15. janúar 2016
Tilv.: 1507075

Kaupþing ehf.
b.t. Theodórs Sigurbergssonar
Borgartúni 26
105 Reykjavík

Efni: Undanþága frá lögum nr. 87/1992, um gjaldeyrismál, að uppfylltum stöðugleikaskilyrðum.

Með bréfi yðar, dags. 4. september 2015, sem barst Seðlabanka Íslands þann sama dag, var óskað, f.h. Kaupþings hf., kt. 560882-0419, eftir undanþágu frá lögum nr. 87/1992, um gjaldeyrismál, með síðari breytingum, vegna fyrirhugaðs nauðasamnings félagsins við kröfuhafa sína og loka slitameðferðar félagsins, sbr. 103. gr. a. laga nr. 161/2002, um fjármálafyrirtæki. Með bréfi yðar, dags. 21. október 2015, senduð þér uppfærða undanþágubeiðni til Seðlabankans þar sem gerðar voru breytingar á fyrri tillögum Kaupþings hf. samkvæmt framangreindu bréfi, dags. 4. september 2015. Í framangreindum bréfum slitastjórnar Kaupþings hf. er einnig vísað til fyrri undanþágubeiðni Kaupþings hf. vegna fyrirhugaðs nauðasamnings sem send var Seðlabankanum með bréfi, dags. 24. október 2012, en tekið er fram að undanþágubeiðnin frá 4. september 2015 komi í stað fyrri undanþágubeiðnar nema annað sé tekið fram og að undanþágubeiðnin frá 21. október 2015 komi í stað fyrri tveggja undanþágubeiðna nema annað sé tekið fram.

I.

Rétt er í upphafi að rekja forsögu málsins og helstu málavexti. Hinn 9. október 2008 tók Fjármálaeftirlitið yfir vald hluthafafundar Kaupþings hf., og skipaði félaginu skilanefnd í stað stjórnar félagsins sem hafði sagt af sér degi fyrr. Með úrskurði Héraðsdóms Reykjavíkur uppkveðnum hinn 24. nóvember 2008 var félaginu veitt heimild til greiðslustöðvunar. Að beiðni skilanefndar Kaupþings hf. skipaði Héraðsdómur Reykjavíkur félaginu slitastjórn með úrskurði

uppkveðnum hinn 25. maí 2009. Slitastjórn Kaupþings hf. gaf út innköllun til skuldheimtumanna, sem birtist í Lögbirtingablaðinu hinn 30. júní 2009, og lauk fresti til að lýsa kröfum í bú Kaupþings hf. hinn 30. desember 2009. Nokkrir kröfuhafafundir voru haldnir af hálfu slitastjórnar Kaupþings hf. þar sem skrá félagsins yfir lýstar kröfur var meðal annars til umræðu. Kaupþing hf. var síðan tekið til formlegrar slitameðferðar með úrskurði Héraðsdóms Reykjavíkur uppkveðnum hinn 22. nóvember 2010, með réttaráhrifum frá 22. apríl 2009. Í samræmi við 99. gr. laga nr. 21/1991, um gjaldþrotaskipti o.fl., töldust þær kröfur á hendur Kaupþingi hf. í erlendum gjaldeyri, sem ekki varð fullnægt samkvæmt 109. - 111. gr. sömu laga, fallnar á gjalddaga þegar úrskurður gekk um að búið yrði tekið til gjaldþrotaskipta og voru þær þá þegar færðar í innlendan gjaldeyri. Skilanefnd og slitastjórn önnuðust í sameiningu stjórn félagsins til 1. janúar 2012 en frá þeim tíma var skilanefndin lögð niður samkvæmt lögum nr. 78/2011 sem breyttu lögum nr. 161/2002, um fjármálafyrirtæki, og tók þá slitastjórn við þeim hlutverkum sem áður höfðu verið á höndum skilanefndar.

Í samræmi við heimild 3. mgr. 103. gr. a. laga nr. 161/2002, um fjármálafyrirtæki, ákvað slitastjórn Kaupþings hf. að leggja fyrir kröfuhafa frumvarp að nauðasamningi félagsins enda ljóst að eignir Kaupþings hf. myndu ekki nægja til fullrar greiðslu þeirra krafna sem ekki var endanlega hafnað við slitin. Óskaði Kaupþing hf. eftir að Seðlabanki Íslands myndi veita félaginu undanþágu frá lögum nr. 87/1992, um gjaldeyrismál, vegna fyrirhugaðs nauðasamnings félagsins og uppgjörs við kröfuhafa þess með bréfi, dags. 24. október 2012. Í kjölfar þess að beiðnin barst Seðlabankanum fór fram greining á eignum og endurheimtum Kaupþings hf. með tilliti til áhrifa af útgreiðslu þeirra til kröfuhafa á greiðslujöfnuð Íslands og fjármálalegan stöðugleika. Var Kaupþing hf. upplýst um að Seðlabankinn gæti ekki gefið jákvætt svar við undanþágubeiðninni nema að fyrir lægi lausn varðandi þær eignir sem myndu að óbreyttu hafa neikvæð áhrif á greiðslujöfnuð Íslands við það að eignir félagsins yrðu greiddar út til kröfuhafa.

Hinn 8. júní 2015 kynntu stjórnvöld aðgerðaráætlun sem ætlað er að takast á við þann vanda sem stafar af uppgjörum búa fallinna viðskiptabanka og sparisjóða og hafa aðgerðirnar það að markmiði að tryggja að stöðugleika í gengis- og peningamálum og fjármálalegum stöðugleika verði ekki raskað með slitum þeirra. Forsenda þess að uppgjör búa fallinna viðskiptabanka og sparisjóða valdi ekki

óstöðugleika er að gripið verði til ráðstafana til mótvægis þeim neikvæðu áhrifum sem stafa af útgreiðslum innlendra eigna til erlendra kröfuhafa. Í samræmi við framangreint voru neðangreind stöðugleikaskilyrði endanlega samþykkt af stýrinefnd um losun fjármagnshafta hinn 7. júní 2015 og birt á heimasíðu Seðlabanka Íslands hinn 8. júní 2015:

1. Að gerðar verði ráðstafanir sem draga nægilega úr neikvæðum áhrifum af útgreiðslum andvirðis eigna í íslenskum krónum (stöðugleikaframlag),

2. að öðrum innlendum eignum fallinna fjármálafyrirtækja í erlendum gjaldeyri verði breytt í langtímafjármögnun að því marki sem þörf krefur (lengingar) og

3. að tryggt verði, í þeim tilvikum sem það á við, að lánafyrirgreiðsla stjórnvalda í erlendum gjaldeyri sem veitt var nýju bönkunum í kjölfar hruns á fjármálamarkaði verði endurgreidd (endurgreiðslur).

Í kjölfar þess barst Seðlabankanum ný undanþágubeiðni frá Kaupþingi hf. vegna fyrirhugaðs nauðasamnings félagsins við kröfuhafa sína og lok slitameðferðar félagsins, dags. 4. september 2015, þar sem settar voru fram tillögur að tilteknum aðgerðum sem félagið hyggst framkvæma í þeim tilgangi að uppfylla framangreind stöðugleikaskilyrði. Eins og fram hefur komið var sú beiðni síðar uppfærð með bréfi, dags. 21. október 2015. Í ljósi framangreinds hefur Seðlabankinn því við mat á beiðni yðar, f.h. Kaupþings hf., dags. 21. október 2015, um undanþágu frá lögum nr. 87/1992, um gjaldeyrismál, vegna nauðasamnings félagsins við kröfuhafa sína og loka slitameðferðar félagsins, litið til framangreindra stöðugleikaskilyrða og þeirra forsendna sem þau byggja á.

Með bréfi, dags. 11. nóvember 2015, veitti Seðlabanki Íslands, í samráði við fjármála- og efnahagsráðherra á grundvelli 2. mgr. 13. gr. o. laga nr. 87/1992, um gjaldeyrismál, Kaupþingi hf. vilyrði fyrir tilteknum undanþágum frá lögunum. Þá gaf Seðlabankinn jafnframt út vottorð, dags. 18. nóvember 2015, þess efnis að það væri mat Seðlabankans að frumvarp að nauðasamningi Kaupþings hf. myndi hvorki valda óstöðugleika í gengis- og peningamálum né raska fjármálastöðugleika, sbr. 4. mgr. 103. gr. a. laga nr. 161/2002, um fjármálafyrirtæki. Á kröfuhafafundi Kaupþings hf. hinn 24. nóvember

2015 var frumvarp að nauðasamningi félagsins samþykkt og hann síðar staðfestur með úrskurði Héraðsdóms Reykjavíkur uppkveðinn hinn 15. desember 2015, sbr. fylgiskjal 6 með ákvörðun þessari. Í ljósi þess að málskot hefur ekki átt sér stað innan lögbundins frests telst nauðasamningur Kaupþings hf. við kröfuhafa félagsins því endanlega kominn á, sbr. 59. og 60. gr. laga nr. 21/1991, um gjaldþrotaskipti o.fl. Rétt er að geta þess að þann 7. janúar 2016 var Kaupþingi hf. breytt í Kaupþing ehf. og því er í ákvörðun þessari vísað til félagsins sem hlutafélags fyrir þá dagsetningu en einkahlutafélags eftir þá dagsetningu.

Í samræmi við bráðabirgðaákvæði III í lögum nr. 36/2001, um Seðlabanka Íslands, er Seðlabankanum heimilt, í þeim tilgangi að draga úr, koma í veg fyrir eða gera kleift að bregðast við neikvæðum áhrifum á stöðugleika í gengis- og peningamálum, að taka á móti hvers kyns fjárhagslegum verðmætum, þ.m.t. kröfuréttindum, fjármálagerningum og eignarhlutum í félögum og öðrum réttindum yfir þeim í tengslum við áætlanir um losun fjármagnshafta. Þau verðmæti sem Seðlabankinn veitir viðtöku með þessum hætti skulu renna í ríkissjóð en vera hjá bankanum til varðveislu. Með tilliti til þessa er gert ráð fyrir að Seðlabanki Íslands eða sá sérhæfði aðili sem starfar í umboði bankans og ráðherra hefur falið að annast varðveislu verðmæta og umsýslu með þau (hér eftir vísað til sem SÍ) sé mótaðili í samningum um afhendingu á stöðugleikaframlagi í tengslum við undanþágur til fallinna viðskiptabanka og sparisjóða.

II.

Við yfirferð á undanþágubeiðni yðar, f.h. Kaupþings hf., dags. 21. október 2015, ásamt fylgigögnum, samningi milli Kaupþings ehf. og SÍ, um fyrirhugaðar aðgerðir Kaupþings ehf. og afhendingu stöðugleikaframlags, dags. 13. janúar 2016, sbr. fylgiskjal 1 með ákvörðun þessari, samningum milli Kaupþings ehf. og Arion banka hf., dags. 11. janúar 2016, sbr. fylgiskjal 2 með ákvörðun þessari, samningi milli Kaupþings ehf., Kaupskila ehf. og SÍ , dags. 13. janúar 2016, sbr. fylgiskjal 3 með ákvörðun þessari og veðtryggðu skuldabréfi að fjárhæð 84 milljarðar króna, ásamt handveðssamningi gefnum út af Kaupþingi ehf. til SÍ, dags. 13. janúar 2016, sbr. fylgiskjöl 4 og 5 með ákvörðun þessari, hyggst Kaupþing ehf. uppfylla stöðugleikaskilyrðin með eftirfarandi hætti:

1. STÖÐUGLEIKAFRAMLAG

a. Framseldar eignir („Assigned Assets")

Kaupþing ehf. mun framselja, afhenda og/eða afsala sér innlendum eignum, svo og öllum greiðslum vegna þeirra í krónum í framtíðinni, til SÍ sem hluta af stöðugleikaframlagi Kaupþings ehf.

