

# Country Guide

## Iceland

Prepared by

LOGOS Legal Services



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# Guide to doing business in Iceland

## 2021

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### Foreword

This guide is for the foreign investor and is intended to introduce the most important legislation and practical issues that need to be considered before making a commitment to a more detailed examination of Iceland as an investment destination.

This guide concentrates on the most common forms of investment (such as various forms of corporate entities), mergers & acquisitions, and issues, that may be necessary to consider when investing in Iceland (including taxation, employment matters and competition regulation).

In preparing this outline we have endeavoured to see things from the foreign investor's point of view and hope to have bridged a gap, that might otherwise have hindered positive and fruitful cooperation. It should be noted that the 19th edition of Doing Business in Iceland, published by Promote Iceland in 2021, has been very helpful in this respect. Wherever possible, we have tried to employ the most appropriate English terms and every care has been taken to ensure that the information is accurate and up to date as of May 2021.

This guide does not constitute as legal advice and is only intended as a guide and outline of certain aspects of Icelandic law with regard to investments and conducting business in Iceland.

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## About LOGOS

LOGOS was established in 1907 and is one of the premier law firms in Iceland. The firm specialises in corporate and commercial law, servicing both the international business community and local clients requiring international legal assistance. The LOGOS London office was established in 2006, making LOGOS uniquely placed as the ideal adviser to both Icelandic businesses in their international relationships and to foreign businesses with interests in the Icelandic market. This international experience and reputation puts LOGOS at the forefront of most significant cross-border projects, frequently acting for the international banks, corporations and investors participating in Icelandic projects.

The competitive edge of the firm is the result of the systematic recruitment of Iceland's finest legal talent and continued investment in training and development throughout each lawyer's career.

As a full-service law firm LOGOS advises in the following practice areas:

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- Administrative and Development Law
  - Aviation, Maritime and Transporting
  - Banking and Finance
  - Competition Law
  - Construction and Real Estate
  - Corporate Finance and Capital Markets
  - Corporate and Commercial Law
  - Data Protection
  - Employment and Labour Law
  - Energy
  - EEU/EEA
  - Financial Restructuring and Insolvency
  - Insurance and Torts
  - IT and IP, Media and Entertainment
  - Litigation and Arbitration
  - Mergers and Acquisitions
  - Pharmaceuticals and Biotechnology
  - Private Client Services
  - Public Procurement
  - Tax
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LOGOS has an outstanding track record in assisting clients in utilising the ever-changing opportunities in a range of industries. The firm has advised its longest-standing clients in relation to mergers and acquisitions (as well as their more routine business transactions) outside of Iceland. It is respected by foreign investors in Iceland for its expertise in project finance, loan agreements, structured finance, tax structuring and equity investment. Perhaps not surprisingly given the turbulent times the Icelandic economy has experienced, the firm also has a strong team of international financial restructuring and bankruptcy lawyers, whose skills have been well-utilised in the years following the 2008 crisis.



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## 1 Investment Climate & Opportunities

### 1.1 General Information

Iceland is located in the North Atlantic between Norway, Scotland, and Greenland. It is the second largest island in Europe and the third largest in the Atlantic Ocean, with a land area of some 103,000 square kilometres, a coastline of 4,970 kilometres and an exclusive 200 nautical mile economic zone, extending over 758,000 square kilometres in the surrounding waters. Iceland is about 3 hours by air from major cities in Western Europe and 5-6 hours from the east coast of the USA. Shipping distances are 3-4 days to Europe and 7-8 days to the North American east coast. Its mid-Atlantic location makes Iceland an ideal base for companies with business in both continents.



Iceland enjoys a warmer climate than its northerly location would indicate because a part of the Gulf Stream flows around the southern and western coasts of the country. With only 3.5 inhabitants per square kilometre, Iceland is one of the most scarcely populated countries in the world. The population of Iceland was 368,590, as of January 2021. Around 64% of the population lives in the capital city of Reykjavik and its surrounding municipalities.

Geologically, Iceland is a young country whose active volcanic forces have created huge resources of geothermal energy, which can provide low-cost industrial steam and electricity while pollution-free hydropower resources have been developed to some extent in the mountainous highland terrain. Iceland is on Greenwich Mean Time all year round and does not observe daylight saving time.

Icelandic, the language spoken by the Icelanders, is in fact the ancient tongue of the Vikings and has changed remarkably little during the eleven centuries since the country was first settled. Literacy is close to 100%. Knowledge of English is common and most people speak or understand some Danish or one of the other Scandinavian languages. The majority of students past compulsory schooling age learn German, Spanish or French.

The official currency unit of Iceland is the króna (ISK). As of May 2021, the exchange rate versus U.S. dollar was around 120.59 ISK for 1 U.S. dollar and the exchange rate versus the euro is around 147.12 ISK for 1 euro. Iceland is not a member of the EU and therefore not a member of its monetary union.

Nationals of the other European Economic Area states (European Union and EFTA) do not need entry visas to visit Iceland. Furthermore, special agreements with about 100 countries – including all OECD countries – permit their residents to enter without visas, provided they have a valid passport. Entry visas are typically granted for a three-month stay in Iceland. A foreign national from a country outside the EEA and/or EFTA who plans to stay in Iceland for more than three months must have a valid residence permit. Foreign nationals from the EEA and EFTA states do not need a special residence permit to stay in Iceland for a period exceeding three months (or up to six months if he/she is seeking employment) but must register with Registers Iceland and fulfil certain conditions pursuant to Articles 84 and 85 of Act No. 80/2016 on Foreigners. Citizens of the other Nordic countries, i.e. Danish, Finnish, Norwegian and Swedish citizens, are allowed to stay in Iceland without a residence permit.

Iceland is a founding member of the European Economic Area (EEA). This free-trade zone allows the tariff-free movement of goods, services, capital and labour. A company domiciled in any of the other member countries of the EEA, and in fact in any of the OECD countries, has the same rights to operate in Iceland as an Icelandic-registered company. It only needs to apply for the same permits and registration as an Icelandic-domiciled company. Companies registered in Iceland are permitted to operate in all the countries of the EEA without any special permits or legislation. The same rules apply to movements of labour. Nationals of the member states of the EEA, EFTA and the Faroe Islands do not need a work permit in Iceland but do need to register with the immigration authorities and tax authorities in order to obtain the standard tax credit. Nationals from other countries outside the EEA, EFTA and the Faroe Islands require a work permit to work or operate a business in Iceland.



Iceland has actively participated in international co-operation. Iceland belongs to a group of Nordic countries that includes Denmark, Sweden, Norway and Finland – as well as Greenland and the Faroe Islands. The Nordic countries have established wide-ranging cooperation in a variety of fields, including economic affairs and international representation. Iceland is a member of the Nordic Council as well as a number of specialised institutions such as the Nordic Investment Bank. Iceland became a member of the United Nations in 1946 and is a participant in most of its affiliated agencies. Iceland is a founding member of the Bretton Woods institutions that were established in 1945, the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (World Bank). Iceland is also one of the original members of the Organisation for Economic Cooperation and Development (OECD). It joined the Council of Europe in 1950 and has participated in the Organisation for Security and Cooperation in Europe since it was initiated in 1975. In 1964 Iceland became a party to the General Agreement on Tariffs and Trade, the predecessor to the World Trade Organisation (WTO). Iceland joined the European Free Trade Association (EFTA) in 1970 and entered into a free-trade agreement with the European Community in 1972. In May 1992, the member countries of EFTA and the European Union (EU) signed an agreement to establish a free-trade zone, the European Economic Area (EEA), which took effect on 1st January 1994. Iceland is also a founding member of the North Atlantic Treaty Organisation (NATO), established in 1949. A defence treaty with the United States was concluded in 1951. A NATO military base, staffed by United States military personnel, operated in Keflavik in the southwest of Iceland until 2006. Iceland applied for a membership of the European Union in 2009 but negotiations were halted in 2013. In March 2015 the government of Iceland requested that “Iceland should not be regarded as a candidate country for EU membership”.

## **1.2 Legal System**

Iceland was settled in the late 9th century. A general legislative and judicial assembly, Alþingi, was established in 930 and a uniform code of laws for the country was adopted at the same time. In 1262, Iceland concluded a treaty establishing a union with the Norwegian monarchy. When the Danish and Norwegian monarchies were united in 1380, Iceland came under Danish rule that lasted for more than five hundred years. Iceland was granted a new constitution in 1874 and obtained home rule in 1904. With the Act of Union in 1918, Iceland became a sovereign state in a monarchical union with Denmark. In 1944, Iceland terminated this union with Denmark and founded a Republic. The present constitution was adopted on June 17<sup>th</sup> 1944 when the Republic was established.

Iceland is a parliamentary democratic republic. The head of state is the President, elected for a term of four years at a time, whose duties lie outside day-to-day party politics. The government is led by the Prime Minister. Parliamentary elections are held at intervals of no more than four years. There are 63 members of parliament, elected by proportional representation. Since no party has secured a parliamentary majority since the establishment of the Republic in 1944, Iceland has always been ruled by coalition governments.

Elections of local government are held every four years. Municipalities are responsible for specific services including basic health care and compulsory education, and are allocated part of income tax revenues to fund their operations, along with property taxes and other smaller levies.

The legal system is a civil law system, which has much in common with other continental European countries with the emphasis on written statutory law and derivative legislation.

Iceland implements the same basic liberal business philosophy as the European Union. Except in a few limited areas, all EU commercial legislation and directives take effect in Iceland.

The courts in Iceland consist of eight district courts, a Court of Appeal and the Supreme Court. Additionally, there are two special courts with limited jurisdiction. All civil, criminal and administrative matters that are not specifically removed to or reserved for the special courts can be referred to the district courts. Litigation must be initiated at the district court level. All decisions of the district courts can be appealed to the Court of Appeal, provided that the value of the subject matter under adjudication surpasses a minimum set out in the law. A judgment from the Court of Appeal may be appealed to the Supreme Court if it has significant value for public interest or for particularly important private interests. The Supreme Court assesses itself whether the conditions are fulfilled and gives permission for appeal if they are. A special court, the Labour Court, is concerned with labour disputes. The judicial system is generally perceived to be impartial. Before the new Court of Appeal was established, dispute resolution within the judicial system typically took from 6 months and up to 3 years. Data on whether the waiting time has changed with the new judicial level is not available yet. Disputes may be resolved outside the judicial system.

### 1.3 Economy

With a Gross Domestic Product (GDP) of approximately US \$ 20 billion in 2019, the size of the economy is relatively small. However, with GDP per capita of US \$ 56,066 (current PPPs) in 2019, evenly distributed across the population, living standards are among the highest in the world. The economy, based on fisheries and agriculture at the beginning of the last century, has diversified into manufacturing and service industries in recent decades, with tourism now as one of the main sectors in Iceland. Important primary and secondary industries are based on the use of renewable natural resources, namely the coastal fishing banks, hydroelectric power and geothermal power. The foreign trade of Iceland is characterised by a relatively high ratio of trade to GDP.

