

This is an English translation. The original Icelandic text, as published in the Law Gazette (Stjórnartíðindi), is the authoritative text. Should there be discrepancy between this translation and the authoritative text, the latter prevails.

Act No. 129/2008 amending Act on Financial Undertakings, No. 161/2002, with subsequent amendments

Article 1

Article 9 shall be amended to include a new paragraph, Paragraph 3, which shall read as follows:

Notwithstanding the revocation of an operating licence pursuant to Paragraph 1, Subparagraph 6, those serving as trustees in the bankruptcy of a financial undertaking are authorised, with the approval of the Financial Supervisory Authority and under its supervision, to continue to engage in specified activities for which licensing is required, to the extent that such activities are necessary for the administration and disposal of the estate's interests.

Article 2

Article 98 shall be amended to include four new paragraphs, which shall read as follows:

If a district court judge grants a financial undertaking a licence for moratorium of payments pursuant to Article 12 of the Act on Bankruptcy, etc., the licence shall be granted until a specified date and hour within twelve weeks of the date the ruling is rendered. Should a district court judge agree to extend a licence for moratorium of payments pursuant to Article 17 of the same Act, a court hearing shall be held anew within nine months of the date the petition for the extension was presented before the court. A district court judge may not authorise a moratorium of payments, however, for longer than a total of 24 months from the date of the court hearing wherein the licence was granted according to the first sentence of this paragraph. A notification of a meeting according to Article 13, Paragraph 2 and a notification according to Article 17, Paragraph 5 of the Act on Bankruptcy, etc. shall be considered sufficient if such a notification is published in at least two newspapers in Iceland and in each of the countries where branches have been operated.

A lawyer or an authorised public auditor who has been engaged by a financial undertaking to act as an assistant in reorganising its financial affairs, cf. Article 10 of the Act on Bankruptcy, etc., no. 21/1991, shall not be liable for compensatory damages as a result of decisions or actions taken in his capacity as assistant, unless such decisions or actions represent violations committed by intent or gross negligence.

Legal proceedings shall not be initiated against a financial undertaking while a moratorium of payments is in effect unless explicitly authorised by law, or in the case of criminal proceedings in which criminal penalties applicable against a financial undertaking are demanded. In that instance, legal proceedings may be initiated in the jurisdiction of the district court that granted the licence for moratorium of payments.

If legal proceedings have been initiated against a financial undertaking that is subsequently granted a licence for moratorium of payments, the proceedings in that case shall not be continued while the moratorium of payments is in effect unless explicitly authorised by law, or in the case of criminal proceedings in which criminal penalties applicable against a financial undertaking are demanded.

Article 3

Article 103, Paragraph 3 of the Act shall read as follows:

When legal effects are based on a reference date according to the provisions of the Act on Bankruptcy, etc., the reference date for the bankruptcy proceedings on the estate of a financial undertaking shall be based on the point in time when the Financial Supervisory Authority granted the undertaking a time limit as set forth in Article 86, Paragraph 4 or appointed a resolution committee on the basis of Article 100(a), or from the point in time when a licence for moratorium of payments was granted on the basis of Article 98, Paragraph 3, or permission was granted to seek composition with creditors, cf. Article 27 of the Act on Bankruptcy, etc., no. 21/1991. If none of these precedes the bankruptcy proceedings, the reference date shall be the date on which a district court judge receives a demand from the Financial Supervisory Authority pursuant to Article 102, Paragraph 1 or 2.

Article 4

A new temporary provision shall be added to the Act. It shall read as follows:

Should a financial undertaking petition for a licence for moratorium of payments or an extension of a moratorium of payments in accordance with a demand from the Financial Supervisory Authority on the basis of Article 100(a), such a licence shall be granted without consideration of the provisions of Article 12, Paragraph 2, Subparagraphs 4 and 6 of the Act on Bankruptcy, etc.

Article 5

This Act shall enter into force at once.

Temporary provisions

If a licence for moratorium of payments has been granted on the basis of Article 98, Paragraph 2 of the Act prior to the entry into force of this Act, but a meeting with creditors according to Article 13, Paragraph 1 of the Act on Bankruptcy, etc. has not yet taken place, a district court judge shall be authorised, upon receipt of a reasoned request from the debtor, to postpone the previously decided court hearing, but not for a longer time than is provided for in Article 98, Paragraph 3, Subparagraph 1 of the Act; cf. Article 2 of this Act. The district court judge shall grant a request for a postponement unless he considers the request manifestly unfounded. Should a district court judge grant the debtor's request, he shall extend the moratorium of payments with a ruling pursuant to Article 17, Paragraph 4 of the Act on Bankruptcy, etc.

For those financial undertakings for which the Financial Supervisory Authority has appointed a resolution committee on the basis of Article 100(a), the reference date shall be based on the date that this Act enters into force.

Adopted by the Althingi parliament on 13 November 2008