Þær eignir sem Kaupþing ehf. mun framselja, afhenda og/eða afsala sér eru eftirfarandi:

i. Veðskuldabréf vegna sölu á Arion banka hf.

Kaupþing ehf. hefur gefið út til SÍ veðtryggt skuldabréf í íslenskum krónum að fjárhæð 84 milljarðar króna.

Skuldabréfið ber 5,5% vexti sem verða greiddir árlega. Komi til greiðslu vaxta mun Kaupþing ehf. skipta erlendum gjaldeyri fyrir íslenskar krónur til að greiða vexti af skuldabréfinu.

Skuldabréfið er tryggt með veði í öllu hlutafé Kaupskila ehf., sem er eigandi að 87% hlut af útgefnu hlutafé í Arion banka hf., skuldabréfum útgefnum af Arion banka hf. í erlendum gjaldeyri sem gefin hafa verið út í tengslum við lengingu innlána Kaupþings ehf. ásamt öllum vöxtum og afborgunum sem af þeim koma, sbr. liður 2 hér á eftir. Ennfremur er skuldabréfið tryggt með skuldabréfaútgáfum Arion banka hf. sem hafa verið gefnar út í tengslum við fjármögnun Kaupþings ehf. á endurgreiðslu Arion banka á skuldabréfi Seðlabanka Íslands til Arion banka hf. ásamt öllum vöxtum og afborgunum sem af þeim koma, sbr. liður 3 hér á eftir. Veðhlutfall er að lágmarki 115% yfir líftíma bréfsins eða þar til það hefur verið greitt upp.

Lokagjalddagi þess er 3 árum frá útgáfudegi en heimilt verður að fyrirframgreiða það í heild eða að hluta fram að lokagjalddaga. Kaupþing ehf. mun eingöngu nýta andvirði vegna sölu Arion banka hf. til niðurgreiðslu á skuldabréfinu.

Gerður hefur verið afkomuskiptasamningur milli Kaupþings ehf. og SÍ vegna söluandvirðis Kaupþings ehf. á 87% hlut í Arion banka hf., sem félagið á í gegnum

Kaupskil ehf (*„Shareholders' Proceeds Apportionment Agreement"*), dags. 13. janúar 2016, sbr. fylgiskjal 3 með ákvörðun þessari. Mun söluandvirði samkvæmt þeim samningi umfram 100 milljarða króna skiptast með eftirfarandi hætti:

a) Söluandvirði á bilinu 100 milljarðar króna til 140 milljarðar króna skiptist í hlutföllunum 1/3 til SÍ og 2/3 til Kaupþings ehf.

b) Söluandvirði á bilinu 140 milljarðar króna til 160 milljarðar króna skiptist í hlutföllunum 1/2 til SÍ og 1/2 til Kaupþings ehf.

c) Söluandvirði umfram 160 milljarðar króna skiptist í hlutföllunum 3/4 til SÍ og 1/4 til Kaupþings ehf.

Í hverju tilviki gildir að fyrsti hluti verður greiddur til SÍ og annar hluti til Kaupþings ehf.

Komi til þess að Kaupþing ehf. selji hlut sinn í Arion banka hf., í heild eða að hluta, fyrir kaupverð sem nemur 80% eða lægra af bókfærðu virði Arion banka hf. mun SÍ hafa forkaupsrétt að þeim hluta á sömu kjörum.

ii. Framsal á kröfum á hendur [redacted] auk krafna gagnvart öðrum innlendum félögum að bókfærðu virði u.þ.b. 18 milljarðar króna m.v. 31. desember 2015.[1]

Nánari upplýsingar um þær eignir sem Kaupþing ehf. mun framselja, afhenda og/eða afsala er að finna í viðaukum með samningi milli Kaupþings ehf. og SÍ, dags. 13. janúar 2016, sbr. fylgiskjal 1 með ákvörðun þessari.

b. Skilyrtar fjársópseignir („Retained Assets")

Kaupþing ehf. mun halda eftir tilteknum eignum sem eru hluti af stöðugleikaframlagi Kaupþings ehf. Um þær eignir hefur verið gerður sérstakur samningur um að endurheimtum og ávöxtun af eignunum verði ráðstafað til SÍ með fjársópsákvæði, sbr. fylgiskjal 1 með ákvörðun þessari.

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[1] Bókfært virði eigna miðast við lok annars ársfjórðungs 2015 að teknu tilliti til endurheimtna Kaupþings ehf. af þeim eignum á þriðja og fjórða ársfjórðungi 2015 með þeim fyrirvara að ekki liggur fyrir endurmat á eignum miðað við árslok 2015 af hálfu Kaupþings ehf.

Þær innlendu eignir sem Kaupþing ehf. mun halda eftir eru eftirfarandi:

i. Óframseljanlegar eignir. Bókfært virði þeirra eigna er 3,2 milljarðar króna m.v. 31. desember 2015.
ii. Innlendar eignir þar sem gert er ráð fyrir endurheimtum í erlendum gjaldeyri vegna undirliggjandi sölu á erlendum eignum en bókfært virði þeirra eigna er 8,5 milljarðar króna. Verði endurheimtur í íslenskum krónum af innlendum eignum með undirliggjandi erlendar eignir, verður þeim ráðstafað til SÍ með fjársópsákvæði. Kaupþing ehf. fyrirhugar að ráðstafa endurheimtum af þessum eignum í erlendum gjaldeyri til kröfuhafa sinna.
iii. Innstæður á fjárvörslureikningum vegna ágreiningskrafna í íslenskum krónum samkvæmt 109.-112. gr. laga nr. 21/1991, um gjaldþrotaskipti o.fl. Komi ekki til greiðsluskyldu Kaupþings ehf. verður endurheimtum ráðstafað til SÍ með fjársópsákvæði.

Samkvæmt upplýsingum sem Seðlabankanum hafa borist við afgreiðslu á undanþágubeiðni yðar, f.h. Kaupþings ehf., mun ríkissjóður, í gegnum þann aðila sem ráðherra hefur falið varðveislu og umsýslu verðmæta (SÍ), vera eigandi skilyrtu fjársópseignanna í skilningi 109. gr. laga nr. 21/1991, um gjaldþrotaskipti o.fl. Þá mun hvers konar ráðstöfun Kaupþings ehf. á skilyrtum fjársópseignum aðeins vera heimil með samþykki SÍ á hverjum tíma.

Nánari upplýsingar um framangreindar eignir er að finna í viðaukum með samningi milli Kaupþings ehf. og SÍ, dags. 13. janúar 2016, sbr. fylgiskjal 1 með ákvörðun þessari.

c. Reiðufé í íslenskum krónum

Samkvæmt upplýsingum frá yður, f.h. Kaupþings hf., var staða reiðufjár þann 7. október sl. um 15,4 milljarðar króna. Upplýsingar voru síðar uppfærðar miðað við raunverulega stöðu í lok árs 2015 með tölvupósti, dags. 11. janúar 2016,[2] og nam reiðufjárstaða 31. desember 2015 um 6,3 milljörðum króna. Þá

[2] Reiðufjárstaða miðast við lok árs 2015 og tekur tillit til endurheimtna og kostnaðar vegna ársins 2015.

liggur fyrir að Kaupþing ehf. gerir ráð fyrir því að á árinu 2016 muni félagið m.a. endurheimta reiðufé í íslenskum krónum sem nemi um 5,4 milljörðum króna vegna endurgreiðslu fyrirframgreidds fjármagnstekjuskatts vegna ársins 2015 og fyrirframgreidds fjármagnstekjuskatts vegna arðgreiðslna frá Kaupskilum ehf. o.fl.

Kaupþing ehf. mun halda eftir lausafé sínu eins og það stóð 31. desember 2015, í íslenskum krónum, í ákveðnum varasjóðum. Hafi fjármunum þeirra ekki að fullu verið ráðstafað við ákveðnar aðstæður munu þeir fjármunir verða afhentir SÍ á grundvelli fjársópsákvæðis í samningi um skilyrtar fjársópseignir.

Þessir varasjóðir eru eftirfarandi:

i. Varasjóður að fjárhæð 5 milljarðar króna vegna innlends kostnaðar félagsins árin 2016, 2017 og 2018. Þar undir falla meðal annars mögulegar lágmarksgreiðslur (de minimis) til kröfuhafa í íslenskum krónum. Fjármunum sem eftir standa verður ráðstafað til SÍ eigi síðar en 31. janúar 2019.

ii. Varasjóður að fjárhæð 1,5 milljarður króna vegna áætlaðs vangoldins virðisaukaskatts af erlendri þjónustu. Fjármunum sem eftir standa verður ráðstafað til SÍ samkvæmt nánari skilyrðum á 6 mánaða fresti eftir 15. júlí 2016, en þó eigi síðar en 31. desember 2018.

iii. Innstæða á fjárvörslureikningi að fjárhæð 1,1 milljarður króna vegna ágreiningskrafna skv. 112. gr. laga nr. 21/1991, um gjaldþrotaskipti o.fl. Fjármunum sem eftir standa verður ráðstafað til SÍ samkvæmt nánari skilyrðum á 6 mánaða fresti eftir 15. júlí 2016, en þó eigi síðar en 31. desember 2018.

Samkvæmt upplýsingum frá yður, f.h. Kaupþings ehf., er áætlað að um 5,2 milljörðum íslenskra króna í reiðufé verði ráðstafað til SÍ við lok árs 2016.

Þá mun öllum endurheimtum í íslenskum krónum sem Kaupþing ehf. kann að eignast, m.a. vegna umþrættra eigna, þ.m.t. vegna ágreiningsmála tengdum skattgreiðslum, arðgreiðslum og lækkun

hlutafjár Arion banka hf., verða ráðstafað til SÍ á grundvelli fjársópsákvæðis samnings um skilyrtar fjársópseignir, sbr. fylgiskjal 1 með ákvörðun þessari.

Í samræmi við framangreint var yfirlit yfir stöðugleikaframlag Kaupþings ehf. í reiðufé sent Seðlabankanum með tölvupósti frá forstöðumanni fjármálasviðs Kaupþings hf., dags. 26. október 2015, sem uppfært var með tölvupósti, dags. 11. janúar 2016.

2. LENGINGAR

Innlánum Kaupþings ehf. hjá innlendum fjármálafyrirtækjum og hjá Seðlabanka Íslands í erlendum gjaldeyri, að fjárhæð 319.242.528 Bandaríkjadalir eða jafnvirði um 41,4 milljarðar króna m.v. gengi Seðlabankans þann 11. janúar 2016, hefur verið ráðstafað til fjárfestingar samkvæmt samkomulagi um kaup á frumútgáfum skuldabréfa útgefnum af Arion banka hf. undir útgáfuramma MTN til 7 ára.