#### Gross domestic product by industries

		2005	2010	2017 <sup>1</sup>
%				
A	Agriculture, forestry and fishing	5.7	7.3	5.7
	Thereof fishing	4.6	6.1	4.5
B–E	Mining and quarrying; manufacturing; electricity, gas, steam and air conditioning supply; water supply; sewerage, waste management and remediation activities	14.0	20.2	14.9
F	Construction	10.7	4.4	7.7
G–I	Wholesale and retail trade; repair of motor vehicles and motorcycles; transportation and storage; accommodation and food service activities	16.3	16.2	21.4
J	Information and communication	5.6	3.9	4.8
K	Financial and insurance activities	8.6	8.6	5.6
L	Real estate activities	9.5	10.3	9.2
M–N	Professional, scientific and technical activities; administrative and support service activities	6.7	7.0	9.5
O–Q	Public administration and defence; compulsory social security; education; human health and social work activities	20.5	19.1	18.6
R–U	Arts, entertainment and recreation, repair of household goods and other services	2.4	2.8	2.7

<sup>1</sup> Preliminary data.

Source: Iceland in figures 2018 <https://hagstofan.s3.amazonaws.com/media/public/2019/8f7e6520-8747-467c-bc6e-0600920f666c.pdf>

The global COVID-19 pandemic and the public health measures imposed in order to curb the spread of the disease have had enormous economic repercussions. In response to this situation, the Central Bank has taken a wide range of actions, including lowering interest rates, boosting domestic financial institutions' access to capital, using the international reserves to mitigate exchange rate volatility, and commencing secondary market purchases of Treasury bonds. Indicators imply that GDP contracted by 7.7% in 2020 as a whole. The outlook for 2021 has improved somewhat, with a poorer outlook for exports offset by more favorable prospects for domestic demand. The National Budget for 2021 was passed with a deficit of 10.8% of GDP. However, GDP growth is forecast to measure 2.5% in 2021 as a whole and then rise to 5.1% in 2022 before easing back to 4.1% in 2023. To a large extent, economic developments will depend on how successful efforts to control the pandemic prove to be, both in Iceland and elsewhere.



## 2 Foreign Investment

In principle, foreign ownership of business is unrestricted. However, some limitations apply to specific sectors according to the Act on Investment by Non-residents in Iceland No. 34/1991, namely fishing, primary fish processing, energy production and aviation.

A wide range of portfolio investment options are available through licensed securities trading companies. Iceland has systematically made its business environment increasingly attractive for investment and location, including a series of tax cuts, which now give Iceland one of the lowest levels of corporate income tax in Europe. The current corporate income tax rate of 20% is one of the lowest tax rates within the OECD member countries.

Until October 2008 no restrictions were imposed in Iceland on buying or selling of foreign exchange. In late 2008 the Icelandic króna (ISK) began depreciating heavily after the banking crisis in Iceland and authorities introduced capital controls. The purpose of the restrictions was to stabilize balance of payments. The currency restrictions were lifted in March 2017.

### 2.1 Investment and Business Environment

Iceland is ranked number 26 in global competitiveness, according to the World Economic Forum for 2019.

According to the report, Iceland's macroeconomic situation is among the best in the world. Iceland continues to benefit from a number of clear competitiveness strengths in moving toward a more sustainable economic situation. These include the country's top-notch educational system at all levels coupled with a relatively innovative business sector that is highly adept at adopting new technologies for increased productivity. Business activity is further supported by an efficient labour market and well-developed infrastructure.

Icelandic economy is robust because of large-scale productions, mainly concerning large-scale industry such as aluminium smelters

Iceland benefits from relatively simple corporate structures and fairly detailed information on companies is publicly available. Iceland does not have an elaborate take-over regulatory code. Most applicable rules are contained in a fairly limited set of provisions in the Companies Act(s), the Financial Statements Act and the Securities Trading Act.

The most exciting investment opportunities in recent years have been found in the IT, tourism, electronics and telecommunications, biotechnology and pharmaceutical sectors.

## 2.2 Investment Incentives

### 2.2.1 New Investments Incentives

Incentives are offered to companies that are investing in commercial operations in Iceland. The Investment projects need to meet requirements, such as being beneficial for the Icelandic economy and society, in terms of job creation, rural development, export and tax revenues and knowledge.

Approved investment projects will receive benefits in return, including reduction of taxes and charges.

The criteria for incentives and application processes are simple and based on Act No. 41/2015 on Incentives for Initial Investments in Iceland. The purpose of the Act is to enhance initial investment, the competitiveness of Iceland and regional development by stipulating which incentives can be granted to initial investment projects in Iceland and how they should be used. However, the Act does not apply to investments in companies which provide services on the basis of legislation on financial undertakings, insurance operation or securities. Furthermore, the Act does not apply to incentives granted to airports or projects regarding energy production.

The relevant minister is authorised to enter into contracts on behalf of the government relating to involvement by the state and, as applicable, municipalities in new investments in Iceland.

Applications for an incentive in respect of a new investment in Iceland shall be submitted to the relevant ministry. The committee on new investment incentive examines applications for incentives and submits recommendations to the relevant minister.

The Act No. 41/2015 on Incentives for Initial Investments in Iceland does not include provisions that provide for the granting of general incentives that fall under the scope of EU Regulation No. 651/2014 (General Block Exemption Regulation). The Regulation was however incorporated into the EEA Agreement by decision of the EEA Joint Committee No. 152/2014 with effect from 1 July 2014 and therefore valid in Iceland as of that date. The government plans to enact rules regarding general incentives on the basis of the EU General Block Exemption Regulation.

Local communities may offer certain further incentives. However, as a member of the EEA, Iceland has access to EU research funds for R&D programmes and joint ventures undertaken with companies from at least one other EEA country.

### 2.2.2 R&D Incentives

Act no 152/2009 provides for a tax-based incentive for R&D projects which have been certified by the Icelandic Centre for Research (Icelandic: Rannís) in order to improve the competitive environment for innovative companies. According to that Act the general rule provides for a reimbursement of 20% of R&D costs, the cost base being capped at ISK 600,000.

Further information in English on support to projects monitored by the Icelandic Centre for Research is available at the following website: <http://en.rannis.is/>

### 2.2.3 Film Reimbursement

Reimbursements are offered for film and TV production costs incurred in Iceland in accordance with Act No. 43/1999 and Regulation No. 622/2012 on Temporary Reimbursements in Respect of Film Making in Iceland. Producers can apply for reimbursements from the State Treasury of 25% of the costs incurred in the production of films and television programs in Iceland. When more than 80% of the total production cost of a motion picture or television program is incurred in Iceland, the reimbursement is calculated on the basis of the total production cost incurred within the EEA. The reimbursement scheme does not cover production of commercials or music videos.

Production costs refers to all costs incurred in Iceland deductible from the revenues of enterprises pursuant to the provisions of the Act on Income and Net Wealth Tax. Payments pertaining to employees and contractors are only to be included in production costs if they are verifiably taxable in Iceland.



### 3 Company Law

LOGOS provides advice to numerous domestic and foreign companies. LOGOS assists in all aspects of company law from establishment of a company to its dissolution. This includes corporate governance, capital structures and corporate financing, assisting in the drafting of corporate documentation, and handling necessary notifications to the Register of Enterprises (Icelandic: fyrirtækjaskrá) and other public authorities.

With the establishment of the European Economic Area through the EEA Agreement between the EU and several of the EFTA states, the EFTA states were, inter alia, required to adopt the various EU Company Law Directives. In Iceland this was done through extensive revision of the former Companies Act and the separation through two different acts between “public limited liability companies” and “private limited liability companies”. Iceland took the course, as often before, to adapt Danish legislation in the area of company law to Icelandic law. This is stated here to emphasise that Icelandic company law legislation conforms to European company law and strongly resembles Danish legislation in the field, Danish law possibly being more familiar to foreign investors than Icelandic legislation.

The most common and economically important type of business in Iceland is the limited liability company (corporation). Other structures are, inter alia, limited partnerships, partnerships, cooperative societies, businesses run by the self-employed and branches of foreign limited companies. Regulation (EC) No. 2157/2001 on the Statute for a European Company (SE), was implemented in Iceland with Act No. 26/2004 on European Companies.

#### 3.1 Limited Liability Companies

There are two types of limited liability companies in Iceland, public and private, regulated by two separate Acts; Act No. 2/1995 on Public Limited Companies and Act No. 138/1994 on Private Limited Companies. These Acts are in line with the requirements of the company law provisions of the EEA Agreement. The Icelandic term for “public limited company” is hlutafélag (abbrev. hf.) and the Icelandic term for “private limited company” is einkahlutafélag (abbrev. ehf.).

Non-residents investing in Iceland have customarily chosen to establish limited liability companies or branches of foreign limited companies (corporations). Limited liability companies are authorized to issue their share capital in a foreign currency, if certain requirements are met. Companies may be permitted by the Register of Annual Accounts to keep their accounts in a foreign currency and draw up and publish their annual accounts in that currency.

Tax considerations have played a large role when choosing a type of business entity. The income tax rate for limited companies and their branches is now 20%, compared to 37,6% for



partnerships. Furthermore, the corporate form offers the benefits of limited liability, while partnerships entail full and unlimited liability for all partners. Foreign public or private limited companies and companies in a corresponding legal form having legal domicile within the EEA, EFTA, OECD or the Faroe Islands may engage in activities with the operation of a branch in Iceland (corporate income tax 20%).

Other foreign limited liability companies and companies in a corresponding legal form domiciled outside the EEA, EFTA, OECD or the Faroe Islands may operate a branch in Iceland, if this is permitted in an international treaty to which Iceland is a party or by the relevant minister (corporate income tax 20%).

Non-resident investors can normally choose between the different legal structures outlined from onwards when establishing a company in Iceland. Investors are also permitted to establish an independent company (or a branch of a foreign incorporated business) or buy shares in Icelandic companies, except in the fields where certain restrictions apply.

New public limited companies and private limited companies must be registered with the Register of Enterprises (Icelandic: fyrirtækjaskrá). Before registration, the founders are liable for all commitments entered into on behalf of the respective company. A completed application to establish a company is generally handled quickly. Private limited companies can be registered online, which takes normally approx. 1-2 days for the Register of Enterprises to process the application. Establishing a public limited company may take approx. seven to ten working days. The registration fee is ISK 256,500 for a new public limited company and ISK 131,000 for a new private limited company.

A public limited company shall have at least two founders. The majority of the founders shall reside in Iceland, but half of them in case the number of founders is even. One or more persons may establish a private limited company. At least one of them must reside in Iceland. The residence requirement does not apply to individuals or legal entities domiciled in an EEA, EFTA or OECD country or the Faroe Islands. Evidence of citizenship and residence must be submitted. No limits are set on the number of shareholders.

A public limited company must have an initial capital of at least ISK 4 million, which has to be paid within one year of registration, and a private limited company at least ISK 500,000 which has to be paid before registration.

When a limited liability company is established, a memorandum of association (charter) must be prepared containing draft articles of association, names and addresses of founders, subscription price of the shares and deadline for subscription and payment of subscribed capital. The draft articles must contain information including the name and location of the company, its

objectives, and share capital, board of directors, legal venue, auditors and financial year. The company must be registered with the Register of Enterprises within six months of the date of the memorandum of association in the case of a public limited company, or two months in the case of a private limited company. An unregistered company can neither acquire rights nor assume duties.

Public limited companies are mainly aimed at seeking capital from a wide number of shareholders among the public at large, for example on the stock market. The minimum stock required for a public limited company is ISK 4,000,000. Other minimum requirements are that the company has at least two founders, at least two shareholders, at least three directors on the board of directors and a managing director. The provisions on branches are similar for both public and private limited companies, except that disclosure requirements for the Register of Enterprises are somewhat stricter with respect to public limited companies.

