the Resolution Fund based on the Act on Resolution of Credit Institutions and Investment Firms.]¹⁾

¹⁾Act no.70/2020, Article 103. ²⁾Act no.48/2022, Article 20. ³⁾Act no.38/2021, Article 17. ⁴⁾Act no.125/2008, Article 9.

Article 11

Lending between departments

The Board of the Fund may lend up to ISK 50 million between the [[Deposit Department and Securities Department]¹⁾ of the Fund].²⁾ Loans must be repaid within 36 months. ... ¹⁾

¹⁾Act no.48/2022, Article 21. ²⁾Act no.79/2012, Article 6.

Article 12 ...¹⁾

¹⁾Act no.48/2022, Article 22.

CHAPTER IV

Foreign branches

Article 13

[Branches of foreign financial undertakings in Iceland]¹⁾

[Branches of foreign [financial undertakings]¹⁾, operating in Iceland but established in another EEA state, a member state of the European Free Trade Association (EFTA) Treaty or the Faroe Islands, are eligible for membership of [the Fund's Deposit Department and Securities Department]¹⁾ in connection with deposits, securities and cash which is not similarly covered in the EEA, a member state of the European Free Trade Association (EFTA) Treaty or the Faroe Islands.]²⁾

Foreign branches as referred to in the first paragraph, established outside the European Economic Area and operating in Iceland, must be members of [the Fund's Deposit Department and Securities Department],¹⁾ provided that the branch is not a member of a similar guarantee system in its home state.

The Minister may, in a regulation, provide in more detail for the membership of foreign branches under this Article to [the Fund's Deposit Department and Securities Department],¹⁾ as well as for additional guarantees that branches require in order to be able to operate in Iceland. Further details concerning premiums and distributions in connection with guarantees as provided for in this Article shall be laid down in a regulation.

¹⁾Act No.48/2022, Article 23. ²⁾Act no.108/2006, Article 94.

CHAPTER V

Miscellaneous provisions

Article 14

Annual financial statements and auditing

The Fund's financial year shall be the calendar year. A certified auditor shall be elected for the Fund at its AGM. The audited annual financial statements must be endorsed and signed by its Board and approved by the Minister.

Article 15
Supervision

The Financial Supervisory Authority shall supervise that the Fund's activities comply with this Act and the Fund's regulation and Articles of Association. In other respects, the provisions of the Act on Official Supervision of Financial Activities shall apply to its supervision.

Article 16
[Information disclosure]¹⁾

Member undertakings must [publish on their websites information on their membership of the Fund's deposit and Securities Departments],¹⁾ the scope of the guarantee, which assets are not insured and where the creditor can seek assistance if the member undertaking refuses payment to the creditor. The information must be in Icelandic and always available by easy access.

Advertisements by member undertakings of their membership in [the Fund's Deposit Department and Securities Department]¹⁾ shall be limited to direct reference to the relevant department.

¹⁾*Act No.48/2022, Article 24.*

Article 17
Exemption from tax and the Act on Bankruptcy etc.

The Fund is exempt from income tax ...¹⁾ under the Income Tax Act ...¹⁾

The Fund cannot be placed in liquidation, nor can its assets be subjected to attachment.

¹⁾*Act No.129/2004, Article 134.*

Article 18
Regulation

The Minister shall lay down in a regulation¹⁾ more detailed provisions on the Fund's activities, including arrangements for distributions from [the Fund's Deposit Department and Securities Department],²⁾ on guarantees for deposits, securities or cash in the case of a shared account or when the customer of a member undertaking does not have an unequivocal right to the deposit, securities and cash, and on investment of the Fund's assets.

¹⁾*Reg. 120/2000, cf. 864/2002 and 983/2008.* ²⁾*Act No.48/2022, Article 25.*

CHAPTER VI ... 1)

¹⁾*Act no.48/2022, Article 26.*

CHAPTER VII
Entry into force, etc.

Article 20

This Act shall enter into force on 1 January 2000. The Fund shall then take over the assets and liabilities of the Commercial Banks' Guarantee Fund and the Deposit Department of the Savings Banks' Guarantee Fund. Both the Commercial Banks' Guarantee Fund and the Deposit Department of the Savings Banks' Guarantee Fund shall be abolished as of the same date.

A founding meeting shall be held before 31 December 1999, at which time Articles of Association for the Fund shall be adopted, cf. Article 5. The provision of this paragraph take effect immediately.

...

Article 21

This Act is adopted in accordance with Decisions of the Joint EEA Committee, nos. 18/1994 and 12/1998 and to transpose into national law provisions of Directives of the European Parliament and of the Council no. 19/1994, on deposit guarantees, and no. 9/1997, on an investors' guarantee scheme.

[Temporary Provisions

1-V. ... ¹⁾

¹⁾*Act no.48/2022, Article 27.*

[VI.

Notwithstanding the provisions of the second to thirteenth paragraphs of Article 5 b of the Act, deposit institutions shall not pay premiums to the Deposit Department of the Guarantee Fund for Financial Undertakings from the entry into force of this Act until otherwise decided by law. However, deposit institutions must still provide the Fund with information on deposits in the form determined by the Fund.]¹⁾

¹⁾*Act no.48/2022, Article 28.*