3. ENDURGREIÐSLA LÁNAFYRIRGREIÐSLU STJÓRNVALDA

Hinn 11. janúar 2016 fjármagnaði Kaupþing ehf. endurgreiðslu Arion banka hf. á láni sem Seðlabanki Íslands veitti í tengslum við endurreisn innlendra fjármálafyrirtækja árið 2009, að fjárhæð 428.239.099 Bandaríkjadala eða jafnvirði um 55,5 milljarðar króna m.v. 11. janúar 2016. Endurgreiðslan var fjármögnuð með útgáfu langtíma skuldabréfs samkvæmt útgáfuramma EMTN/GMTN með lokagjalddaga 7 árum eftir útgáfudag. Vaxtakjör eru 2,6% yfir EURIBOR og Kaupþing ehf. fjárfesti í með uppgreiðslu á framangreindu láni Seðlabankans til Arion banka hf.

4. YFIRLÝSING UM ÁBYRGÐARLEYSI OG MÁLSÓKNARBANN

Fyrir liggur yfirlýsing um ábyrgðaleysi og málsóknarbann í tengslum við nauðasamning Kaupþings ehf. og afhendingu stöðugleikaframlags:

Resolution 11

With effect from the Effective Date in relation to the Intended Composition and provided that the Intended Composition is concluded on the terms of the Revised Stability Proposal and

the Company does not incur any liability to pay the Stability Tax, the Company and its estate hereby irrevocably release each State Released Person to the fullest extent permitted by law from any liability (other than a liability arising from the actual fraud or dishonesty of such State Released Person) arising before the Effective Date which that State Released Person might otherwise have or incur in relation to, arising out of, or in connection with, or as a consequence of:

(i) *the winding-up of the Company, any other Insolvency Proceedings, any step taken in, or in connection with, the Winding-up Proceedings or any other Insolvency Proceedings, and any actual or proposed Composition, the Original Stability Contribution, the Revised Stability Contribution, the Original Stability Proposal or the Revised Stability Proposal, such steps to include, without limitation, any step, action or omission to act, assessment, judgement, estimation or decision taken, in connection with the securities law, consumer protection laws of any jurisdiction and any step, assessment, judgment, estimation or decision of any kind whatsoever; or*

(ii) *the existence of the capital controls under the Act on Foreign Exchange, the terms and conditions of any exemption from the Act on Foreign Exchange granted to the Company or any other person; or*

(iii) *any legislation, bill, act, order, or other legislative or administrative act or action, proposed or enacted prior to the Effective Date and any governmental action or omission to act prior to the Effective Date which in each case (actually or contingently) affects or relates to the Company, its assets, creditors or the Intended Composition; or*

(iv) *any tax liability imposed, incurred or arising prior to the Effective Date, any tax relief obtained or denied prior to the Effective Date, the terms of any tax ruling granted or denied which in each case (actually or contingently) affects or relates to the Company, its assets, creditors or the Intended Composition; or*

(v) *any losses, liabilities or damages suffered by the Company prior to the Effective Date.*

Resolution 12

With effect from the Effective Date in relation to the Intended Composition and provided that the Intended Composition is concluded on the terms of the Revised Stability Proposal and the Company does not incur any liability to pay the Stability Tax, the creditors of the Company (to the extent such creditors could bring a claim in relation to any losses by the Company and its estate or losses, liabilities or damages suffered by them in their capacity as creditors of the Company) hereby irrevocably release each State Released Person to the fullest extent permitted by law from any liability (other than a liability arising from the actual fraud or dishonesty of such State Released Person) arising before the Effective Date which that State Released Person might otherwise have or incur in relation to, arising out of, or in connection with, or as a consequence of:

(i) *the winding-up of the Company, any other Insolvency Proceedings, any step taken in, or in connection with, the Winding-up Proceedings or any other Insolvency Proceedings, and any actual or proposed Composition, the Original Stability Contribution, the Revised Stability Contribution, the Original Stability Proposal or the Revised Stability Proposal, such steps to include, without limitation, any step, action or omission to act, assessment, judgement, estimation or decision taken, in connection with the securities law, consumer protection laws of any jurisdiction and any step, assessment, judgment, estimation or decision of any kind whatsoever; or*

(ii) *the existence of the capital controls under the Act on Foreign Exchange, the terms and conditions of any exemption from the Act on Foreign Exchange granted to the Company or any other person; or*

(iii) *any legislation, bill, act, order, or other legislative or administrative act or action, proposed or enacted prior to the Effective Date and any governmental action or omission to act prior to the Effective Date which in each case (actually or contingently) affects or relates to the Company, its assets, creditors or the Intended Composition; or*

(iv) any tax liability imposed, incurred or arising prior to the Effective Date, any tax relief obtained or denied prior to the Effective Date, the terms of any tax ruling granted or denied which in each case (actually or contingently) affects or relates to the Company, its assets, creditors or the Intended Composition; or

(v) any losses, liabilities or damages suffered by the Company prior to the Effective Date.

"State Released Person" means the Icelandic state, the CBI and any other Icelandic governmental and/or regulatory authority including but not limited to, the FME, the Icelandic tax authority and any personnel, officer, employee, adviser or Affiliate of any such authority;

For information, "Effective Date" is currently defined in the OCM notice as only occurring "on the date on which the last of the following occur: (a) the requisite majority of Composition Creditors (by number and by value) has approved a proposed Composition and either (b) the District Court has approved the Composition and the deadline for appealing the decision of the District Court to the Supreme Court has expired, or (c) if the decision is appealed, the Supreme Court has confirmed the Composition or such appeals are withdrawn or lapse."

Við mat á veitingu undanþágu til Kaupþings ehf. lítur Seðlabankinn, m.a. til þess að framangreind yfirlýsing var samþykkt með endanlegum og bindandi hætti á kröfuhafafundi Kaupþings hf. hinn 13. nóvember 2015, enda skiptir slíkt verulegu máli við mat á því hvort stöðugleiki í gengis- og peningamálum sé tryggður, sem er forsenda fyrir veitingu undanþágu.

III.

Með beiðni yðar, f.h. Kaupþings hf., dags. 21. október 2015, er óskað eftir að Seðlabanki Íslands veiti félaginu undanþágur fyrir tilteknar tegundir fjármagnshreyfinga og gjaldeyrisviðskipti þeim tengdum í 8 liðum, sbr. bls. 2-3 í því bréfi.

Í fyrsta lagi er óskað eftir undanþágu frá 1. og 2. mgr. 13. gr. b. laga nr. 87/1992, um gjaldeyrismál, þannig að félagið geti án takmarkana:

i. greitt almennum kröfuhöfum í reiðufé á grundvelli nauðasamnings;

ii. greitt rekstrarkostnað félagsins;

iii. stutt við eignir félagsins;

iv. greitt rekstrarkostnað dótturfélaga í fullri eigu félagsins, hvort sem er innlendra eða erlendra;

v. framkvæmt greiðslur á grundvelli skuldabréfa útgefnum af félaginu, m.a. en ekki takmarkað við, greiðslur vaxta, afborgana, fyrirframgreiðslna að eigin frumkvæði, greiðslur á grundvelli innlausnar eða fjársópsákvæða;

vi. greitt arð; og

vii. greitt aðrar greiðslur sem kunna að koma upp í tengslum við rekstur félagsins, meðal annars allar greiðslur sem mótteknar eru í tengslum við sölu Arion banka hf. sem eru ekki í reiðufé.

Í öðru lagi er óskað eftir undanþágu frá 3. mgr. 13. gr. b. og 1. mgr. 13. gr. c. laga nr. 87/1992, um gjaldeyrismál, í tengslum við allar greiðslur í innlendum og erlendum gjaldeyri til almennra kröfuhafa á grundvelli nauðasamnings og efnda hans, hvort sem er í reiðufé eða í formi hlutafjár eða skuldabréfa.

Í þriðja lagi er óskað eftir undanþágu frá 1. tölul. 1. mgr. 13. gr. b. og 13. gr. e. laga nr. 87/1992, um gjaldeyrismál, þannig að félaginu sé unnt að gefa út skuldabréf, þar á meðal en ekki takmarkað við breytanleg skuldabréf sem kunna að vera tryggð með veði í tilteknum eignum, útgefin í erlendum gjaldeyri, og til að framkvæma greiðslur á grundvelli þeirra.

Í fjórða lagi er óskað eftir undanþágu frá 1. tölul. 1. mgr. 13. gr. b., 2. og 3. mgr. 13. gr. b. og 13. gr. e. laga nr. 87/1992, um gjaldeyrismál, þannig að félaginu sé heimilt að gefa út hlutafé í innlendum eða erlendum gjaldeyri til innlendra og erlendra aðila.

Í fimmta lagi er óskað eftir undanþágu frá 13. gr. e. laga nr. 87/1992, um gjaldeyrismál, þannig að félagið geti fjárfest í skuldabréfum útgefnum af Arion banka hf. skv. MTN útgáfuramma bankans í erlendum gjaldeyri.

Í sjötta lagi er óskað eftir undanþágu frá 1. og 3. mgr. 13. gr. b. og 13. gr. c. laga nr. 87/1992, um gjaldeyrismál, í tengslum við sölu á Arion banka hf.

Í sjöunda lagi er óskað eftir almennum undanþágum frá 3. mgr. 13. gr. b., 13. gr. c., 13. gr. d., 13. gr. e., 13. gr. f., 13. gr. g., 13. gr. h., 13. gr. i., 13. gr. j. og 13. gr. l. laga nr. 87/1992, um gjaldeyrismál, í tengslum við rekstur félagsins og stuðning við eignir þess í kjölfar slitameðferðar félagsins.

Í áttunda lagi er óskað eftir undanþágu frá 1. og 2. mgr. 13. gr. b. og 1. mgr. 13. gr. c. laga nr. 87/1992, um gjaldeyrismál, vegna veðsetningar tiltekinna eigna sem tryggingu fyrir skuldabréfum útgefnum af félaginu, þar á meðal en ekki takmarkað við, skuldabréf gefin út í tengslum við stöðugleikaframlag félagsins.

Til viðbótar framangreindu er óskað eftir því að dótturfélögum, í fullri eigu félagsins, verði veittar sömu undanþágur og félaginu sem lýst er undir fyrsta og sjöunda lið hér að framan.

Fyrir liggur að Kaupþing ehf. er skráð til heimilis hér á landi og er félagið því innlendur aðili í skilningi laga nr. 87/1992, um gjaldeyrismál.