The term “public limited company” does not entail that the company is publicly traded. Public limited companies that are publicly traded are subject to a number of specific rules in addition to the requirements of the Act on Public Limited Companies. The main rules applicable are the Rules of Nasdaq OMX Iceland for Issuers of Financial Instruments and Act No. 108/2007 on Securities Transactions. The financial statements must be audited by a state authorized public accountant or an audit firm. The audited annual financial statements of a publicly traded company shall be made public within four months from the end of each financial year and sent to the Financial Supervisory Authority at the same time as they are made public. Interim financial statements covering the first six months of the financial year shall be made public and sent to the Financial Supervisory Authority within two months from the end of the relevant period. A company may disclose a management statement, in accordance with law, instead of interim financial statements for the first three and nine months of the financial year.

Rules for private limited companies are simpler than for the public ones. The minimum stock required is ISK 500,000. Other minimum requirements are to have one founder, one shareholder and one director (with one alternative director) in cases where shareholders are four or less. If shareholders are five or more, there is a minimum requirement of three directors. There is no obligation to have a managing director in private limited companies. On their establishment, private limited companies must state whether they have one or more shareholders. In the case of private limited companies with one shareholder, meetings of the board of directors and shareholders are not obligatory. A private limited company cannot be publicly traded unless a conversion of it into a public limited company has taken place prior to listing.

If a limited liability company has more than 50 employees generally on an annual basis, the board of directors must consist of both male and female directors. When there are more than three directors on the board, the ratio between male and female directors must not be less than

40%. The same applies to gender ratios among alternative directors in such companies, but the ratios on the board and the alternative board shall though in total be as equal as possible. Attention shall furthermore be paid to the gender ratios upon the appointment of managing directors.

Act No. 2/1995 on Public Limited Companies also applies to partnerships limited by shares (Icelandic: samlagshlutafélag, abbrev. slhf.). A partnership limited by shares is the type of limited partnership where one or more company members (guarantors) are directly or indirectly in solidum responsible for the company's liabilities, but other company members (shareholders), one or more of them, are subject to limited liability on the basis of contributions forming the company's share capital. Guarantors may also be shareholders.



## 3.2 Branches of Foreign Companies

Notice of the establishment of branches of foreign incorporated businesses with limited liability must be given to the Register of Enterprises. In a notice of the establishment of a branch the following information shall be provided regarding the companies: name; domicile; place of incorporation; legal form; registration number; share capital; object; and board of directors. Information shall furthermore be provided regarding the branch's domicile in Iceland, object, name, identification number and residence of the branch manager, and who will have the right to sign on behalf of the branch or have the power of procuration. The following documents must accompany the notice of the establishment:

- A copy of the memorandum of association (charter) and articles of association of the head office.
- The certificate of incorporation of the head office (issued within three months before the notice of the establishment is given).

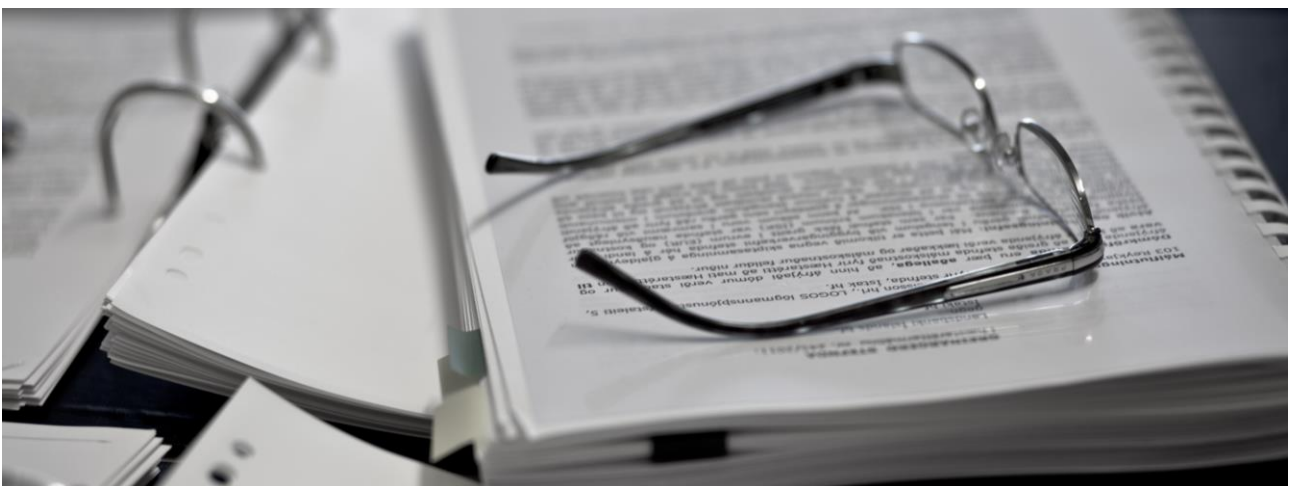
- A letter of representation for the branch manager together with documentation that the branch manager meets the requirements as to residency, citizenship and solvency.
- The financial statements of the head office for the preceding year.

Documentation filed with the Register of Enterprises must be submitted in Icelandic, English, Danish, Swedish or Norwegian, or translated into one of these languages. The notice of establishment must be signed by the branch manager. Registration fee for a branch is ISK 256,500.

### 3.3 Partnerships

A partnership (Icelandic: sameignarfélag, abbrev. sf.) is an association of two or more persons, including individuals, corporations or other legal entities that operate a business as co-owners for profit. Act No. 50/2007 on Partnerships governs the operation of a partnership, but relations between the partners usually require the preparation of a formal set of agreements (bylaws). The tax percentage on those partnerships that pay income tax (some partnerships divide the income and assets between the partners) is higher than for limited companies, at 37.6% instead of 20%. However, distribution of after-tax profits of a partnership is not taxable, whereas after-tax profits of a limited company are taxed at a 22% rate when distributed to individuals or partnership shareholders. Under Icelandic law, partners in a partnership have full and unlimited liability in solidum, which generally means that this is not an attractive choice of form for a foreign investor.

Limited partnerships (Icelandic: samlagsfélag, abbrev. slf.) can be founded and registered in Iceland. There must be at least two members where at least one member of the partnership bears unlimited liability of the partnership's liabilities. Other members may limit their liability to their share contribution. The Register of Enterprises handles registrations of partnerships and limited partnerships. Registration fee for a partnership or a limited partnership is ISK 89,500.



### **3.4 Sole Proprietorships/Self-Employed**

Sole proprietorships are mainly confined to self-employed (sole practitioners) in Iceland and the form is rare for large enterprises. Sole proprietors are taxed on business income and any other additional income (from 31.45% to 46.25%).

### **3.5 Residence Requirements for Board of Directors and Management**

A public limited company must have a board of directors consisting of at least three persons and must appoint at least one managing director. The managing director and at least half of the members of the board must reside in Iceland or be residents and citizens of any other EEA, EFTA or OECD country or the Faroe Islands. The relevant minister may grant an exemption from this restriction.

A private limited company shall have one or two persons on its board of directors if it has four shareholders or fewer; otherwise, the minimum requirement is three persons. In case the board consists of one person then one alternative director shall be appointed. The board may appoint one or more managing directors, and if there is only one person on the board of directors he may also serve as managing director. The managing director and at least half of the members of the board must reside in Iceland or be residents and citizens of any other EEA, EFTA or OECD country or the Faroe Islands. The relevant minister may grant an exemption from this restriction. If there is only one person on the board of directors, he must fulfil the residence qualification.

### **3.6 Annual Requirements for Corporations**

Corporations and registered branches of non-resident entities must file an annual income tax return by the end of May, irrespective of whether or not they have any taxable income. Every limited liability company in Iceland is required to appoint one state authorized public accountant, an audit firm or auditors/inspectors.

### **3.7 Dissolution**

The dissolution of a public or private limited liability company is prescribed in detail in the relevant acts. Shareholders controlling a minimum of two-third of a company's total share capital can take a decision at a shareholders' meeting to the effect that the company shall be dissolved. The private dissolution requires the appointment of a special winding up committee, which publishes a call to creditors in the Legal Gazette. If the company's assets suffice to pay declared debts the remainders of its assets are distributed according to the shareholders decision. Special rules apply for the dissolution of financial undertakings as defined in the Act No. 161/2002 on Financial Undertakings.

## 4 Accounting

Every company resident and operating in Iceland must submit annual accounts that comply with statutory accounting rules and disclosures, and reflect a true and fair view of the company's assets, liabilities, results and financial position. Presentation is modelled upon standard EU requirements.

### 4.1 Statutory Requirements

In 1994, Icelandic legislation on financial statements and consolidated financial statements was brought broadly into line with EU regulations on preparation and presentation of annual accounts for companies and as a result in line with international accounting standards (IAS/IFRS).

Annual accounts should be prepared for most entities and consolidated groups and filed for official purposes (i.e. submitted to the Register of Annual Accounts) within eight months from the end of the financial year. Publicly traded entities shall submit their annual accounts immediately after their approval and no later than four months after the end of the financial year. The books of accounts and records, including source documents and incoming and outgoing correspondence should be retained in Iceland for at least seven years and annual accounts (financial statements) for twenty-five years. However, the documents may be retained at a foreign permanent establishment for up to six months and must be available to Icelandic authorities upon request. The books may be kept in any form, including mechanised and electronic systems, and all methods of tracing transactions between accounts and documentation should be retained. The text of the books must be in Icelandic, Danish or English.

Publicly traded companies are allowed to issue their share capital in a foreign currency. Other limited liability companies with the main part of their income from foreign sources will be able to issue their share capital in a foreign currency on meeting certain requirements. Permission to issue the share capital in a foreign currency and keep books and records in a foreign currency will be handled by the Register of Annual Accounts, which is hosted within the Directorate of Internal Revenue.

The audit requirements are set out in Act No. 3/2006 on Annual Accounts. Many entities are obliged to be audited by state authorised public accountants. Entities, which meet two of the following conditions, do not have to meet the audit requirements except those included in the requirements of other laws regarding points such as travelling, insurance, pension, finance, etc.:

- Average number of man-years in the financial year is less than 50.
- Net annual turnover is less than 400 million ISK.
- Balance sheet total is less than 200 million ISK.

Banks, securities companies, insurance companies, pension funds, travel agencies and publicly traded entities have mandatory audit requirements. Furthermore, publicly traded companies and insurance companies must prepare their financial statements in accordance with international accounting standards (IAS/IFRS). This is in line with the EU Regulation (EC) No. 1606/2002 which has been adopted into Icelandic law.

## **4.2 Accounting Principles and Practices**

In general, financial statements are prepared on principles, which include the concepts of true and fair view, going concern, consistency, prudence, accruals and prohibition of the inclusion of net amounts. Provided that notes are fully disclosed, it is permissible to deviate from these principles if applying them would lead to unfair presentation of the financial statements (regulatory override). The cost principle is a fundamental accounting principle in Iceland.

## **4.3 Financial Reporting**

Annual accounts (financial statements) must include a report by the board of directors, the auditor's report, an income statement, a balance sheet, a cash flow statement or a statement showing application of funds, and explanatory notes. A parent company must prepare and present consolidated financial statements, which meet similar requirements to those governing ordinary financial statements. Comparative figures must be included in the balance sheet, the income statement and the cash flow statement.

The annual accounts should be presented with the audit report at the annual general meeting, which normally is held within three to five months after the balance sheet date and no later than eight months after that date according to corporate law requirements.

Public interest entities and large undertakings, as defined in the Annual Accounts Act, must include in their management report a non-financial statement containing information to the extent necessary for an understanding of the undertaking's development, performance, position and impact of its activity, relating to, as a minimum, environmental, social and employee matters (ESG), respect for human rights, anti-corruption and bribery matters.

