

DECISION OF THE FINANCIAL SUPERVISORY AUTHORITY (FME)

**on measures according to the acquisition contract between Sparisjóður Mýrasýslu, ID no. 610269-5409,
and New Kaupthing Bank hf. ID no. 581008-0150, dated 3 April 2009.**

By the authority of Art. 100a of Act No. 161/2002 on Financial Undertakings, cf. Art. 5 of Act No. 125/2008 on the Authority for Treasury Disbursements due to Unusual Financial Market Circumstances etc., the FME has taken the following decision regarding Sparisjóður Mýrasýslu.

PREMISES:

On 6 October 2008 Althingi, the Parliament of Iceland, passed Act No. 125/2008 on the Authority for Treasury Disbursements due to Unusual Financial Market Circumstances, etc., which involved an amendment to Act No. 161/2002 on Financial Undertakings and other acts. This Act authorized the FME inter alia to take special measures, due to special circumstances or events, for the purpose of limiting damage or the risk of damage in the financial markets. Should the FME consider the situation to be extreme, it can among other things, assume the powers of a shareholders' meeting, dismiss the Board of Directors and appoint a Resolution Committee, and/or take over assets, rights and obligations, either in part or in whole, or decide on measures regarding the future of the company, either in part or in whole, including a merger of the undertaking with another entity, according to Article 100a of the Act on Financial Undertakings, as amended by Act No. 125/2008.

In a letter of the Board of Sparisjóður Mýrasýslu, dated 3 April 2009, it is stated that since the middle of last summer financial reorganization efforts had been ongoing, after the savings bank's equity ratio had become unacceptable and fallen under the statutory minimum requirement. Through an agreement with Kaupthing Bank hf. and Straumborg hf., it was decided last autumn to substantially increase the savings bank's initial capital and that action had resulted in an acceptable capital ratio. The preconditions for this agreement failed on 9 October 2008, when the FME appointed a Resolution Committee for Kaupthing Bank hf. and the bank subsequently received authorization for a moratorium. Following this, Sparisjóður Mýrasýslu has been involved in negotiations with foreign creditors regarding the reduction of debt and its transformation into initial capital, with a merge with New Kaupthing Bank hf. as the final goal. To this end the main creditors signed a Standstill Agreement on a temporary freezing of debts of the savings bank, which came into force on 27 January 2009. This agreement expired on 1 April 2009. It has not been renewed and the savings bank does not, therefore, enjoy contractual protection against the actions of the largest creditors. The savings bank's letter states that all of its foreign creditors except for one, as well as its largest domestic creditors, agreed to a proposal for financial reorganization on 26 March 2009. It principally involves that 43.7% of general claims would be paid through an increase of initial capital in Sparisjóður Mýrasýslu, 3.1% would be paid in cash and 53.2% with a bond, the terms of which are

further specified. The proposal assumes that the owners of subordinated loans receive payment solely in the form of new initial capital in the savings bank.

The aforementioned letter states that in order to achieve the financial reorganization, the savings bank must seek formal composition according to provisions of Act No. 21/1991 on Bankruptcy, etc. It further states that commercial banking operations cannot be practised at the same time as a potential moratorium is ongoing.

In light of all the aforesaid, Sparisjóður Mýrasýslu has on 3 April 2009 concluded a contract with New Kaupthing Bank hf., which entails New Kaupthing Bank's purchase of the operations and assets of the savings bank and its takeover of **preferential claims**, according to Art. 111 and 112 of Act No. 21/1991, including all deposit obligations. In addition, New Kaupthing Bank hf. commits itself to pay the savings bank funds and equity to meet obligations towards creditors according to the proposal which the majority has approved and is assumed will be confirmed as formal composition. In the letter of the savings bank it is argued that in order for it to fulfil the contract and hand over the rights and obligations in question, the FME must wield the authority granted in Art. 100a, par. 3, of Act No. 161/2002, cf. Art. 5 of Act No. 125/2008, and assume the power of a meeting of owners of initial capital. This is considered necessary in order to ensure uninterrupted operations at the premises of Sparisjóður Mýrasýslu and the best way to ensure the interests which are at stake.