Ákvæði 1. mgr. 13. gr. b. laga nr. 87/1992, um gjaldeyrismál, mælir fyrir um að eftirfarandi fjármagnshreyfingar milli landa séu óheimilar: Í fyrsta lagi viðskipti og útgáfa verðbréfa, hlutdeildarskírteina í verðbréfa- og fjárfestingarsjóðum, peningamarkaðsskjala og annarra framseljanlegra fjármálagerninga, í öðru lagi innlegg á og úttektir af reikningum í lánastofnunum, í þriðja lagi lánveitingar, lántökur og útgáfa ábyrgða sem ekki tengjast milliríkjaviðskiptum með vöru og þjónustu, í fjórða lagi inn- og útflutningur verðbréfa og innlends og erlends gjaldeyris, í fimmta lagi framvirk viðskipti, afleiðuviðskipti, viðskipti með valrétti, gjaldmiðla- og vaxtaskipti og önnur skyld gjaldeyrisviðskipti þar sem íslenska krónan er annar eða einn gjaldmiðlanna og í sjötta lagi gjafir og styrkir og aðrar hreyfingar fjármagns hliðstæðar þeim sem taldar eru upp í 1.-5. tölul. og eru til þess fallnar að valda alvarlegum og verulegum óstöðugleika í gengis- og peningamálum. Í 2. mgr. sömu greinar segir að allar

fjármagnshreyfingar á milli landa í erlendum gjaldeyri séu óheimilar nema um sé að ræða greiðslu vegna kaupa á vöru eða þjónustu eða annarra fjármagnshreyfinga sem sérstaklega séu undanþegnar í lögunum.

Þá segir í 3. mgr. sömu greinar að allar fjármagnshreyfingar skv. 1. mgr. á milli landa í innlendum gjaldeyri séu óheimilar nema með ákveðnum undantekningum sem taldar eru upp í þremur töluliðum í ákvæðinu. Er í fyrsta lagi um að ræða fjármagnshreyfingar sem sérstaklega eru undanþegnar í lögunum aðrar en vegna vöru- og þjónustuviðskipta og greiðsla fer fram með úttektum af reikningi í eigu greiðanda hjá fjármálafyrirtæki hér á landi, í öðru lagi vegna vöru- og þjónustuviðskipta, sem ekki eiga að fara fram í erlendum gjaldeyri, sbr. ákvæði til bráðabirgða II, þar sem greiðslan fer fram með úttektum af reikningi í eigu kaupanda hjá fjármálafyrirtæki hér á landi og í þriðja og síðasta lagi vegna greiðslu andvirðis tjónabóta eða arfs sem einstaklingi hefur tæmst við dánarbússkipti þar sem greiðslan fer fram með úttektum af reikningi í eigu greiðanda hjá fjármálafyrirtæki hér á landi.

Í 1. mgr. 13. gr. c. laga nr. 87/1992, um gjaldeyrismál, er mælt svo fyrir að gjaldeyrisviðskipti milli innlendra og erlendra aðila þar sem innlendur gjaldeyrir er hluti af viðskiptunum séu óheimil. Í 2. mgr. sömu greinar kemur fram að innlendum aðila sé óheimilt að kaupa erlendan gjaldeyri hjá fjármálafyrirtæki hér á landi, þegar greiðsla fari fram með innlendum gjaldeyri, nema hann sýni fram á að féð sé til notkunar í vöru- og þjónustuviðskiptum eða vegna fjármagnshreyfinga sem undanþegnar eru samkvæmt ákvæðum 13. gr. f., 13. gr. j. og 13. gr. k. laganna vegna slíkra greiðslna til erlendra aðila. Gjaldeyrisviðskipti vegna vöru- og þjónustuviðskipta milli tveggja innlendra aðila, þar sem innlendur gjaldeyrir er hluti af viðskiptunum séu óheimil. Þá sé lögaðilum sem sæta slitameðferð skv. 101. gr. laga um fjármálafyrirtæki, lögaðilum sem lokið hafa slitameðferð skv. 103. gr. a. sömu laga og lögaðilum sem stofnaðir hafa verið í tengslum við efndir nauðasamnings framangreindra lögaðila óheimilt að eiga gjaldeyrisviðskipti, þar sem innlendur gjaldeyrir er hluti af viðskiptunum, við aðra aðila en viðskiptabanka eða sparisjóði hér á landi. Takmörkun 3. málsl. þessarar málsgreinar nái ekki til gjaldeyrisviðskipta sem felast í því að aðili samkvæmt þeim málslið nýtir erlendan gjaldeyri í sinni eigu við úthlutun til kröfuhafa sem eiga kröfur í innlendum gjaldeyri í tengslum við gjaldþrotaskipti eða efndir nauðasamnings.

Þá segir í 1. mgr. 13. gr. e. laga nr. 87/1992, um gjaldeyrismál, að fjárfesting í verðbréfum, hlutdeildarskírteinum verðbréfa- og fjárfestingarsjóða, peningamarkaðsskjölum eða öðrum framseljanlegum fjármálagerningum útgefnum í erlendum gjaldeyri sé óheimil. Þó sé aðilum sem fjárfest hafa í slíkum fjármálagerningum fyrir 28. nóvember 2008 heimilt að endurfjárfesta. Nú séu fjármunir sem losna við sölu eða uppgreiðslu, eða falla til vegna arðgreiðslna og afborgana vaxta og höfuðstóls, nýttir í heild eða að hluta til að fjárfesta aftur í hvers konar erlendri fjárfestingu innan sex mánaða og teljist það þá endurfjárfesting í skilningi 2. málsl. Meðan frestur til að endurfjárfesta sé að líða skulu fjármunir skv. 3. málsl. undanþegnir ákvæði 13. gr. l. laganna. Í 2. mgr. sömu greinar kemur fram að söluandvirði vegna viðskipta með fjármálagerning skv. 1. mgr., útgefinn í innlendum gjaldeyri, milli innlendra og erlendra aðila sem gerð eru upp hérlendis skuli leggja inn á reikning viðkomandi seljanda í fjármálafyrirtæki hér á landi. Þá segir í 3. mgr. sömu greinar að uppgjör viðskipta í erlendum gjaldeyri með fjármálagerninga skv. 1. mgr., útgefna í innlendum gjaldeyri, sé óheimilt. Í 4. mgr. sömu greinar segir að óheimilt sé að gefa út og/eða selja fjármálagerninga skv. 1. mgr. þar sem uppgjör fer fram í öðrum gjaldeyri en útgáfan og innlendur gjaldeyrir sé einn af gjaldmiðlum uppgjörs. Hafi útgáfa farið fram í innlendum gjaldeyri er skylt að leggja andvirði sölu inn á reikning í innlendum gjaldeyri á nafni útgefanda í fjármálafyrirtæki hér á landi. Þá segir í 5. mgr. sömu greinar að fjármagnshreyfingar á milli landa vegna fyrirframgreiðslu af fjármálagerningum skv. 1. mgr. séu óheimilar.

Í 1. mgr. 13. gr. f. laga nr. 87/1992, um gjaldeyrismál, kemur fram að fjármagnshreyfingar á milli landa vegna fjárfestinga í peningakröfum í erlendum gjaldeyri og öðrum sambærilegum kröfuréttindum sem ekki falla undir 13. gr. e. laganna séu óheimilar. Í 2. mgr. sama ákvæðis segir að fjármagnshreyfingar á milli landa vegna fasteignaviðskipta erlendis séu óheimilar nema sýnt sé fram á að viðskiptin séu gerð vegna búferlaflutninga aðila. Hámarksfjárhæð gjaldeyriskaupa og fjármagnsflutninga vegna kaupa á einni fasteign sem tengjast búferlaflutningum er jafnviði 100.000.000 kr. Í 4. mgr. segir að fjármagnshreyfingar á milli landa vegna fjárfestingar í öðrum eignum í erlendum gjaldeyri, þ.m.t. hrávöru, farartækjum og vinnuvélum, sem eru hvorki eðlilegur þáttur í atvinnustarfsemi aðila né ætluð til innflutnings fyrir framleiðslu hans, séu óheimilar.

Í 1. mgr. 13. gr. g. laga nr. 87/1992, um gjaldeyrismál, kemur fram að lántökur og lánveitingar milli innlendra og erlendra aðila í öðrum tilvikum en vegna viðskipta á milli landa með vöru og þjónustu séu óheimilar, nema slíkar lántökur og lánveitingar séu milli félaga innan sömu samstæðu. Lögaðilar sem sæta slitameðferð skv. 101. gr. laga um fjármálafyrirtæki, lögaðilar sem lokið hafa slitameðferð skv. 103. gr. a. sömu laga og lögaðilar sem stofnaðir hafa verið í tengslum við efndir nauðasamnings framangreindra lögaðila falla ekki undir undanþágu 1. málsl. vegna lántöku og lánveitinga milli félaga innan sömu samstæðu. Í 2. mgr. sömu greinar segir að þrátt fyrir 1. mgr. skulu lánveitingar innlendra aðila til erlendra aðila sem uppfylla eftirfarandi skilyrði vera heimilar: í fyrsta lagi að lán hvers aðila sé eigi hærra en sem nemur 10.000.000 kr. eða jafnvirði þeirrar fjárhæðar í gjaldeyri á almanaksárinu, í öðru lagi að lánstími sé eigi skemmri en eitt ár, í þriðja lagi að gjaldeyrisyfirfærslur vegna lánsins séu í samræmi við ákvæði 13. gr. l. laganna og í fjórða lagi að lánasamningar, þ.m.t. allir viðaukar og fylgiskjöl, séu sendir til þess fjármálafyrirtækis sem annast fjármagnshreyfingar, innan viku frá undirskrift slíkra samninga. Í 3. mgr. sömu greinar segir að þrátt fyrir ákvæði 1. mgr. skulu lántökur innlendra aðila hjá erlendum aðilum í erlendum gjaldeyri sem uppfylla eftirfarandi skilyrði vera heimilar: í fyrsta lagi að lánstími sé eigi skemmri en tvö ár og greiðslur af lánasamningum séu ekki á grundvelli ákvæða sem leitt geti til þess að lántaka beri skylda til eða sé heimilt að hraða endurgreiðsluferli láns umfram fyrir fram skilgreindar afborganir eða uppgreiðslu fyrir lokagjaldaga lánsins, í öðru lagi að gjaldeyrisyfirfærslur vegna lánsins séu í samræmi við ákvæði 13. gr. l. laganna, í þriðja lagi að lánasamningar, þ.m.t. allir viðaukar og fylgiskjöl, séu sendir til þess fjármálafyrirtækis sem annast fjármagnshreyfingar, innan viku frá undirskrift slíkra samninga. Í 4. mgr. sömu greinar segir að óheimilt sé að fyrirframgreiða lántökur innlendra aðila hjá erlendum aðilum. Í 5. mgr. sömu greinar segir að óheimilt sé að endurgreiða lán milli innlendra og erlendra aðila með innlendum gjaldeyri ef lánveitingin fór fram í erlendum gjaldeyri. Óheimilt sé að endurgreiða lán milli innlendra og erlendra aðila með erlendum gjaldeyri ef lánveitingin fór fram í innlendum gjaldeyri. Í 6. mgr. sömu greinar segir að ákvæði þessarar greinar komi ekki í veg fyrir að lántökur og lánveitingar milli innlendra og erlendra aðila séu framlengdar, að því gefnu að aðrir skilmálar gildi að sama leyti og áður. Allar skilmálabreytingar sem gerðar séu á lántökum og lánveitingum milli innlendra aðila og erlendra aðila, m.a. breytingar á greiðslu afborgana höfuðstóls og vaxta, breytingar á gjalddögum og/eða breytingar vegna aðilaskipta að

slíkum kröfuréttindum, teljist ný lántaka og lánveiting í skilningi 1. mgr. ákvæðisins.