## 5 Mergers & Acquisitions

Iceland has no elaborate take-over code. However, several sectors of specific laws contain rules regarding mergers and acquisitions. These laws include the Act on Public Limited Companies, the Act on Private Limited Companies, the Act on Securities Transactions, the Act on Financial Undertakings, the Act on Income Tax and the Act on Competition.

The mentioned acts implement provisions of EU regulations and directives, in accordance with the Icelandic membership in the EEA.

With regard to financing of mergers and acquisitions, it should be noted that according to the company law, a public limited company is generally neither authorised to grant shareholders, directors or managers of the company or its parent company credit nor to place security for them. Such a company may not either grant credit in order to finance the purchase of shares in the company or its parent company, irrespective of whether the parent company is a public or a private limited company. A public limited company may neither contribute funds nor place security in connection with such purchases.



### 5.1 Mergers

Icelandic company law provisions regarding mergers are in principle in conformity with European company law. The provisions of Chapter XIV of the Act No. 2/1995 on Public Limited Companies are based on the Third Company Law Directive 78/855 EEC. The succeeding Directive (EU) 2017/1132 relating to certain aspects of company law has not been adopted into Icelandic law to date but will be incorporated in near future due to Iceland's duties stemming from the EEA Agreement.



In principle Chapter XIV prescribes the following steps when companies merge:

The boards of directors of the merging companies shall jointly prepare and sign a merger schedule which shall contain information and provisions concerning the following:

1. The names and forms of the companies, i.e. whether a name or a conceivable foreign byname shall be maintained as an extra name of the take-over company.
2. The companies' address.
3. Remuneration for the shares in the company which has been taken over.
4. As of which time the shares which are conceivably handed over as payment grant the right to dividend and special conditions pertaining to that right.
5. Which rights in the take-over company are obtained by conceivable owners of shares and bonds with special rights in the company which is taken over.
6. Other conceivable arrangements for the benefit of the owners of the shares and bonds referred to in clause 5.
7. Delivery of share certificates in respect of shares delivered in lieu of payment.
8. As of which time-limit the rights and duties of the company which has been taken over shall in terms of accounting be considered to have ceased.
9. Some special emoluments which directors, managers and members of a representative committee, assessors and supervisory parties of the companies enjoy.
10. Draft articles of association if a new Company is to be formed upon the merger.

The merger schedule shall also contain a statement prepared by the boards of each of the companies where the merger schedule is explained and substantiated. The statement shall deal with the economic and legal reasons forming the basis of the merger schedule as well as the determination of remuneration for the shares, including specific difficulties in connection with the decision. Furthermore, in each individual merger company one or more impartial specialist assessors shall render a report on the merger schedule.

After this documentation has been completed and the merger plan has been signed by the boards, the official merger process commences through notification to the Register of Enterprises. If a merger is not notified within a month from time it's legal effects materialise, the merger is considered terminated. Shareholders' meetings in the company to be overtaken take the necessary decisions and so does the board of the take-over company, unless further changes in the articles of association are made than as regards the name of the company.

The rules regarding mergers of private limited companies are prescribed in chapter XIV of the Act No. 138/1994 on Private Limited Companies. The rules are a simplified version of those described above, albeit very similar. When a public limited company merges with a private limited company the rules in the Act on Private Limited Companies are applied.

The mergers of financial undertakings as defined in the Act No. 161/2002 on Financial Undertakings, are subject to special rules and an authorisation from the Financial Supervisory Authority. Special rules apply for the disclosure of information regarding mergers of publicly traded companies listed on NASDAQ OMX Iceland. Those rules in addition to provisions regarding take-over bids are set in the Act No. 108/2007 on Securities Transactions.

Only share-for-share mergers are tax-free under Icelandic tax law. The use of operating loss carry-forwards is only allowed if the merger is made for a legitimate business purpose.

Mergers must be reported to the Competition Authority if they involve undertakings whose combined turnover in Iceland will amount to ISK 3 billion or more and at least two of the undertakings involved in the merger have a minimum annual turnover in Iceland of ISK 300 million each. The turnover shall be determined based on the preceding fiscal year, or, as applicable, the 12 months preceding the merger, and include the turnover of the parent undertakings and subsidiaries of the undertakings involved in the merger, undertakings within the same group of undertakings, and the turnover of undertakings directly controlled by parties to the merger. The Competition Authority may annul a merger, or set conditions for a merger, if the Competition Authority believes that the merger will prevent effective competition by bringing about or strengthening a dominant position.

Further information on merger control of competition authorities in Iceland may be found in Chapter 10.3.3.

## **5.2 Provisions Concerning Takeover Bids**

Provisions concerning take-over bids are in Act No. 108/2007 on Securities Transactions. The provisions of the act apply to take-over of a limited-liability company, which has had one or more classes of its shares listed on a regulated securities market in Iceland (i.e. publicly traded companies listed on NASDAQ OMX Iceland).

If a party has, directly or indirectly, gained control of such a company, the party acquiring rights to the shares must, no later than four weeks after the take-over, make a take-over bid to other shareholders in the company, i.e. a bid to purchase their shares in the company. "Control" shall mean that the party concerned and any parties acting in concert with that party:

1. have acquired a total of at least 30% of the voting rights in the company or a comparable portion of its share capital;
2. have the right, on the basis of an agreement with other shareholders, to control at least 30% of the votes in the company; or

3. have acquired the right to appoint or remove a majority of members on the company's board of directors.

A bidder must prepare a summary of the bid in accordance with the provisions of the act. The price offered in a take-over bid, must correspond at least to the highest price which the bidder has paid for the shares acquired over the past six months prior to making the bid. The bid must, however, be at least equal to the latest transaction price for shares in the undertaking in question the day before the mandatory bidding obligation arose or notification was given of the proposed bid. Payment for the bid can only be offered in cash, in shares conferring voting rights or both. The bid must be valid for at least four weeks and for a maximum of ten weeks.

The Financial Supervisory Authority may grant exemptions from mandatory bids if special circumstances so warrant.

A bid which has been made public cannot be revoked except for reasons of force majeure. A voluntary bid (i.e. a bid that has not triggered the mandatory bid obligation as provided for in the act) may however be revoked, subject to certain conditions in the act. The conditions are:

1. another bid which is comparable or more favourable than the take-over bid is advanced;
2. a condition to which the bid is subject, and which is specified in the bid summary, has not been fulfilled;
3. the company at which the take-over bid is directed increases its share capital; or
4. other special circumstances favour revoking the takeover bid.

The Financial Supervisory Authority shall approve the revocation of a bid. The revocation of a bid must be made public.

An offeror must notify the regulated market in question of any decision on a bid without delay. The regulated market must make the notification public. The bid shall furthermore be presented to the employees of the undertakings in question.

The act also includes provisions that apply to the summary of a bid, which must be prepared and made public in connection with a take-over bid and sale. A summary of a bid must include, among other, basic information about the "target company", the bidder, information as to the amount of voting rights, influence or shares which a bidder has already acquired, directly or indirectly, or secured by other means, as well as the estimated voting rights, influence or shares of the bidder following the sale, if applicable. The summary must also address the price upon which the bid is based and how it will be paid. Also included shall be a summary by the bidder of future plans for the company.

A summary of a bid must be published in one or more daily newspapers issued in Iceland no later than four days prior to the entry into force of the bid, provided that the approval of the Financial Supervisory Authority for the summary of the bid has been obtained.

Icelandic company laws allow for various techniques that can be used as an anti-take-over mechanism. This includes for example that:

- a) A company may have different classes of shares.
- b) The articles of association may limit the voting rights.
- c) The articles of association may also grant rights of first refusal (purchase options) before a sale of shares to any third party.
- d) The shareholders' meeting can grant an authority for the company to acquire own shares within lawful limits.

All shares are freely transferable unless the articles of association provide otherwise.

### **5.3 Redemption**

A shareholder owning more than nine-tenths of stock in a limited company and controlling the same proportion of votes may jointly decide with the board of directors to redeem the holdings of other shareholders. If one shareholder owns more than nine-tenths of stock in a company and controls the same proportion of votes, any of the other minority shareholders may insist on their shares being redeemed. If a company's articles of association do not stipulate how to determine the buying price of shares and no agreement can be reached, specialists appointed by a lower court value the shares.



## 6 Tax

The Icelandic tax system is relatively simple and effective. Iceland has valid tax treaties with 45 states as of January 2021.

Tax Rate:

- Limited liability companies pay 20% income tax.
- Registered partnerships for tax purposes with unlimited liability pay 37,6% income tax.
- Individuals without business income pay from 31.45% to 46.25% income tax, depending upon which bracket their income enters, but due to a personal allowance, the effective rate is lower.

### 6.1 Liability for Tax

Individuals are deemed to be residents of Iceland for tax purposes if they reside in the country and are registered in the national registry of persons or remain in the country for a period of six months or more over a 12-month period.

Non-resident persons are subject to tax on income from certain Icelandic sources, including but not limited to salaries, wages and pensions paid from Icelandic sources, income derived from business carried out in Iceland and from real property, income from shares and interest income. According to domestic rules, non-resident individuals staying in Iceland for longer than 183 days over a 12-month period are subject to tax on their worldwide income.

Non-resident companies and other entities are subject to tax on their income from Icelandic sources at differing rates depending on type of income and nature of the non-resident, prior to consideration of relief if available under double taxation treaties.

Withholding tax rates on payments to non-residents are 20% on dividends paid to companies and 22% on dividends paid to individuals, and 22% on royalty payments to companies and individuals. In addition, municipal income tax is levied on royalties paid to non-resident individuals at the average rate 14.45% for the income year 2021. Individuals are entitled to a personal tax credit in direct proportion to the days they reside in Iceland. Interest paid to non-resident companies and individuals is subject to 12% withholding tax. However, interest payments of ISK 150,000 are tax-free for individuals.

## 6.2 Resident Corporations

The calendar year is the default fiscal year for all taxpayers, but on application, a corporate taxpayer may be granted a different fiscal year if this can be justified on special grounds.

Each entity is taxed separately. However, tax consolidation of a parent with a subsidiary can be applied for, if one company owns at least 90% in another company for a full fiscal year, and this will be binding for the following five years. Consolidation means, inter alia that losses of one company can be set off against profits of the other companies. Such an application shall be made in writing and sent to the relevant tax directorate. Consolidation may not be extended to non-resident companies.

The definition of taxable income is wide and all inclusive.

### 6.2.1 Dividends and Capital Gains from the Sale of Shares

A 22% withholding tax is withheld at source for dividend payments both to individuals and resident corporations, and as regards resident corporations it is considered a prepayment for regular income tax payable after assessment. An individual shareholder, who is resident in Iceland and receives dividends, pays 22% withholding tax, which is withheld at source by the company paying out the dividends. The tax liability of a non-resident shareholder depends on whether he is treaty-protected or not. In the absence of tax treaties, the domestic tax rules apply.

Limited liability companies enjoy an effective participation exemption that is achieved by allowing them a deemed deduction in the same amount as dividends or capital gains received.

### 6.2.2 Operating Expenses

Operating expenses are fully deductible in the year in which they are incurred. In general, allowable expenses are those incurred for the purpose of earning income, including salaries and all other staff expenses, rent, advertising expenses and maintenance. Most current expenses are deductible as operating expenses. Research and development costs, including market research costs, may be deducted in full in the year they are incurred, or depreciated over a five-year period. The same applies to lawyers' and accountants' fees incurred in establishing or expanding an enterprise.