According to Art. 100a, par. 3, of Act No. 161/2002, circumstances must be extreme for the FME to resort to action on the basis of the provisions. In the judgement of Sparisjóður Mýrasýslu, the aforementioned conditions are fulfilled without doubt, with reference to the significant negative capital position and unacceptable liquidity position of the savings bank. In addition it is clear that the Standstill Agreement with creditors has expired. In the evaluation of the savings bank there are no premises to request an extension of this agreement, in light of the fact that it is already clear that a plan for voluntary composition will not be realized. Therefore, a basis for continued operations of the savings bank no longer exists. Further, the savings bank considers it necessary to request a moratorium, independent of whether the contract between the savings bank and New Kaupthing hf. is realized. The savings bank intends to request authorization for a moratorium on Monday 6 April 2009.

The letter of the savings bank requests that the FME take action on the basis of Art. 110a of Act No. 161/2002 on Financial Undertakings, cf. Art. 5 of Act No. 125/2008, and transfer deposits and loans, as well as all assets, rights and obligations, as is further specified in the contract between Sparisjóður Mýrasýsla and New Kaupthing Bank hf. of 3 April 2009.

With reference to the above said, it is clear that the position of Sparisjóður Mýrasýslu has become such that provisions of Art. 100a of the Act on Financial Undertakings apply to the savings bank, as its equity is negative and it is clear that it will not be able pay its mature obligations in light of the fact that the agreement with creditors has not been extended. It is the evaluation of the FME that the unacceptable liquidity position and significantly negative capital position of the savings bank constitute extreme circumstances in the understanding of Art. 100a, par. 3, of the aforementioned law.

The request of Sparisjóður Mýrasýslu was accompanied by the consent of 83.4% of creditors to the terms which have been set regarding payment to them. Even though no formal evaluation on the assets which are allocated to New Kaupthing Bank hf. is available, the large majority of creditors seems to accept the repayment in question, in addition to the fact that provisions of Ch. XX of Act No. 21/1991 pertain to the agreement if bankruptcy proceedings or composition ensue, cf. Art. 32 of said law. With reference to the aforesaid, the FME considers that the interests of customers, creditors and all other interested parties are observed by the measures which consist in the acquisition contract of the parties.

IT IS THE DECISION OF THE FME to assume the powers of a meeting of owners of initial capital of Sparisjóður Mýrasýslu and make decisions on the following actions, which the FME deems necessary:

DECISION:

1. New Kaupthing Bank hf. takes over all at once the rights and assets stipulated in the contract between Sparisjóður Mýrasýslu and New Kaupthing Bank hf. of 3 April 2009. The transfer of rights and assets shall take place on the date of delivery, cf. point 4 below.
2. New Kaupthing Bank hf. takes over the obligations of Sparisjóður Mýrasýslu as stipulated in the aforementioned contract, i.e. takes over all collateral claims and preferential claims which fall under Art. 111 and 112 of Act No. 21/1991, cf. Art. 103 of Act No. 161/2002, due to deposits and takes over or pays general claims on Sparisjóður Mýrasýslu in the manner and to the extent stipulated in Art. 2 of the contract. Deposits are transferred according to the balance and interest earned at the time of transfer, cf. Art. 4 below.
3. New Kaupthing Bank hf. takes over, according to the contract, unmatured obligations according to import and export guarantees, and guarantees due to discharge of contract by companies and individuals linked to regular activities. New Kaupthing Bank hf. does not take over guarantees of Sparisjóður Mýrasýslu due to a) obligations of subsidiaries, b) companies under moratorium, composition or in bankruptcy, c) obligations to Icelandic financial undertakings; e) other specifically identified guarantees according to further decision by New Kaupthing Bank hf.
4. The date of delivery according to the abovesaid shall be no later than Monday 6 April 2009 at 9:00 a.m.
5. No non-compliance remedies of contracting parties shall come into effect as a result of this decision.

This decision is based on available information and data. Should it prove to be based on insufficient or wrong information on merits, underlying premises of the decision turn out to be fundamentally inaccurate or the FME consider a different arrangement to be necessary, the FME can make any changes to this decision, including nullifying it in whole or in part, or suspending individual components of it.

This decision was taken by the Board of the FME and is effective immediately.

THE FINANCIAL SUPERVISORY AUTHORITY

3 April 2009

Gunnar Haraldsson
Chairman of the Board

Ragnar Hafliðason
Director General