Í 1. mgr. 13. gr. h. laga nr. 87/1992, um gjaldeyrismál, kemur fram að heimilt sé að ganga í eða takast á hendur ábyrgð á greiðslum til erlendra aðila. Í 2. mgr. sömu greinar segir að ákvæði greinarinnar gildi hvorki um ábyrgðir vegna vöru- og þjónustuviðskipta né um ábyrgðir milli félaga innan samstæðu eða um ábyrgðir sem veittar séu í tengslum við lántökur innlendra aðila hjá erlendum aðilum, sem ekki teljist til tengdra aðila, og uppfylla skilyrði 3. mgr. 13. gr. g. laganna. Lögaðilar sem sæta slitameðferð skv. 101. gr. laga um fjármálafyrirtæki, lögaðilar sem lokið hafa slitameðferð skv. 103. gr. a. sömu laga og lögaðilar sem stofnaðir hafa verið í tengslum við efndir nauðasamnings framangreindra lögaðila falla ekki undir undanþágu 1. málsl. vegna ábyrgða milli félaga innan sömu samstæðu, nema slíkar ábyrgðir séu veittar vegna vöru- og þjónustuviðskipta eða ef lán sem ábyrgð er veitt vegna uppfyllir skilyrði 3. mgr. 13. gr. g. laganna.

Í 1. mgr. 13. gr. i. laga nr. 87/1992, um gjaldeyrismál, segir að óheimilt sé að eiga afleiðuviðskipti þar sem innlendur gjaldeyrir er í samningi gagnvart erlendum gjaldeyri, hvort sem um er að ræða gjaldeyris- eða verðbréfasamning eða sambland gjaldeyris- og verðbréfasamnings eða sambærilega fjármálagerninga. Í 2. mgr. segir að afleiðuviðskipti sem eingöngu eru vegna vöru- og þjónustuviðskipta falla ekki undir þetta ákvæði.

Í 1. mgr. 13. gr. j. laga nr. 87/1992, um gjaldeyrismál, kemur fram að fjármagnshreyfingar á milli landa og gjaldeyrisviðskipti vegna þeirra vegna greiðslu á vöxtum, verðbótum, arði og samningsbundnum afborgunum séu undanþegnar lögum þessum, sbr. 2. mgr. og 1. tölul. 3. mgr. 13. gr. b og 2. og 3. mgr. 13. gr. c. Þá segir að innlendum aðilum sé heimilt að kaupa erlendan gjaldeyri til greiðslu samningsbundinna afborgana lána í erlendum gjaldeyri, hjá því innlenda fjármálafyrirtæki sem veitti viðkomandi lán, að því gefnu að lánstími sé eigi skemmri en tvö ár eða lán hafi verið veitt vegna greiðslu til erlends aðila vegna vöru- og þjónustuviðskipta. Í 5. mgr. sama ákvæðis segir að þrátt fyrir 1. mgr. skuli afborganir og verðbætur af höfuðstól skuldabréfa ekki undanþegnar bannákvæði 2. og 3. mgr. 13. gr. c. Jafnframt skuli afborganir af lánum og greiðslur til erlendra aðila vegna áfallinna ábyrgða, innan samstæðu, ekki undanþegnar bannákvæði 2. og 3. mgr. 13. gr. c, nema slík lán eða

ábyrgðir hafi verið veittar í tengslum við vöru- og þjónustuviðskipti eða uppfylli skilyrði 3. mgr. 13. gr. g. Afborganir af lánum og greiðslur til erlendra aðila vegna áfallinna ábyrgða, þ.m.t. innan samstæðu, þar sem lántaki og/eða ábyrgðaraðili er lögaðili sem sætir slitameðferð skv. 101. gr. laga um fjármálafyrirtæki, lögaðili sem lokið hefur slitameðferð skv. 103. gr. a sömu laga eða lögaðili sem stofnaður hefur verið í tengslum við efndir nauðasamnings framangreindra lögaðila skulu ekki undanþegnar bannákvæði 2. og 3. mgr. 13. gr. c, nema slík lán eða ábyrgðir hafi verið veittar í tengslum við vöru- og þjónustuviðskipti. Í 6. mgr. sama ákvæðis segir að með arði skv. 1. mgr. sé aðeins átt við arðgreiðslur á grundvelli hagnaðar vegna reglulegrar starfsemi félags, þó ekki vegna sölu eigna. Greiðslur til hluthafa sem falla til við lækkun hlutafjár, í tengslum við slit á félagi eða til hluthafa sem hafa fengið fullnaðargreiðslu krafna sinna, að hluta eða að öllu leyti með útgáfu hlutafjár í hinu áður skuldsetta félagi, t.d. í samræmi við ákvæði nauðasamnings, teljast ekki arður í skilningi 1. mgr. Þá segir í 8. mgr. sama ákvæðis að fyrirframgreiðslur, greiðslur vegna gjaldfellinga eða gjaldþrotaskipta og greiðslur af lánasamningum sem uppfylla ekki skilyrði 13. gr. g teljist ekki til samningsbundinna afborgana í skilningi 1. mgr. Enn fremur teljist greiðslur og önnur úthlutun samkvæmt ákvæðum nauðasamnings, greiðslur samkvæmt skuldagerningum útgefnum í tengslum við nauðasamning eða greiðslur sem framkvæmdar eru á annan hátt, þegar framangreindar greiðslur eru gerðar í þeim tilgangi að úthluta eignum aðila sem sætir slitameðferð eða sem hefur lokið slitameðferð með nauðasamningi, ekki til samningsbundinna afborgana í skilningi 1. mgr.

Í 1. mgr. 13. gr. l. laga nr. 87/1992, um gjaldeyrismál, kemur fram að öllum erlendum gjaldeyri sem innlendir aðilar eignast, svo sem fyrir seldar vörur og þjónustu, eða með öðrum hætti, skal skilað á innlánsreikning í eigu þess innlenda aðila hjá fjármálafyrirtæki hér á landi innan þriggja vikna frá því að gjaldeyririnn komst eða gat komist í umráð eiganda eða umboðsmanns hans. Skilaskylda skv. 1. málsl. sé uppfyllt þegar erlendur gjaldeyrir er varðveittur á gjaldeyrisreikningi hjá fjármálafyrirtæki hér á landi. Í 2. mgr. sömu greinar segir að skilaskylda nái ekki til innlendra aðila sem hafa búsetu erlendis vegna starfs eða náms.

Samkvæmt framangreindu gengur fyrirhugað uppgjör Kaupþings ehf. við kröfuhafa sína á grundvelli nauðasamnings félagsins gegn framangreindum ákvæðum. Veita þarf því undanþágu frá ákvæðunum

svo Kaupþing ehf. geti framkvæmt uppgjör samkvæmt ákvæðum nauðasamnings félagsins við kröfuhafa sína.

IV.

Seðlabanki Íslands hefur framkvæmt greiningar á framangreindum tillögum Kaupþings ehf., sbr. undanþágubeiðni yðar, dags. 21. október 2015, fylgiskjöl með henni, samninga milli Kaupþings ehf. og Arion banka hf., sbr. fylgiskjal 2 með ákvörðun þessari, samning milli Kaupþings ehf. og SÍ, um fyrirhugaðar aðgerðir Kaupþings ehf. og afhendingu stöðugleikaframlags, sbr. fylgiskjal 1 með ákvörðun þessari auk annarra fylgiskjala, með tilliti til áhrifa þeirra á stöðugleika í gengis- og peningamálum og á fjármálalegan stöðugleika. Var það mat Seðlabankans að niðurstöður þeirra greininga sýni fram á að þær aðgerðir sem Kaupþing ehf. hyggst framkvæma, með það að markmiði að uppfylla stöðugleikaskilyrði, séu í meginatriðum hvorki til þess fallnar að valda óstöðugleika í gengis- og peningamálum né að fjármálalegum stöðugleika verði raskað vegna uppgjörs Kaupþings ehf. við kröfuhafa sína í tengslum við lok slitameðferðar félagsins. Þá er ljóst að Kaupþing ehf. hefur verulega hagsmuni af því að ljúka slitameðferð félagsins og er það aðeins unnt að fenginni undanþágu frá takmörkunum laga nr. 87/1992, um gjaldeyrismál.

Í ljósi framangreinds veitti Seðlabankinn, í samráði við fjármála- og efnahagsráðherra á grundvelli 2. mgr. 13. gr. o. laga nr. 87/1992, um gjaldeyrismál, Kaupþingi hf. vilyrði, með bréfi, dags. 11. nóvember 2015, fyrir tilteknum undanþágum frá lögum nr. 87/1992, um gjaldeyrismál, í tengslum við fyrirhugaðan nauðasamning félagsins, að uppfylltum stöðugleikaskilyrðum. Þá gaf Seðlabankinn jafnframt út vottorð, dags. 18. nóvember 2015, þess efnis að það væri mat bankans að frumvarp að nauðasamningi Kaupþings hf. myndi hvorki valda óstöðugleika í gengis- og peningamálum né raska fjármálastöðugleika, sbr. 4. mgr. 103. gr. a. laga nr. 161/2002, um fjármálafyrirtæki.

Eins og að framan greinir var frumvarp að nauðasamningi Kaupþings hf., dags. 6. nóvember 2015, lagt fram á kröfuhafafundi félagsins hinn 24. nóvember 2015 þar sem það var samþykkt með 100% atkvæða eftir höfðatölu og 100% atkvæða eftir kröfufjárhæðum. Á fundinn var mætt fyrir 93,66% af kröfufjárhæðum og voru atkvæðin því talin í samræmi við fyrirmæli 2. mgr. 52. gr. laga nr. 21/1991, um gjaldþrotaskipti o.fl., sbr. einnig 2. mgr. 152. gr. sömu laga, og var

frumvarp að nauðasamningi Kaupþings hf. þar með samþykkt í skilningi 3. mgr. 103. gr. laga nr. 161/2002, um fjármálafyrirtæki.