Operating loss, carry-forwards, may be carried forward to the succeeding ten years. Carry-backs are not permitted.

### 6.2.3 Transfer Pricing

The Icelandic transfer pricing rules are subject to the arm's length principle. Documentation requirements only apply in case of cross border transactions although proof of a transaction being arm's length can also be required in case of domestic transactions.

### 6.2.4 Controlled Foreign Corporations

Iceland tax law contains CFC provisions aimed towards Icelandic tax residents, individuals and companies, who have a controlling interest in a foreign company, fund or an institution located in a low tax jurisdiction. A low tax state is considered any state that levies taxes that are 2/3 lower than what Iceland would levy on the same income. The foreign profit is taxed in the hands of the Icelandic tax residents regardless of distribution of the profit and the tax base is calculated according to Icelandic rules regarding taxable income and deductible expenses.

There are two main exemptions from the CFC legislations. That is if there is a tax treaty between Iceland and the low tax jurisdiction and the foreign company has mainly other income than passive income or if the foreign company is established in the EEA, EFTA or the Faroe Islands and is engaged in an actual business or industrial activity and the Icelandic tax authorities are able to collect all necessary information on grounds of a tax treaty in place.

### 6.2.5 Thin Capitalization

Icelandic tax law does not include specific rules concerning thin capitalization of corporations.



### **6.3 Taxation of Foreign-Source Income**

Dividends and capital gains received by an Icelandic company from shares in another company are subject to the same effective participation exemption as domestic dividends and capital gains, if the company paying out the dividends is subject to similar taxation in its home country and the income tax rate applicable to the profits of the foreign company is not lower than the income tax rate of any member country of the OECD, EEA, EFTA or in the Faroe Islands. No credit is granted for underlying company tax paid in a foreign entity.

Other income from foreign sources is subject to tax in Iceland while relief is allowed in the form of tax credit if such income is taxed by another state.

### **6.4 Non-Resident Companies**

Non-resident companies are subject to Icelandic income tax on Icelandic dividends, royalties and profits from Icelandic permanent establishments (branches), and from real estate unless the relevant tax treaty states otherwise.

Dividends paid to non-resident companies are subject to a withholding tax of 20% and royalties 22%.

Profits from permanent establishments are subject to corporate income tax at the rate of 20% or 37,6% depending on the type of entity operating the permanent establishment.

No withholding tax or "branch profits tax" is imposed on the remittance of profits from an Icelandic permanent establishment of a foreign corporation. Branch profits can, therefore, be repatriated with no tax consequences.

Branches must file tax returns providing information concerning their taxable income and expenses as well as their assets and debt.

According to domestic income tax legislation, capital gains on disposals of the assets of an Icelandic permanent establishment are taxable in Iceland. Capital gains derived by non-residents from disposals of Icelandic shares or bonds are also subject to Icelandic income tax (20% for companies, 22% for individuals). The rate for gains pertaining to real estate located in Iceland is 20% for individuals and companies.

### **6.5 Taxation of Individuals**

Taxable income of individuals is divided into ordinary income and capital income, and different rates apply. A standard personal allowance is used against ordinary income, and the employee's 4-8% pension fund contribution is deductible. Other tax-based benefits are in the form of



compensation for interest incurred on loans taken to purchase a residence for private use, and child support, both of which are income-related.

The tax period for individuals is the calendar year.

The national income tax rate for 2021 is 17% for income up to 349,018 ISK a month, 23.50% for income between 349,019 – 979,847 and 31,8% for income over 979,847 ISK. The municipal income tax rate may vary from 12.44% to 14.52% between municipalities, the average rate in 2021 being 14.45%, which makes a total rate of 31.45%, 37.95% and 46.25%. Income tax is paid as the income is earned and is withheld at a source by the employer.

Capital income earned by individuals, such as interest, dividends, rental income and capital gains, is subject to a tax at a flat rate of 22%. Capital gains are not taxed on the sale of residential housing if owned and used by the owners for more than 2 years and rental income from residential housing benefits from a 50% discount of the tax base.

## **6.6 Indirect Taxes**

A 24% value-added tax is levied on any sale of goods, power or services with various exemptions. Among the exempted categories are the following:

- All export sales.
- Public health-care services.
- Schools and other educational institutions.
- Scheduled domestic and international passenger transportation and cargo transport between Iceland and foreign countries.
- Postal services.
- House rentals and sales and rentals of trade aircraft and vessels.
- Insurance services.
- Banking and the operation of other financial institutions and sales of bonds.
- Services to foreign entities if the services are rendered outside Iceland, or if the operations of the non-resident company would be liable for VAT under the Icelandic VAT Act.

An 11% value-added tax is levied on the sale of the following goods and services (the list is not exhaustive):

- Food
- Hotels and other accommodation.
- Access to spas
- Licences for television and radio stations.

- Sales of books.
- Hot water, electricity and fuel oil used for domestic and commercial heating.
- Road tolls.
- Domestic transportation.
- Guides
- Travel agencies when rendering services subject to 11% value-added tax.
- Sales of condoms, disposable and multi-use diapers.

The employer pays a social security fee that is assessed on all salaries and wages on a monthly basis. It is also calculated on taxable fringe benefits in kind such as a company car and housing.

Excise duties are levied on goods, new and second-hand, which are imported from abroad or manufactured, processed or packed in Iceland. There is no excise duty on exports.

## 6.7 Local Taxes

Land and property taxes at nominal rates are paid to the municipal authorities; the rates vary between municipalities and also in regard to use of the property at issue. The principal fees are those on property, use of cold water, waste disposal and other such basic services provided by the municipalities.

Iceland does not share the Scandinavian tradition of extensively using environmental taxes to internalize externalities. Iceland raises relatively little revenue from environmentally related taxes (8.76 percent of GDP in 2020). Indeed, such taxes have been especially low in the area of transportation and energy. In 2010, however, Iceland introduced a number of new environmental taxes. Moreover, it reformed existing taxes to better reflect environmental externalities. Charges are made for recycling of certain types of waste at public collection stations.



## 7 The Financial Sector

The Icelandic financial sector's framework is based on EU Directives. Icelandic legislation in this field has undergone extensive revisions in the past decades. The main acts to be considered in this regard are Act No. 161/2002 on Financial Undertakings, Act No. 115/2021 on Markets in Financial Instruments, Act No. 116/2021 on Undertakings for Collective Investment in Transferable Securities (UCITS) Investment Funds and Professional Investment Funds, Act No. 45/2020 on Alternative Investment Fund Managers and the Act No. 56/2010 on Insurance Activities.

LOGOS is involved in all aspects of legal advice related to the financial sector including advice in relation to securities listings, investment companies and funds, domestic and international project financing, acquisition and asset financing, major loan transactions, security documentation, derivative transactions, insurance business and insurance litigation.

### 7.1 Nasdaq OMX Iceland

Presently, Nasdaq OMX Iceland (Icelandic: Kauphöll Íslands) is the only licensed stock exchange in Iceland. Nasdaq OMX Iceland is a part of Nasdaq Nordic that consists of four local stock exchanges in Denmark, Sweden, Finland and Iceland, each individually supervised by local Financial Supervisory Authorities. The four exchanges are separate legal entities in different jurisdictions.

Trading on Nasdaq OMX Iceland is carried out, in accordance with Act No. 115/2021 on Markets in Financial Instruments.

Nasdaq CSD SE, Icelandic Branch (NCSDI), operates a central registry and depository for dematerialized securities, and effects transfer of title to them. In the wake of the Icelandic Parliament's passing of a bill on the implementation of CSDR in Iceland, Nasdaq CSD Iceland merged with the Baltic situated Nasdaq CSD in 2020, thereby easing foreign investors' access to the market through more standardized settlement and custody procedures in accordance with international requirements. Trades in dematerialized securities executed on Nasdaq Iceland are cleared and settled through the NCSDI.

All trading related to dematerialised securities must be notified to the securities depository through authorised account operators. It is possible for a holder of securities to have several accounts and to deal through several account operators.

Registration in Nasdaq CSD Iceland constitutes a conclusive evidence of title. Any other rights attached to a listed security, including any form of charge or pledge, must also be registered in order to be enforceable against third parties.

Trading is carried out by the Nordic Saxess trading systems, but in order to ensure that share prices take account of all trades, traders are required to notify all trades even if effected outside the various trading systems. Such trades are to be notified within strict time limits, that is within 5 minutes following the trade.

Before shares can be listed on Nasdaq OMX Iceland the issuer must submit a prospectus in accordance with EU directives. The issuing of a prospectus is dependent upon the Financial Supervisory Authority's approval. A prospectus must contain all the information necessary for investors to form an opinion of the issuer, its securities and their value.

The listing of securities entails on-going disclosure requirements for the issuer. The aim of disclosure requirements is to ensure that investors have, at all times, access to the up-to-date information necessary to form an opinion of the investment choices currently offered. A company whose shares have been admitted to trading shall ensure that all market participants have simultaneous access to any price-sensitive information about the company. The company is also required to ensure that the information is treated confidentially and that no unauthorised party is given such information prior disclosure.

The estimated market value of a share class for which a listing is sought on Nasdaq OMX Iceland, shall be a minimum of EUR 1 million. The distribution of ownership of a share class shall be such that at least 25% of the shares and voting rights are owned by general investors. The holdings of general investors shall be distributed among many shareholders. An applicant for listing must be able to provide audited annual accounts for three complete years, 3 x 12 months, covering all the principal aspects of operations pursued by the company at the time application for listing is made.

## **7.2 Regulatory Framework**

The legal framework controlling activities of Icelandic financial undertakings is based on European Union (EU) Directives. Icelandic legislation in this field has undergone extensive revision in recent years to bring it into line with legislation of other member states of the European Economic Area (EEA). Act No. 115/2021 on Markets in Financial Instruments implemented the MiFID II directive, Act No. 60/2021 implements the Market Abuse Regulation, Act No. 55/2021 implements the PRIIPS Regulation, Act No. 20/2021 implements the Transparency Directive, Act No. 14/2020 implements the Prospectus Regulation and Act No. 7/2020 implements the Central Securities Depository Regulation (CSDR). In addition,

preparation towards the implementation of the EU's Taxonomy Regulation and Sustainable Finance Disclosure Regulation is underway.

### **7.3 Financial Undertakings and Insurance Undertakings**

According to the Act on Financial Undertakings No. 161/2002, only licensed financial institutions are permitted to act as intermediaries (brokers, dealers, and investment advisors). Non-Icelandic firms must be authorised securities dealers in their home country in order to obtain a license to operate in Iceland. The Financial Supervisory Authority supervises the activities of financial institutions that qualify to act as intermediaries in securities trading.

Iceland has implemented most of the EU directives regarding financial undertakings. Accordingly, the Financial Supervisory Authority has extensive authority over such entities.

A foreign financial undertaking, which is established and licensed to operate in another member state of the EEA (including Switzerland and Faroe Islands subject to certain requirements), may establish a branch in Iceland two months after receipt by the Financial Supervisory Authority of notification of the proposed activity from the competent authority in the undertaking's home state.

Foreign financial undertakings domiciled in another member state of the EEA (including Switzerland and Faroe Islands subject to certain requirements) may conduct their business in Iceland as cross-border activity without establishing a branch subject to notification to the Financial Supervisory Authority, or in the case of an undertaking domiciled outside the EEA, subject to the Financial Supervisory Authority's authorisation.