Samkvæmt nauðasamningi Kaupþings hf. verða greiðslur til kröfuhafa meðal annars framkvæmdar með þeim hætti að sérhver samningskröfuhafi og lágmarkgreiðslukröfuhafi skuli eiga rétt til lágmarksgreiðslu í reiðufé frá félaginu. Nemi almennar kröfur viðkomandi kröfuhafa samanlagt fjárhæð sem jafngildir eða er lægri en kr. 4.600.000, skulu þær greiðast að fullu. Nemi almennar kröfur viðkomandi kröfuhafa samanlagt fjárhæð sem er hærri en kr. 4.600.000, en er lægri en eða jafngildir nauðasamningsviðmiðinu, sem er kr. 15.333.332, fær kröfuhafi greidda alla fjárhæð lágmarksgreiðslunnar, kr. 4.600.000, sem mun fullnægja (gagnvart Kaupþingi ehf.) greiðslukröfu kröfuhafans og munu eftirstöðvar viðkomandi kröfuhafa falla niður gagnvart félaginu í samræmi við ákvæði nauðasamningsins. Nemi almennar kröfur viðkomandi kröfuhafa samanlagt hærri fjárhæð en nauðasamningsviðmiðið skal greiða nauðasamningskröfuhafanum lágmarksgreiðslu að fjárhæð kr. 4.600.000, sem mun fullnægja (gagnvart Kaupþingi ehf.) þeim hluta nauðasamningskröfunnar sem jafngildir nauðasamningsviðmiðinu, auk greiðslna í formi peningagreiðslu, útgáfu og afhendingar breytanlegra skuldabréfa og hluta í félaginu, í samræmi við ákvæði nauðasamningsins. Samkvæmt nánari fyrirmælum nauðasamningsins verður fjárhæð lágmarksgreiðslunnar umreiknuð og greidd í evrum nema viðkomandi nauðasamningskröfuhafi eða lágmarksgreiðslukröfuhafi kjósi að fá greitt í íslenskum krónum. Samanlagðar framangreindar greiðslur í formi peninga, skuldabréfa og hluta (sameiginlega nefnd „nauðasamningsgreiðslurnar“) ásamt lágmarksgreiðslu fela í sér boð um greiðslu á 30% af samningskröfu hvers nauðasamningskröfuhafa, með þeim forsendum og fyrirvörum sem vísað er til í nauðasamningnum. Við greiðslu lágmarksgreiðslunnar og nauðasamningsgreiðslnanna til hvers nauðasamningskröfuhafa falla eftirstöðvar samningskröfu viðkomandi kröfuhafa niður gagnvart félaginu. Lágmarksgreiðslan, peningagreiðslan og/eða breytanlegu skuldabréfin (eftir því sem við á) sem tilheyra lágmarkskröfuhafa eða samningskröfuhafa sem vegna ástæðna sem tengjast viðkomandi kröfuhöfum sjálfum eða sem vegna ágreinings er ekki unnt að greiða beint til kröfuhafa, verða lögð inn á vörslureikning í nafni félagsins og verður úthlutað af stjórn félagsins (ásamt áföllnum vöxtum, ef við á) til viðkomandi lágmarksgreiðslukröfuhafa eða samningskröfuhafa svo fljótt sem verða má. Engir vextir munu leggjast á eða verða greiddir af

samningskröfum eða vegna lágmarksgreiðslna eða nauðasamningsgreiðslna frá gildistökudegi nauðasamningsins og þar til úthlutun á sér stað skv. ákvæðum nauðasamningsins. Þá verða að auki engar tryggingar eða veð veitt til að tryggja greiðslu samkvæmt nauðasamningnum.

Með bréfi slitastjórnar Kaupþings hf. til Héraðsdóms Reykjavíkur, dags. 25. nóvember 2015, var þess óskað að héraðsdómur staðfesti framangreindan nauðasamning félagsins. Við fyrirtöku málsins hinn 7. desember 2015 voru ekki höfð uppi andmæli við staðfestingu nauðasamningsins og var hann því staðfestur með úrskurði héraðsdóms uppkveðnum hinn 15. desember 2015, sbr. fylgiskjal 6 með ákvörðun þessari. Í ljósi þess að málskot hefur ekki átt sér stað innan lögbundins frests telst nauðasamningur Kaupþings hf. því endanlega kominn á, sbr. 59. og 60. gr. laga nr. 21/1991, um gjaldþrotaskipti o.fl.

Það er mat Seðlabankans að sömu forsendur séu nú til staðar og lagðar voru til grundvallar afstöðu bankans fyrir veitingu vilyrðis fyrir undanþágum frá lögum nr. 87/1992, um gjaldeyrismál, til Kaupþings hf. hinn 11. nóvember 2015. Með vísan til staðfestingar nauðasamnings Kaupþings hf. og þeirra aðgerða sem félagið hefur framkvæmt í því ljósi að uppfylla stöðugleikaskilyrði stjórnvalda, er það niðurstaða Seðlabankans að veita skuli Kaupþingi ehf. nauðsynlegar undanþágur vegna nauðasamnings félagsins við kröfuhafa sína og loka slitameðferðar þess, að því gefnu að frekari skilyrði sem bankinn setur fyrir ákvörðun sinni séu uppfyllt. Með vísan til 2. mgr. 13. gr. o. laga nr. 87/1992, um gjaldeyrismál, hefur Seðlabankinn haft samráð við fjármála- og efnahagsráðherra sem hefur veitt endanlegt samþykki sitt fyrir veitingu umræddra undanþága með bréfi sínu, dags. 15. janúar 2016, sbr. fylgiskjal 7 með ákvörðun þessari.

V.

Að framangreindu virtu og að uppfylltum þeim skilyrðum sem Seðlabankinn setur fyrir veitingu undanþágunnar, veitir Seðlabankinn Kaupþingi ehf. eftirfarandi undanþágur frá lögum nr. 87/1992, um gjaldeyrismál:

i. Frá 1. og 2. mgr. 13. gr. b. laga um gjaldeyrismál vegna fjármagnshreyfinga á milli landa í erlendum gjaldeyri í eigu Kaupþings ehf.

ii. Frá 1. og 3. mgr. 13. b. laga um gjaldeyrismál vegna fjármagnshreyfinga á milli landa í íslenskum krónum vegna lágmarksgreiðslna til kröfuhafa í íslenskum krónum.

iii. Frá 1. mgr. 13. gr. c. laga um gjaldeyrismál vegna lágmarksgreiðslna og peningagreiðslna til kröfuhafa með erlendum gjaldeyri í eigu Kaupþings ehf. og útgáfu Kaupþings ehf. á skuldabréfi, útgefnu í erlendum gjaldeyri, til kröfuhafa í tengslum við nauðasamning til uppgjörs krafna þeirra í innlendum gjaldeyri.

iv. Frá 1. málsl. 2. mgr. 13. gr. c. laga um gjaldeyrismál, þannig að Kaupþingi ehf. sé heimilt að kaupa erlendan gjaldeyri fyrir íslenskar krónur sem félagið eignast vegna sölu á Arion banka hf. og greiða þann erlenda gjaldeyri til kröfuhafa samkvæmt ákvæðum skuldabréfs sem gefið verður út í tengslum við staðfestingu nauðasamnings.

v. Fyrir almennri undanþágu frá 13. gr. e., 13. gr. f., 13. gr. g., 13. gr. h. og 13. gr. i. laga um gjaldeyrismál ef slík fjármagnshreyfing fer fram með erlendum gjaldeyri í eigu Kaupþings ehf.

vi. Frá 13. gr. l. laga um gjaldeyrismál vegna skilaskyldu á erlendum gjaldeyri sem Kaupþing ehf. eignast.

vii. Frá 6. og 8. mgr. 13. gr. j. laga um gjaldeyrismál vegna allra greiðslna til kröfuhafa í kjölfar staðfestingar nauðasamnings, s.s. vegna arðgreiðslna til hluthafa. Framangreindar greiðslur skulu undanþegnar skilyrði 9. mgr. 13. gr. j. laga um gjaldeyrismál um staðfestingarskyldu.

Seðlabankinn veitir innlendum kröfuhöfum Kaupþings ehf. jafnframt undanþágu frá 1. og 4. mgr. 13. gr. e. laga nr. 87/1992, um gjaldeyrismál, vegna móttöku á skuldabréfi útgefnu í erlendum gjaldeyri samkvæmt staðfestum nauðasamningi. Einnig veitir Seðlabankinn innlendum kröfuhöfum Kaupþings ehf. undanþágu frá 13. gr. e., 13. gr. f., 13. gr. g., 13. gr. h. og 13. gr. l. vegna

fjármagnshreyfinga á milli landa með þann erlenda gjaldeyri sem þeir fá greiddan frá Kaupþingi ehf. í tengslum við uppgjör félagsins samkvæmt staðfestum nauðasamningi.

Þá veitir Seðlabankinn erlendum kröfuhöfum Kaupþings ehf. jafnframt undanþágu frá 1. og 3. mgr. 13. gr. b. laga nr. 87/1992, um gjaldeyrismál, vegna móttöku á hlutafé í Kaupþingi ehf. í íslenskum krónum í tengslum við nauðasamning félagsins. Einnig veitir Seðlabankinn erlendum kröfuhöfum undanþágu frá 1. og 4. mgr. 13. gr. e. laga um gjaldeyrismál, vegna móttöku á skuldabréfi útgefnu í erlendum gjaldeyri samkvæmt staðfestum nauðasamningi.

Með vísan til sniðgöngusjónarmiða og þeirrar víðtæku undanþága sem Kaupþingi ehf. eru veittar telur Seðlabankinn þó ekki forsendur fyrir því að veita dótturfélögum Kaupþings ehf. sambærilegar undanþágur þrátt fyrir að þau séu í 100% eigu félagsins.

Samkvæmt 3. málsl. 1. mgr. 13. gr. o. laga nr. 87/1992, um gjaldeyrismál, getur Seðlabankinn sett skilyrði fyrir veitingu undanþágu. Á grundvelli þeirrar heimildar setur Seðlabankinn eftirfarandi skilyrði fyrir veitingu undanþágu til Kaupþings ehf.:

i. Áður en kemur til gjaldeyrisviðskipta á grundvelli veittrar undanþágu, þar sem íslenskum krónum er skipt fyrir erlendan gjaldeyri, skal fyrsta úthlutun samkvæmt nauðasamningi í erlendum gjaldeyri hafa farið fram. Með úthlutun er ekki átt við lágmarksgreiðslur (de minimis) til kröfuhafa samkvæmt nauðasamningi.

ii. Í allt að þrjú ár frá veitingu undanþágu Seðlabanka Íslands skal sala og endursala á 87% hlut Kaupskila ehf. í Arion banka hf., í heild eða hluta, einungis heimil til erlends aðila, sbr. 1. gr. laga nr. 87/1992, um gjaldeyrismál, að undangenginni staðfestingu Seðlabanka Íslands og fjármála- og efnahagsráðherra á að slík sala eða endursala valdi ekki neikvæðum áhrifum á stöðugleika í gengis- og peningamálum og fjármálalegan stöðugleika. Við mat á því hvort kaupandi telst erlendur aðili er litið til þess hver er raunverulegur eigandi (beneficial owner) eftir kaupin.

iii. Að Kaupþing ehf. selji ekki eignir sínar sem falla undir lið II.2 og II.3 í bréfi þessu, til innlendra aðila fyrir erlendan gjaldeyri.