According to Act on Insurance Activity, foreign insurance undertakings, which are headquartered in another member state of the EEA and which have obtained an operating licence from the supervisory authorities concerned may establish a branch in Iceland, provided they are authorised for insurance activities in the same insurance classes and sub-classes in their home state, within two months after receipt by the Financial Supervisory Authority of required documentation regarding the proposed activity from the competent authorities in the undertaking's home state.

Foreign insurance undertakings, which are headquartered in another member state of the EEA and which have obtained an operating licence from the supervisory authorities concerned may conduct insurance business in Iceland as cross-border activity without establishing a branch, provided they are authorised for insurance activities in the same insurance classes and sub-classes in their home state, subject to notification to the Financial Supervisory Authority and submission of required documentation.

Foreign insurance undertakings headquartered outside the EEA, which hold operating licences for insurance activities in their home country, can obtain authorisation from the Financial Supervisory Authority to operate business activities in Iceland through a branch, provided Icelandic insurance undertakings enjoy rights no less favourable in their home country. Authorisation in this regard is subject to a number of further requirements and the condition that the undertaking must be registered in Iceland and must appoint one general agent (a resident of Iceland), approved by the Financial Supervisory Authority who shall represent it in questions concerning its activities and be authorised to obligate the undertaking concerning its activities in Iceland.

## **7.4 Supervision**

Fjármálaeftirlitið (FME) has since 1999 been solely responsible for supervision of financial activities in Iceland. The Central Bank of Iceland took over the operations of FME in the beginning of 2020. The operations of FME continue within a so called "fjármálaeftirlitsnefnd" (e. committee of financial supervision) and kept separate from other operations of the Central Bank. The purpose of the merger was, inter alia, to ease and increase access to relevant information.



## **8 Distribution & Agents**

### **8.1 General**

Distribution of products may take various forms, which all have different legal consequences as to the rights and obligations of each party for the performance of the agreement but also in case of termination of such agreement.

Traditionally a distinction is made between two distinct categories of intermediaries: agents and distributors, both of which include subcategories (e.g. the commercial agent is a specific type of agent). Unfortunately, in Iceland like in many other countries, the terms “agent” and “distributors” are often used for one another and one should therefore not attach too much importance to the utilised terms (even in written agreements) and always look at the facts instead, which reveal the exact nature of the relationship.

From a strict legal point of view, the major difference is that an agent acts on behalf of the producer while a distributor sells goods purchased from the producer in his own name and for himself, and therefore bears the legal and financial risks of the good.

Standard restrictions apply in Iceland on the import of live animals, firearms, dangerous substances, pharmaceuticals, etc. Similarly, special procedures and documentation are required for exports in these categories.

### **8.2 Agency**

Iceland has transposed the EU Directive on self-employed commercial agents (86/653/EEC). The Icelandic Act No. 103/1992 on Commission Sales Transactions closely reflects the Directive and therefore protects the agent with a series of imperative dispositions, which the parties may not waive before the expiry of the agreement. However, the agent will only be able to benefit from such legal protection in Iceland if the agency agreement is in writing. If the agreement is verbal, general principles on the sales of goods, including the rules applicable to distribution agreements (see section below) may apply.

The main features of the Icelandic law on agency agreements are:

- a) A right to reasonable commission for the agent, with reference to common practices or the type of transactions concerned and when the agent is entitled to such commission (e.g. in case of termination);
- b) Rules for the conclusion and the termination of the agreement, including the minimum notice period to observe, depending on the duration of the agreement.

If the agreement is concluded for an undetermined period, the terminating party will have to give one-month notice per year of contract, with a maximum of six months. If the parties agree on a longer termination notice, then the principal may not commit to a shorter notice than the agent.

- c) Criteria to determine the indemnity due to the agent in case of termination by the principal, which is not due to the agent's, gross fault and provided the indemnity is claimed within one year of termination.

Iceland has opted for the system of the termination indemnity proposed by the Directive. The agent is entitled to such indemnity if he has brought the principal new customers or has significantly increased the volume of business with existing customers and the principal continues to derive substantial benefits from the business with such customers. All circumstances must be considered, in particular the commission derived from business with said customers and the existence of a trade restriction clause in the agreement. The amount of the indemnity may in no event exceed the equivalent of one year of remuneration calculated from the agent's average annual remuneration over the preceding five years if the agreement lasted for more than five years. If the agreement lasted for less than five years, then the indemnity is calculated on the average of the period in question.

- d) Conditions of trade restrictions (non-competition).

The parties may agree on restrictions to the agent's business after expiry or termination of the agency agreement, provided that such agreement is in writing, limited to the territory or group of customers as well as to the type of goods and services concerned in the agreement and that it does not last for more than two years.





### 8.3 Distribution

In Iceland, the status of distributors is not regulated by a specific legislation, save for applicable EU and local competition law. Therefore, general principles of law and case law regarding the supply of goods apply. The courts may also apply the law on agency agreements to the distribution on an analogous basis.

Hence, it is recommended, that the parties negotiate and specify all terms and conditions applicable to their relationship in a written agreement, especially regarding termination, including termination notice and whether or not the distributor is entitled to an indemnity or a compensation for loss of revenues further to termination by the supplier and the criteria applicable to calculate such indemnity or compensation.

In this respect, the Directive on self-employed commercial agents may be of use. In any case, the distributor will have to provide evidence that the termination is damaging to him and all specificities of the business relationship, such as profit over the past years, costs incurred, stock value, etc., will have to be taken into consideration to calculate the indemnities.

In this respect, the current trend in Iceland is to grant the distributor shorter notice period or smaller amounts as compensation or indemnities, than in the past, a six-month notice period being considered as the maximum in case of termination of a long-lasting relationship.

As pointed out above, special attention should be paid to EU and local competition law constraints with respect to distribution agreements, in particular when the distribution agreement contains exclusivity and non-competition clauses.



## 9 Environmental Law

Icelandic environmental legislation is heavily influenced by EU environmental law and policy through the EEA Agreement and as a result it can be assumed that most of relevant EU legislation will be applied in Iceland. However, certain supplementary national rules will presumably apply, depending on the issue. All environmental legislation is administered by local authorities under the supervision of the Ministry for the Environment and Natural Resources. Even though Iceland is relatively pollution-free, due to its sparse population, distance from major sources of pollution and the use of renewables as the main source of energy, curbing pollution is an important task for Icelandic environmental authorities. Major legislative and structural improvements have taken place in recent years regarding waste management and sewage, which is likely to continue in the near future. Iceland has ratified the Kyoto Protocol and has adopted a national implementation strategy to meet the emissions limits for greenhouse gases set in the Protocol.

Iceland ratified the Paris agreement in 2016. The government announced in 2017 that Iceland would aim to be carbon neutral by 2040.

Many acts and regulations can be found on the Ministry's website (<http://eng.umhverfisraduneyti.is/>) or on the Environment Agency's website (<http://ust.is/the-environment-agency-of-iceland/>).

The Environment Agency's undertakings include the following:

- Information and advice for the public, businesses and regulatory authorities.
- Monitoring of environmental quality.
- Evaluation of environmental impact assessment and development plans.
- Operation supervision, inspection, operating permits, etc.
- Conservation: the management and supervision of designated protected areas.
- Assessment of conservation effects and registration of unique nature sites.
- Risk analysis.
- Wildlife management.
- Collaboration in Scandinavian, other European and international agreements/projects.
- Eco-labelling.
- Processing applications for approval of pesticides and issuing market authorisations.
- Wildlife conservation.
- Labelling and handling of toxic as well as other hazardous substances.
- Health and safety in public places.
- Coordination of local health inspectorates.
- Genetically modified foods (GMF).

## 10 Competition Law

### 10.1 Scope

The Icelandic Competition Act No. 44/2005 (“the Competition Act”) applies to any economic operation, including manufacturing industry and trade in goods and services, irrespective of whether such operation is conducted by individuals, companies, public parties or others. Economic operations are defined as any commercial activity, irrespective of form of ownership and irrespective of the nature of the goods, services or rights exchanged or managed for a consideration. The scope of the Act is however limited to agreements, terms and actions which are intended to have an effect in Iceland.

The Act harmonizes Icelandic competition law with EEA competition law. Article 10, which prohibits anticompetitive agreements, resolutions and concerted practices, is comparable to Article 53 of the EEA Agreement and Article 101 of the Treaty on European Union. Article 11, which prohibits the abuse of a dominant position, is comparable to Article 54 of the EEA Agreement and Article 102 of the Treaty on European Union. The merger control regime prescribed in Articles 17-17 g is based on similar principles as the EC Merger Regulation. These Articles and other pertinent provisions of the Act will be detailed further in specific chapters.

An unofficial English translation of the Competition Act is available on the Competition Authority’s website (<http://en.samkeppni.is/>).

### 10.2 The Icelandic Competition System

The Minister of Tourism, Industries and Innovation is in charge of the implementation of the Competition Act. However, day to day administration of matters within the sphere of the Act is performed on behalf of the Minister by the independent administrative authorities, the Competition Authority (Icelandic: Samkeppniseftirlitið) and the Competition Appeals Committee (Icelandic: Áfrýjunarnefnd samkeppnismála).

The Competition Authority has the main function of investigating and is the decision-making body when it comes to possible breaches of Competition Law. The Competition Authority’s decisions may be appealed to the Competition Appeals Committee. The Competition Appeals Committee is composed of three members appointed by the Minister of Tourism, Industries and Innovation following a nomination by the Supreme Court.

A party not willing to accept the ruling of the Competition Appeals Committee may bring legal action before the Icelandic courts, requesting its annulment.

Decisions and opinions of the Competition Authority and the rulings of the Competition Appeals Committee are made public, in Icelandic, on the Competition Authority's website. The judgements of the district courts of Iceland and the Court of Appeal are made public on their websites, [www.heradsdomstolar.is](http://www.heradsdomstolar.is) and [www.landsrettur.is](http://www.landsrettur.is), respectively, and the judgments of the Supreme Court of Iceland are made public on the court's website, [www.haestirettur.is](http://www.haestirettur.is).

### 10.3 Provisions of the Competition Act

#### 10.3.1 *Anticompetitive Arrangements Between Undertakings*

Article 10 of the Competition Act prohibits any agreement or resolution between undertakings, whether binding or guiding, and concerted practices which have as their object or effect the prevention, restriction or distortion of competition. Article 12 of the Competition Act extends this prohibition to associations of undertakings.

The prohibition includes i.e. agreements, resolutions and concerted practices. These concepts have very loose and agile definitions, with concerted practices being the widest reaching. It can for example cover an understanding between undertakings, without entering into an agreement, of coordinated behaviour on a market that restricts or distorts competition.

Examples of prohibited behaviour are provided in Article 10, but this recitation is not exhaustive. The prohibition according to Article 10 includes any agreements, resolutions and concerted practices which:

- a) directly or indirectly fix prices, discounts, margins or any other trading conditions;
- b) limit or control production, markets, technical development, or investment,
- c) share markets or sources of supply;
- d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Other agreements or practices which are likely to be caught by the prohibition include resale price maintenance, "freezer" exclusivity, exchange of market and business information, bid rigging, excessive non-compete clauses and exclusivity clauses in vertical agreements.

The scope of Article 10 is subject to the de minimis rule in Article 13. It is limited to undertakings holding a 5% market share in arrangements between horizontal undertakings, and a 10% share in vertical arrangements.

It should be noted that Article 13 does not apply where in a relevant market the cumulative effects of similar agreements in the market restrict competition.

Undertakings can assess if an exemption from the prohibition of Article 10 applies. The relevant undertakings evaluate whether the arrangements between undertakings meet the following requirements set in Article 15. The main conditions are that such arrangements:

- a) contribute to improving the production or distribution of goods or services or promote technical or economic progress;
- b) allow consumers a fair share of the resulting benefit;
- c) do not impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives; and
- d) do not afford such undertakings the possibility of eliminating competition in respect of substantial part of the products or services in question.

In addition, the Competition Authority has laid down rules on the granting of exemption from the provisions of Articles 10 and 12 to certain categories of agreements that satisfy the requirements detailed above. These main rules are: No. 927/2010 on group exemption regarding categories of vertical agreements and concerted practices, No. 1274/2012 on group exemption regarding categories of research and development agreements, No. 1275/2012 on group exemption regarding categories of specialization agreements, and No. 621/2016 on group exemption regarding certain categories of technology transfer agreements. Undertakings that meet the conditions detailed in the rules do not have to apply for an individual exemption to escape the prohibition of Article 10. These rules are identical to the relevant EEA block exemptions.

### 10.3.2 *Abuse of a Dominant Position*

Article 11 of the Competition Act prohibits any abuse of a dominant position by one or more undertakings.

In order to determine whether an undertaking has a dominant position in a certain market, it is necessary to define the relevant market with regard to products and/or services substitutability and the relevant geographic area. Substitute commodities or services are commodities or services that may, completely or to a significant extent, take the place of other commodities or services.

A dominant position is defined in the Act as a position of economic strength enjoyed by an undertaking that enables it to prevent effective competition being maintained on the relevant market by giving it the power to behave to an appreciable extent independently of its competitors, customers and consumers. The most important factor in determining dominance in

the undertaking's market share is the economic strength of its competitors and barriers to entry in the relevant market.

Examples of prohibited behaviour are provided in Article 11, but this recitation is not exhaustive. Abuse may consist of unfairly high or low pricing, predatory pricing, price discrimination, tying and exclusive contracts.

### 10.3.3 Merger Control

Under Article 17 of the Competition Act and Section 2 of the Merger Rules No. 1390/2020 ("the Merger Rules"), a merger according to the Competition Act is regarded as having taken place where a change of control on a lasting basis results from:

- a) the merger of two or more previously independent undertakings or parts of undertakings;
- b) an undertaking taking over another undertaking;
- c) the acquisition, by one or more persons already controlling at least one undertaking, or by one or more undertakings, whether by purchase of securities or assets, by contract or by any other means, of direct or indirect control of the whole or parts of one or more undertakings;
- d) the creation of a joint venture performing on a lasting basis all the functions of an autonomous economic entity.

The term control, which is referred to in section c) above is further defined in Article 17 of the Act and Article 3 of the Merger Rules. According to it, control shall be constituted by rights, contracts or any other means which, either separately or jointly and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:

- a) ownership or the right to use all or part of the assets of an undertaking;
- b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking.

Control is acquired by persons who:

- a) are holders of rights or entitled to rights under the contracts concerned; or
- b) while not being holders of such rights or entitled to rights under such contracts, have the option to exercise such rights.

It must be stressed that it does not matter whether it is likely that this influence will be exercised. The mere possibility of such an influence being used is sufficient to fall under Article 17.

The notifications of mergers that fulfil certain thresholds prescribed in the Act are mandatory.

The thresholds for notification are twofold. A merger must only be notified if they are both met. Firstly, the total turnover in Iceland of the undertakings in question must be ISK three billion or more. The turnover of parent undertakings and all undertakings within the same group of undertakings and other undertakings that are under the control of the merging parties either directly or indirectly, are included in this calculation. Secondly, at least two of the undertakings that are parties to the merger must have an annual turnover in Iceland of at least ISK 300 million each.

In addition, if the turnover of merging undertakings exceeds ISK 1,5 billion, the Competition Authority can request a merger notification.

The Competition Authority shall be notified of a merger before it takes effect but after the conclusion of an agreement on the proposed merger, the public announcement of a takeover bid or the acquisition of a controlling interest in an undertaking. A merger falling within the scope of the provisions of the Competition Act shall not take effect while it is being examined by the Competition Authority.

The Competition Authority may, on request, grant an exemption from the obligation that a merger should not take effect while it is being examined by the Competition Authority, provided that it is established that delaying the implementation of the merger could harm the undertakings concerned or its business partners and threaten competition. Such a request shall be in writing and reasoned. An exemption may be made subject to conditions in order to ensure effective competition.

If two or more previously independent undertakings merge, or joint control is obtained, then the merging parties shall jointly notify the merger. If an undertaking takes over another undertaking, the undertaking taking over shall notify the merger.

A merger notification shall contain various and detailed information about the merger and the undertakings connected to it. The Merger Rules prescribe in detail what information must appear in a notification. The notification form is comparable to Form CO relating to the notification of a concentration pursuant to regulation (EC) No. 139/2004 on the Control of Concentration between Undertakings.

According to Article 17 a (6) of the Competition Act, a short form may be used for the purpose of notifying a merger where one of the following conditions is met:

- a) the markets affected by the merger are not related;
- b) two or more of the parties to the merger are engaged in business activities in the same product and geographic market (horizontal merger), provided that their combined market share is less than 20%;

- c) the parties to the merger are not operating on the same product markets which are upstream or downstream of a product market in which either party to the merger is operating (vertical merger), and their individual market share is less than 40%;
- d) the merger in question is a merger within the meaning of subsection (d) of paragraph 1 of Article 17, which has a limited effect in Iceland;
- e) a party acquires sole control of an undertaking over which it already had joint control.

The following information shall accompany a notification submitted in short form:

- a) an overview of the undertakings directly or indirectly controlled by the parties to the merger;
- b) a description of the product, service and geographic markets which are affected by the merger and a reasoned assessment of the market share of the undertakings in question in such markets;
- c) a reasoned assessment of the competitive impact of the merger;
- d) copies of all contracts and other instruments upon which the merger is based, together with copies of the annual financial reports of the undertakings which are parties to the merger.

The Competition Authority shall, within 25 working days, notify a party that has submitted a notification of a merger if it sees reason for further investigation of the competitive impact of the merger. This time limit shall begin on the first working day following the receipt by the Competition Authority of a notification meeting the conditions of paragraph 6 of Article 17 a and rules established pursuant to the provision. A decision on the annulment of a merger shall be made no later than 90 working days from the time that a notification has been sent following the phase one review of 25 working days. If it is necessary to obtain further information, the Competition Authority may extend this time limit by up to 20 working days.

The main focus of the Icelandic competition authorities, when appraising mergers, is whether the merger creates a dominant position, including joint dominance, or strengthens such a position. In addition, the authority can intervene in a merger if it otherwise distorts competition substantially.

According to Article 17 c of the Competition Act, the competition authorities can either annul or impose conditions on a merger. The authorities practice to date clearly indicates that the preferred method of sanctions is to impose conditions on a merger rather than annulling it.

The conditions set for a merger are most often the result of negotiations between the merging parties and the Competition Authority. The commitments are commonly some version of the following:



- a) Ban on agreements or actions restraining competition.
- b) Duty to notify the Competition Authority of various actions and measures.
- c) Complete separation between the management and operations of joint ventures and the merging parties.
- d) Normal business terms of trade and relations with competitors.
- e) Confidentiality and limitation of the distribution of information.
- f) Duty to reduce market share, for example by divesting part of its operations.
- g) Independent board members.

#### 10.3.4 Sanctions

Chapter IX of the Competition Act pertains to sanctions. Under Article 37 the Competition Authority may impose administrative fines on undertakings that violate most of the substantial provisions of the Competition Act. Fines can be as high as 10% of the annual turnover of a Company.

In deciding the amount of fines, account shall be taken of the nature, and extent of the violations, duration and whether repeated violations are involved. The Competition Authority has issued leniency rules No. 890/2005, regarding fines in cases regarding anticompetitive arrangements between undertakings which can lead to a substantial reduction in fines or even no fines.

Article 41a of the act details criminal sanctions that can be imposed on legal as well as natural persons. According to it violations are subject to fines or imprisonment for up to six years.

#### 10.3.5 Advertisements and Warranties

Chapter II of the Act No. 57/2005 on Surveillance on Business Practice and Marketing pertains to unfair trade practices. It especially lays down rules regarding advertisements and warranties. Its enforcement is entrusted to the Consumer Agency.

Article 15 permits comparative advertising, which is defined as any advertising which explicitly or by implication identifies a competitor or goods or services offered by a competitor, under conditions further detailed in the Article.

Article 14 prohibits the provision of incorrect, incomplete or misleading information in advertisements or by other means, or the employment of other similar business methods possessing such characteristics, if such advertisements or methods can influence the demand or supply of goods, real property, services or other objects of trade offered in the course of business operation to which the Act applies. In addition, advertisements and other business methods cannot be unfair to competitors or consumers, by reason of their form or references to irrelevant matters.

According to Article 6 (3) advertisements intended to appeal to Icelandic consumers shall be in the Icelandic language. Advertisements shall be prepared in such a manner as to preclude any doubt about their nature as advertisements and they shall be clearly separated from other matter presented in the media. Advertisements shall be presented with the assumption that they will be seen and heard by children, and shall in no way be offensive to them.

Article 16 states that if goods, services, or other objects of trade provided to others and covered by the Act, are of such nature that instruction is necessary for assessing their qualities, for example utility or durability, or treatment or dangers that may be caused by such goods or other objects of trade, adequate written instruction shall be provided when an offer is tendered, an agreement concluded, or, as applicable, when delivery takes place. The instructions shall be in Icelandic, English or a Nordic language, other than Finnish, and refer to the type and version of the relevant product, service or that which is provided. In addition, general terms of service parties, that offer consumers their services in Iceland, shall be in Icelandic.

Warranties can only be extended if the warranty declaration provides the recipient with greater rights than those provided by legislation in force, under Article 16 a.

Article 15 a pertains to intellectual property rights. Under the Article using a firm name, trademark or similar distinctive mark, in the course of a business activity, to which the user is not entitled, and any business activity under a name conveying misleading information concerning ownership or liability of the operator, is prohibited. In addition, using a distinctive mark to which the user is entitled in a manner, causing possible confusion with another distinctive mark lawfully used by another undertaking, is prohibited.

Article 16 c prohibits an undertaking from acquiring or attempting to acquire by improper means knowledge or possession of trade secrets. A person who in the course of his work performed for another person or performed in association with another person has by proper means gained knowledge of trade secrets cannot, unless authorized, divulge or make use of such secrets. This prohibition remains effective for three years after the employment is over or the association terminated. Persons who have, in the course of their occupation or otherwise been entrusted with knowledge of drawings, descriptions, specifications, models or similar information may not, unless authorized, make use of such information or permit its use by others. If information or data constituting a trade secret has been obtained by a violation of the provisions of Article 16 c the person responsible and persons receiving information from him may not make use of such information.

According to Article 22 the Consumer Agency can impose fines of up to ISK 10 million on companies that violate the Act or rules based on the Act. Breaking the provisions of the Act can result in up to six months of imprisonment according to Article 26.

## 11 Intellectual Property

### 11.1 General

The protection of rights in all main fields of intellectual property including patents, trademarks, designs and copyright are provided for in Icelandic legislation. Iceland is a member to the Paris Convention for the Protection of Industrial Property of 1883 (the Stockholm version 1967). Iceland became a party to the European Patent Convention in 2004. LOGOS provides services in trade mark registrations for local and foreign clients, as well as validations of European Patents, litigation of IP rights, as well as advising on license agreements and other transfers of intellectual property rights.