Í þessu sambandi er rétt að árétta að komi til þess að Kaupþing ehf. selji eignir sínar fyrir íslenskar krónur falla þær endurheimtur undir fjársópsákvæði samkvæmt samningi milli Kaupþings ehf. og SÍ.

iv. Að Kaupþing ehf. veiti Seðlabankanum eftirfarandi upplýsingar og gögn vegna eftirlits með efndum félagsins við kröfuhafa sína og á stöðugleikaskilyrðum:

a) Upplýsingar um gjaldeyrisviðskipti sem Kaupþing ehf. á við innlenda viðskiptabanka og fjármagnshreyfingar þegar íslenskar krónur eru hluti viðskiptanna þar sem eftirfarandi upplýsingar koma fram:
   - viðskiptabanki
   - kaup/sala
   - fjárhæð viðskipta í íslenskum krónum
   - mynt
   - fjárhæð viðskipta í erlendum gjaldeyri
   - reikningsnúmer úttektarreiknings
   - reikningsnúmer viðtökureiknings
   - heiti viðtakanda
   - móttökuland

b) Upplýsingar um lyktir ágreiningsmála hvað snertir kröfur sem voru í ágreiningi við nauðasamning og eins umþrættar eignir Kaupþings ehf.
   - Ágreiningsmál vegna krafna sem endanlega eru samþykktar þar sem eftirfarandi upplýsingar koma fram:
     - nafn kröfuhafa
     - kennitala kröfuhafa
     - tegund ágreinings s.s. riftunarmál, skaðabótamál o.s.frv.
     - dags. lyktir ágreinings
     - fjárhæð upphaflegrar kröfu í ISK
     - nafnverðsfjárhæð skuldabréfs úthlutað til kröfuhafa
     - nafnverð hlutafjár úthlutað til kröfuhafa
     - greiðslur í reiðufé inntar af hendi við endanlega samþykkt kröfu
   - Ágreiningsmál vegna eigna þar sem eftirfarandi upplýsingar koma fram:
     - heiti eignar
     - flokkur eignar s.s. lán, hlutafé, skuldabréf o.s.frv.
     - dags. lyktir ágreinings

- fjárhæð
- mynt
- fjárhæð í ISK
- form greiðslu, skuldajöfnun, fullnustueign, reiðufé, o.s.frv.

c) Árs- og árshlutareikningar Kaupþings ehf., og dótturfélaga ásamt upplýsingum um eign Kaupþings ehf. í íslenskum krónum.

d) Endurheimtur af eignum sem falla undir The Non-Assignable Assets og Claims for reimbursement of cost, skv. Appendix III og IV við samning milli Kaupþings ehf. og SÍ, dags. 13. janúar 2016, sbr. fylgiskjal 1 með ákvörðun þessari, þar sem eftirfarandi upplýsingar koma fram:
   - heiti eignar
   - flokkur eignar s.s. lán, hlutafé, skuldabréf o.s.frv.
   - fjárhæð greiðslu
   - mynt
   - móttökureikningur greiðslu, banki, höfuðbók, reikningsnúmer
   - áætlaðar eftirstöðvar eignar

e) Greiðslur/úthlutanir til skuldabréfaeigenda og/eða hluthafa Kaupþings ehf. þegar þær koma til framkvæmda þar sem eftirfarandi upplýsingar koma fram:
   - heiti skuldabréfaeigenda
   - kennitala ef til staðar
   - fjárhæð greiðslu
   - mynt
   - fjárhæð skuldabréfs eiganda fyrir greiðslu
   - fjárhæð skuldabréfs eiganda eftir greiðslu
   - greiðslufyrirmæli, (IBAN númer og land)

f) Tilkynningu ef breytiréttur skuldabréfs er nýttur.

g) Samantekt á ráðstöfun varasjóðs vegna rekstrarkostnaðar skv. II. 1. c. i. skulu afhentar Seðlabankanum ásamt staðfestingu endurskoðanda á að kostnaður sé tilkominn vegna innlends rekstrarkostnaðar Kaupþings ehf. Samantekt skal samanstanda af eftirfarandi upplýsingum:
   - heiti mótaðila
   - kennitala mótaðila
   - fjárhæð

- tilefni greiðslu s.s. launakostnaður, leiga o.s.frv.

Að auki skulu fylgja upplýsingar um stöðu rekstrarsjóðs fyrir og eftir tímabil sem samantektin nær til.

h) Samantekt um ráðstöfun varasjóðs vegna áætlaðs vangoldins virðisaukaskatts af erlendri þjónustu skv. II. 1. c. ii.

i) Samantekt ásamt sundurliðuðum upplýsingum um alla ráðstöfun varasjóðs vegna ágreiningskrafna sbr. II. 1. c. iii. skulu afhentar Seðlabankanum. Sundurliðun skal samanstanda af eftirfarandi upplýsingum:
   - heiti kröfuhafa
   - kennitala kröfuhafa ef til staðar
   - fjárhæð kröfu
   - rétthæð kröfu
   - niðurstaða ágreinings
   - greiðslufyrirmæli

   Ef ágreiningsmál fellur Kaupþingi ehf. í vil skal skrá greiðslufyrirmæli fjársópsreiknings SÍ. Að auki skulu fylgja upplýsingar um stöðu varasjóða fyrir og eftir tímabil sem samantektin nær til.

j) Þegar sala Kaupþings ehf. á eignarhlut sínum í Arion banka hf. í heild eða hluta hefur farið fram skal upplýst um kaupanda:
   - Heiti kaupanda
   - Kennitala kaupanda ef til staðar
   - Nafnverðsfjárhæð kaupa
   - Kaupverð
   - Raunverulegur eigandi fjármuna, heiti og kennitala ef til staðar

k) Upplýsingar um greiðslu vaxta eða höfuðstóls skuldabréfs sem gefið er út sbr. II. 1. a. i.
   - Fjárhæð greiðslu
   - Dagsetning greiðslu
   - Staðfesting á gjaldeyrisviðskiptum (þegar vextir eru greiddir)

l) Upplýsingar um uppgjör samkvæmt afkomuskiptasamningi („*Shareholders´ proceeds*

apportionment agreement"), sbr. fylgiskjal 3 með ákvörðun þessari, vegna sölu Kaupþings ehf. á hlut sínum í Arion banka. Upplýsingarnar skulu samanstanda af:

- Greiðsla sem innt var að hendi til SÍ
- Söluandvirði sem Kaupþing ehf. hélt eftir.

m) Upplýsingar samkvæmt a), c), e), f), i), j), k) og l) skulu sendar innan 5 daga frá því gögn liggja fyrir, greiðslur verið framkvæmdar eða ákvarðanir teknar en gögn samkvæmt b), d), g) og h) skulu sendar Seðlabankanum ársfjórðungslega, eigi síðar en þegar ársfjórðungsreikningur félagsins liggur fyrir. Upplýsingar og gögn skulu sendar Seðlabankanum á netfangið ge.gagnaskil@sedlabanki.is með tilvísunarnúmeri ákvörðunar þessarar í efni tölvupósti.

Lögbundið samráð við fjármála- og efnahagsráðherra skv. 2. mgr. 13. gr. o. laga nr. 87/1992, um gjaldeyrismál, hefur átt sér stað auk þess sem kynning fyrir efnahags- og viðskiptanefnd Alþingis á efnahagslegum áhrifum af veitingu undanþágunnar hefur farið fram. Er afstaða ráðherra í samræmi við mat Seðlabankans, sbr. bréf fjármála- og efnahagsráðherra til Seðlabankans, dags. 15. janúar 2016, að forsendur séu fyrir því að veita Kaupþingi ehf. framangreindar undanþágur, með þeim skilyrðum sem að ofan greinir, sbr. fylgiskjal 7 með ákvörðun þessari. Þá liggur fyrir staðfestur nauðasamningur Kaupþings ehf. auk þess sem samningur milli Kaupþings ehf. og SÍ, um fyrirhugaðar aðgerðir Kaupþings ehf. og afhendingu stöðugleikaframlags *(„Assignment Agreement")*, hefur verið undirritaður, sbr. fylgiskjal 1 með ákvörðun þessari, ásamt öðrum samningum því tengdu, sbr. fylgiskjöl 3 og 5 með ákvörðun þessari, Kaupþing ehf. hefur gefið út skuldabréf, sbr. fylgiskjal 4 með ákvörðun þessari, lengingar hafa verið framkvæmdar, sbr. samningar milli Kaupþings ehf. og Arion banka hf., dags. 11. janúar 2016, sbr. fylgiskjal 2 með ákvörðun þessari auk þess sem endurfjármögnun lánafyrirgreiðslu stjórnvalda hefur náð fram að ganga.

Með hliðsjón af öllu því sem að framan greinir veitir Seðlabankinn Kaupþingi ehf. þær undanþágur frá lögum nr. 87/1992, um gjaldeyrismál sem að framan greinir með skilyrðum.

Seðlabanki Íslands áskilur sér rétt til þess að afturkalla ákvörðun þessa ef þær forsendur sem ákvörðun Seðlabankans er byggð á breytast verulega eða ef framangreind skilyrði undanþágu þessarar, s.s. skuldbindingar Kaupþings ehf. samkvæmt samningi milli félagsins og SÍ, sbr. fylgiskjal 1 með ákvörðun þessari, dags. 13. janúar 2016, eru ekki uppfyllt.

Virðingarfyllst,
SEÐLABANKI ÍSLANDS

Már Guðmundsson
seðlabankastjóri

Ingibjörg Guðbjartsdóttir
frkv.stj. gjaldeyriseftirlits

Fylgiskjöl:

1. Samningur milli Kaupþings ehf. og SÍ („*Assignment Agreement*"), dags. 13. janúar 2016.
2. Samningar milli Kaupþings ehf. og Arion banka hf. („*Set-off Agreement*" og „*Subscription Agreement*"), dags. 11. janúar 2016.
3. Samningur milli Kaupþings ehf., Kaupskila ehf. og SÍ („*Shareholders´ proceeds apportionment agreement*"), dags. 13. janúar 2016.
4. Skuldabréf gefið út af Kaupþingi ehf. til SÍ („*Bond*"), dags. 13. janúar 2016.
5. Handveðssamningur gefinn út af Kaupþingi ehf. („*The Pledge Agreement*"), dags. 13. janúar 2016.
6. Úrskurður Héraðsdóms Reykjavíkur, dags. 15. desember 2015 í máli nr. N-9/2015.
7. Bréf fjármála- og efnahagsráðherra, dags. 15. janúar 2016.

On 13 January 2016, Kaupthing ehf., ID No. 560882-0419, Borgartún 26, Reykjavík ("**Kaupthing**") and the Central Bank of Iceland, ID No. 560269-4129 ("**CBI**") (collectively the "**Parties**") have made the following

ASSIGNMENT AGREEMENT

(the "Agreement")

It is agreed as follows:

DEFINITIONS

Article 1

In this Agreement, the following terms shall have the meaning ascribed to them below:

Agreement Effective Date means the date on which the later of the following occurs:

(a) the Composition Unconditional Date; and

(b) the date on which the CBI irrevocably grants the Exemptions;

Arion Bank means Arion banki hf., reg. no. 581008-0150, Borgartún 19, 105 Reykjavík;

Arion Stake means Kaupthing's ownership interest in Arion Bank, being an interest in 1,740,000,000 ordinary shares in the share capital of Arion Bank (representing 87% of the issued share capital of Arion Bank), which as at the Agreement Effective Date is held by Kaupthing indirectly by means of its holding of 100% of the issued share capital in Kaupskil;

Available Cash means, on any date, the aggregate amount of cash in ISK available to Kaupthing on that date, including, without limitation, any cash amounts held by it on that date received or recovered in ISK in respect of (1) the Retained Assets; (2) amounts in ISK which are recovered by Kaupthing in respect of FX Retained Assets, (3) dividends and interest on domestic assets; (4) any dividends declared by Arion Bank after 1 July 2015; (5) amounts in ISK which are recovered by Kaupthing in respect of Disputed Claims that have been lodged before the Composition Unconditional Date; (6) any ISK amounts released to Kaupthing from the existing custody accounts in respect of Article 112 claims; (7) reimbursed prepaid taxes; and (8) Claims for Reimbursement of Cost;

Bank Tax Amount means an amount equal to ISK 10,136,207,730 in respect of Icelandic bank tax;

Board means the board of directors of Kaupthing;

Bond means the secured bond in the principal amount of ISK 84 billion issued by Kaupthing in favour of the CBI on or around the date hereof;