### 11.2 Patents

To obtain a patent in Iceland, an applicant must file a patent application with the Icelandic Patent Office according to the Icelandic Patent Act No. 17/1991. A patent can last for up to 20 years, but after a patent has expired, anybody may use the invention. It is possible to extend patent protection up to 25 years by obtaining Supplementary Protection Certificates which are available for pharmaceutical products and agrochemicals. Patents can be granted for products, methods, apparatuses and applications. The Patent Act excludes from patent protection discoveries, artistic work, computer programs, and business methods amongst other things.

An applicant, who has filed a patent application in Iceland, may within 12 months from the filing date, file patent applications in other countries, claiming priority rights on the basis of the original application.

The Icelandic Patent Office acts as the receiving office for international patent applications from Icelandic applicants.

Iceland acceded to the European Patent Convention and became a member of the European Patent Organisation in November 2004. The European Patent Organisation has two bodies, the European Patent Office (EPO) and the Administrative Council.

Further information in English on IP protection in Iceland can be found on the Icelandic Patent Office's website (<http://www.els.is/en>).

### **11.3 Employee's Inventions**

According to the Icelandic Act on Employee's Inventions No. 72/2004, an employee is the owner of his inventions made in the course of his normal duties. The Act, however, entitles the employer to require that ownership for the invention be transferred to the employer. If the employer and employee do not agree otherwise, ownership for the employee's inventions will be transferred to the employer upon the employer's demand. A transfer of ownership entitles the employee to a "fair compensation". The employee is to immediately notify the employer of new inventions, and the employer should then notify his request for transfer of ownership to the invention within 3 months.

The Icelandic Act on Employee's Inventions, unlike similar legislation of other Nordic countries, applies to inventions by both employees of private institutions and public institutions.

### **11.4 Trademarks and Service Marks**

Trademarks play an important role in marketing and can have great advertising value. A trademark is often a company's most valuable asset.

Trademark protection is gained by registration or use of a trademark. Trademark applications in Iceland are filed with the Icelandic Patent Office and must fulfil certain conditions set forth in the Trademark Act No. 45/1997 to be registered. A trademark registration is valid for 10 years at a time and can be renewed as often as the trademark's owner wishes. If the mark has not been used for a period of five years, the registration is vulnerable to cancellation proceedings by a third party before a court.

It is possible to apply for an international registration based on an Icelandic application or registration, through the Madrid registration system. Iceland became member of the Madrid registration system in 1997.

To be registered, trademarks may not be of a general nature or descriptive for the goods or services they are supposed to be registered for. Trademarks may not be registered if they are identical to or closely resemble trademarks that have already been registered for similar goods or services. A trademark application must specify which goods or services the mark will stand for. The specification is made according to the international classification of goods and services, otherwise known as the Nice classification. The Icelandic Patent Office receives applications and examines their suitability for registration, for example with regard to registered trademarks. Use establishes trademark rights to the extent that the trademark concerned would be deemed to be registrable as such.

Marks that fulfil the conditions of the Trademarks Act are registered and published in the Patent Gazette, a monthly publication of the Icelandic Patent Office. Oppositions to registrations may be filed within two months of their publication in the gazette.

An EUTM (European Union Trade Mark) registration does not cover Iceland, as the country is not a member of the European Union.

## **11.5 Designs**

The appearance of a product can be protected with registration of the design. A design right does not include features, which are dictated by a products technical function or quality. Registration of design rights implies that no party except the designer may exploit the design without authorization.

An application for registration of a design is filed through the Icelandic Patent Office. The Icelandic Patent Office screens applications in accordance to the Design Protection Act No. 46/2001 and the Regulations on Registration of Design No. 706/2001. An applicant may request for a prescribed fee that the Icelandic Patent Office investigate its registry of design to determine the originality of his design.

Design registration is valid for 5-25 years from the date of filing and may be renewed for five years at a time until a 25-year term of protection is reached.

Since a design right only protects the appearance of a product, it is very important that the pictures submitted with the application are clear. The illustrations must be very precise since the design protection is governed by their degree of detail.

Design applications must be classified either by a suggestion of the applicant or the registration authorities according to the Locarno Agreement. The classification does not affect the scope of the protection.

When a design has been registered it is published in the monthly Patent Gazette.

A registered design can be invalidated by the Icelandic Patent Office or through court.

The registration of design rights is especially applicable in the case of mass produced products, which are often differentiated by their appearance.

The Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs entered into force in 2004, along with common rules concerning the Geneva Act and two other international treaties in the field of industrial design, which together form the Hague-system. This means that Icelandic applicants/designers can make use of the international registration system the Geneva Act is part of. This greatly simplifies the registration process. Iceland is the first of the Nordic countries to accede to the Geneva Act of the Hague Agreement.

## **11.6 Copyright**

The main rules on copyright in Iceland can be found in the Icelandic Copyright Act No. 73/1972. Iceland is party to a number of international conventions related to copyright and neighbouring rights, such as the Bern Convention of 1883, the Geneva Convention of 1952, the Rome Convention of 1961 and the "Trade-related aspects of intellectual property rights" (TRIPS-agreement).



There are no formalities in Iceland for copyright protection and there is no copyright register available. Copyright protection starts the moment the work is created and lasts during the lifetime of the author, plus seventy years after the author's death. Copyright protection applies to any work in the field of literature and art created through intellectual effort and originality. The Icelandic Copyright Act grants copyright protection to a non-exhaustive list of works, including in writings of all kinds, oral lectures, stage performance works, musical works, paintings, drawings, sculptures, architectural designs and buildings, maps, cinematographic work, photographic works, models and software programs.

Neighbouring rights such as those of performers as well as film and phonogram producers and broadcasting companies are protected for a more limited scope and duration than the copyright protection of literary and artistic works.

## **12 Personnel & Labour Market**

The Icelandic labour market is highly unionised with more than 80% of employees belonging to unions, which are decentralised and non-political.

Among Iceland's 368,590 inhabitants on 1 January 2021 the total labour participation rate in 2020 was 79.6% and the unemployment rate was 5.55% in the year 2020. The numbers for 2020 are influenced by the COVID-19 global pandemic.

When setting up a new business or acquiring an existing one, foreign investors need to beware of the rules relating the employment of personnel in Iceland.

Some areas are subject to statutory law, applicable to all categories of personnel; this is the case for example parental leave. Other, for example hiring, are subject to collective agreements.

### **12.1 Wages & Equal Pay**

Collective agreements made by the trade unions supplement legislation regarding minimum wages. That is, it is illegal to make an individual agreement depriving the employee of the rights insured by the collective agreements.

Employers are required to provide employees with equal pay for the same work or work of equal value. This is in conformity with Act No. 10/2008 on Equal Status and Equal Rights of Women and Men ("Gender Equality Act") which implemented the EU Directives No. 2006/54/EC; No. 2010/41/EU; and No. 2004/113/EC. In June 2017 the Icelandic parliament passed a bill amending the Gender Equality Act, introducing the 'Equal Pay Certification' (EPC). The EPC is a tool used to enforce the current legislation. Subject to Article 19(4)-(10) of the Gender Equality

Act, all companies and institutions with 25 employees or more are required to obtain the EPC annually by meeting the requirements of the 'Equal Pay Standard'.

## **12.2 Employment Contracts**

A written contract of employment is required for any employee engaged for a term longer than one month. The contract shall be available no later than two months after employment. As stated earlier, it must be kept in mind that although Iceland has no statutory minimum wage, contracts may never offer poorer terms than stated in the collective agreements.

## **12.3 Working Hours**

The basic legal working week is 40 hours over 5 days. Some professions have 37.5 – 39.5 hours per week. State and municipal employees have 36 hours per week. Typically, a continuous rest period of 11 hours is guaranteed during every 24-hour period. These rights shall be ensured in conformity with directives of the EEA.

Typical evening rates are 33-40% extra on top of the daytime rate and an extra 45% for weekend and public holiday's work.

## **12.4 Vacation Days**

Public holidays are around 11 days a year. Arrangements concerning payments to those employees working on such days are specified in the collective agreements.

Depending upon the employee's length of service during the preceding 12 months, the right to vacation allowance is calculated as two paid vacation days per month of work during the preceding vacation year. Vacation payments are a minimum of 10,17% of the total salary. The minimum vacation period is 24 working days, i.e. 4 weeks and 4 days.

## **12.5 Unemployment Benefits**

In order to have a right to unemployment benefits, the applicant must fulfil several conditions, e.g. have been employed in at least 25% employment ratio for 3 months in the last 12 months, be unemployed, seeking work and be willing and able to work. Specific conditions are stated in law and regulations on unemployment benefits.

Unemployment benefits, which are not related to the previous salary, are paid from the Unemployment Insurance Fund, which is managed by the Directorate of Labour on behalf of the Social Security Administration.



## **12.6 Maternity and Paternity Leave**

Parents have an independent right to maternity/paternity leave of six months due to a birth, primary adoption or permanent foster care of a child less than 8 years of age. Each parent is permitted to assign up to six weeks of their independent right to the other parent. The maternity/paternity leave must be taken before the child reaches the age of 24 months.

Parents on the labour market receive payments which amount to 80% of his/her average wages during the 12 months consecutive period, ending six months prior to the birth of the child or the arrival of an adopted child or a child that is taken into permanent foster care, albeit a maximum amount of ISK 600,000 per month is paid. It is necessary to have been in the Icelandic labour market for at least 6 months prior to the birth date or the arrival of an adopted child or a child that is taken into permanent foster care.

Students and parents outside the labour market are entitled to a grant of a decided amount during maternity or paternity leave.

## **12.7 Pensions**

The general retirement age is between the ages of 67 and 70 years.

The pension system is mainly threefold; the pension paid by the social security system, occupational pension funds and private pension plans.

## **12.8 Children Under the Age of 18 Years**

Children under the age of 18 years are not allowed to enter into binding employment contracts without permission from their legal guardian.

Strict rules apply to their rest periods as well as what kind of work they are allowed to participate in.

General rules on the work of children and teenagers are to be found in a regulation on that matter, No. 426/1999.

## **12.9 Termination of Employment Contracts**

Notice periods depend upon the length of employment. During the first three months, i.e. the probation period, the notice period is generally one week. After three to six months it is one month and after six months the notice period becomes 3 months and must be notified before the end of the month. Notice periods can however vary depending on each individual employment contract.

## 12.10 Foreign Nationals

Nationals of the member states of the EEA, EFTA and the Faroe Islands do not need a work permit in Iceland. Nationals from other countries outside the EEA, EFTA and the Faroe Islands require a work permit to work or operate a business in Iceland. Applications for work permits, including the necessary supporting documentation, must be submitted to the Directorate of Immigration which then forwards the application to the Directorate of Labour provided that the conditions for the issuing of a residence permit for the relevant foreign national are met. Further useful information regarding work permits can be found on the website of the Directorate of Labour (<https://vinnumalastofnun.is/en/about-us/work-permits-for-third-country-nationals>).

A foreign national from a country outside the EEA and/or EFTA who plans to stay in Iceland for more than three months must have a valid residence permit. Foreign nationals from the EEA and EFTA states do not need a special residence permit to stay in Iceland for a period exceeding three months (or up to six months if he/she is seeking employment) but must register with Registers Iceland and fulfil certain conditions pursuant to Articles 84 and 85 of Act No. 80/2016 on Foreigners. Citizens of the other Nordic countries, i.e. Danish, Finnish, Norwegian and Swedish citizens, are allowed to stay in Iceland without a residence permit. Further useful information can be found on the website of the Directorate of Immigration (<http://www.utl.is/index.php/en/>).