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in Iceland;

Claims for Reimbursement of Cost means claims against third parties in ISK for out of pocket expenses including, without limitation, those claims listed in Appendix IV;

Composition means a composition of Kaupthing's liabilities in accordance with Chapter XXI of the Bankruptcy Act and Article 103a of the Financial Undertakings Act;

Composition Proposal means the composition proposal proposed by Kaupthing to certain of its unsecured creditors pursuant to Chapter XXI of the Bankruptcy Act and Article 103a of the Financial Undertakings Act;

Composition Unconditional Date means the date on which the last of the following occurs: (a) the requisite majority of unsecured creditors of Kaupthing (by number and by value) has approved the Composition Proposal and either (b) the District Court has confirmed the Composition and the deadline for appealing the decision of the District Court to the Supreme Court has expired, or (c) if the decision of the District Court is appealed, the Supreme Court has confirmed the Composition or such appeals are withdrawn or lapse;

De Minimis Cash Payment means a payment by Kaupthing to its creditors in accordance with Article 36 (2) of Act No. 21/1991 on Bankruptcy etc. pursuant to the Composition;

Disposal means any transaction in which Kaupthing, directly or indirectly, sells, assigns, transfers or otherwise disposes of (including by way of initial public offering) all or any part of the Arion Stake;

Disputed Claims means Kaupthing's disputed claims against domestic parties exhaustively listed in Appendix II;

Disputed Creditor Claims means a claim of a creditor of Kaupthing disputed by Kaupthing and which has not been resolved as at the Agreement Effective Date;

Disputed Creditor Claims Reserves means an amount equal to the aggregate of the amount in ISK which Kaupthing has determined is required to be retained to pay: (i) any Disputed Creditor Claims payable in ISK; and/or (ii) any Late Filed Claims payable in ISK;

Domestic Operating Expenses means the operating expenses of Kaupthing and the operating expenses of Kaupthing's subsidiaries (other than Arion Bank) (including without limitation (i) any Monetisation Costs payable in ISK, (ii) any amounts to be paid by Kaupthing to Kaupskil in connection with its operating expenses and (iii) any De Minimis Cash Payment paid to Domestic Parties in ISK, but excluding all Incentive Payments) provided that for the purposes of Article 12(b) of this Agreement all amounts paid by Kaupthing: (a) in respect of Domestic Operating Expenses from funds referred to in Article 12(g) of this Agreement, (b) in respect of Domestic Operating Expenses incurred in the period from 1 July 2015 up to and including 31 December 2015 in an amount not exceeding ISK 1,506,300,000, (c) in relation to an amount in respect of Icelandic bank tax not exceeding the Bank Tax Amount, and (d) in respect of value added tax projected to be payable by Kaupthing to the Icelandic tax authorities in the period from the Agreement Effective Date until 31 December 2018 in respect of services provided to Kaupthing by foreign service providers in the years 2013-2015 in an amount not exceeding ISK 1,500,000,000, shall in each case be disregarded when calculating the amounts paid by Kaupthing in respect of Domestic Operating Expenses in the period from 1 January 2016 to any given Semi-Annual Transfer Date;

Domestic Party means a party that is considered a domestic party pursuant to Article 1 of Act No. 87/1992 on Foreign Exchange;

Exemptions means the necessary exemptions from the Act on Foreign Exchange no. 87/1992 required to enable Kaupthing to fulfil the terms of the Composition;

FX Retained Assets means Kaupthing's assets with underlying assets in foreign currency and claims against domestic counterparties which are recoverable in a currency other than ISK, exhaustively listed in Appendix V;

Incentive Payments means payments to employees or contractors pursuant to any incentive program adopted by Kaupthing (excluding any customary payment made in the ordinary course of business in respect of employee salaries and bonuses, directors' fees, indemnification and similar arrangements (including the payment of directors' and officers' insurance premiums), consulting and contractor fees);

Kaupthing Proceeds of Monetisation has the meaning given to that term in the Shareholders' Proceeds Apportionment Agreement;

Kaupskil means Kaupskil ehf. (registered id. 580609-0150), whose registered office is at Borgatún 26, 105 Reykjavik, Iceland;

Late Filed Claim means claims against Kaupthing filed after 30 December 2009;

Monetisation Costs has the meaning given to that term in the Shareholders' Proceeds Apportionment Agreement;

Non-Assignable Assets means Kaupthing's claims against domestic and foreign counterparties (including financial claims, rights and shares), exhaustively listed in Appendix III;

Observer Termination Date means the date on which all Retained Assets have been resolved or monetised;

Reference Date means 30 June and 31 December in each year;

Retained Assets means the Disputed Claims and the Non-Assignable Assets;

Semi-Annual Transfer Date means each of 15 January and 15 July or, if that date is not a Business Day, the next Business Day after that date;

Shareholders' Proceeds Apportionment Agreement means the agreement entered into on or around the date of this Agreement among Kaupthing, the Ministry of Finance on behalf of the Government of Iceland, the Icelandic State Financial Investments, the CBI and Kaupskil relating to the sharing of the proceeds of any Disposal;

Transferred Assets means Kaupthing's claims against [redacted] and other specified domestic counterparties (including financial claims, rights and shares), exhaustively listed in Appendix I to this Agreement.

TRANSFERRED ASSETS

Article 2

Kaupthing shall transfer all its rights, interest, and benefit in and relating to the Transferred Assets to the CBI (or such entity as the CBI may designate) as at the Agreement Effective Date, together with all rights that are attached (or may in the future attach) to the Transferred Assets including, in particular, the right to receive all amounts realised from or in respect of the Transferred Assets.

Article 3

By signing this Agreement, the CBI agrees that it shall (or shall procure that such entity as the CBI may designate shall) receive all of Kaupthing's rights, interest, and benefit in and relating to the Transferred Assets, and the transfer takes place on the Agreement Effective Date.

Article 4

Kaupthing shall do or procure the doing of all acts and things and execute or procure the execution of all documents which are necessary for giving full effect to the transfer of the Transferred Assets and securing for the CBI the full benefit of the rights, powers and remedies conferred by the Transferred Assets. Without limiting the generality of the foregoing, Kaupthing shall deliver or cause to be delivered, all such documents required to lawfully transfer the Transferred Assets, including to the extent applicable the benefit of any security or guarantee in respect of such rights, to the CBI, subject however to the reservations made in Article 14 of this Agreement.

The CBI shall sign the documents and/or carry out the registrations necessary for the purposes of executing the transfer so that the CBI, or other such entity as the CBI designates, can accept the rights that the Transferred Assets entail.

Article 5

Should Kaupthing receive any payment in respect of a Transferred Asset after the Agreement Effective Date, irrespective of whether such payment is in cash, securities or other valuables, Kaupthing shall transfer such cash, securities or other valuables to the CBI (or such other party as the CBI may designate) within five Business Days of receiving such cash, securities or other valuables.

Article 6

Kaupthing hereby confirms that so far as it is aware, having made all due enquiries, there are no Transferred Assets in relation to which the relevant counterparty has a counterclaim or a right of set-off against Kaupthing and in the event that this confirmation is incorrect in respect of any Transferred Asset, the CBI shall have the right to re-transfer to Kaupthing such Transferred Asset.

Article 7

CBI shall bear all costs and/or charges that will arise from the transfer of the Transferred Assets. This includes, without limitation, all expert costs of the CBI that arise during preparation of the transfer, and as it is carried out according to the above, including all costs and/or charges arising out of the registration of the transfer.

RETAINED ASSETS AND FX RETAINED ASSETS

Article 8

In addition to transfer of the Transferred Assets, Kaupthing commits itself to transfer to the CBI any amounts in ISK recovered by Kaupthing after the Agreement Effective Date in respect of the Retained Assets and the FX Retained Assets, as further stipulated in Article 12 of this Agreement, subject however to the reservations made in Article 14 of this Agreement. Any amounts recovered by Kaupthing, either directly or indirectly, from the Retained Assets and the FX Retained Assets in foreign exchange shall be excluded from any transfer obligation of Kaupthing under this Agreement and shall be at the free disposal of Kaupthing.

Subject to Article 9, Kaupthing will continue to represent and pursue in its own name in good faith and in a manner consistent with past practices all interests in the Retained Assets, subject to any instructions of the CBI. For the avoidance of doubt, the CBI shall nonetheless be considered the owner of the ISK

proceeds of the Retained Assets within the meaning of Article 109 of the Act No 21/1991 on Bankruptcy etc.

Article 9

To the extent that a claim comprised in the Retained Assets would be realised or recovered in ISK (whether actually or contingently), Kaupthing shall not (i) dispose of that claim or any interest in it, including by way of security, (ii) settle that claim, (iii) waive any rights in relation to that claim or (iv) grant any third party any right or interest in, over or in respect of that claim, without the consent of the CBI. The CBI shall respond to such a request within 5 Business Days after having received such request.

If Kaupthing believes, in its reasonable opinion, that (i) rights should be waived in relation to a Retained Asset and the CBI does not consent to such waiver, or (ii) the instructions given to it by the CBI in relation to a Retained Asset are not in the best interests of Kaupthing, Kaupthing shall in either case have the right to (a) transfer to the CBI all its rights, interest, and benefit in and relating to the relevant Retained Asset to the CBI (or such entity as the CBI may designate) together with all rights that are attached (or may in the future attach) to the relevant Retained Asset (and following such transfer Kaupthing shall be under no further obligation to bear the costs of pursuing such rights) or (b) by notice in writing to the CBI, continue to pursue such rights or Retained Assets on the instructions of the CBI provided that all such action taken after the date of that notice with respect to the relevant rights or Retained Asset shall be taken at the sole expense of the CBI.

Article 10

To the extent that any part of a claim comprised in the FX Retained Assets would be payable in ISK, Kaupthing shall not dispose of that part of that claim which is payable in ISK (the "**ISK Part**") or grant any third party any right or interest in, over or in respect of that ISK Part.

A representative of the CBI which has executed a Non-Disclosure Agreement (as defined in Article 11 of this Agreement) shall be entitled to request from Kaupthing any information regarding the ISK Part of any FX Retained Asset and Kaupthing shall provide such information which it can reasonably obtain within 7 Business Days after having received such a request.

Article 11

Kaupthing shall ensure that one representative of the CBI (in this capacity, an "**Observer**") will, for so long as the Observer Termination Date has not occurred, be entitled to attend, on behalf of the CBI, the parts of meetings of the Board (or any appropriate sub-committee) at which Retained Assets will be discussed or considered ("**Meetings**") (but not any part of any meeting of the Board (or any appropriate sub-committee) at which any other matter is discussed or considered).

Kaupthing must ensure that:

(a) the Observer is given at least as much notice of the date, time and place of, and agenda for, all Meetings as is given to members of the Board generally and, in any event, no less notice than is required to be given to members of the Board under Kaupthing's constitutional documents subject to such notice being waived or shortened with the consent of the Observer;

(b) the Observer is supplied with copies of all relevant board papers which relate to Retained Assets ("**Board Papers**") which are supplied or distributed generally to members of the Board for the purposes of Meetings at the same time as those Board Papers are supplied to those members; and

(c) the Observer is provided with all relevant information regarding the Retained Assets that is available from time to time.

As a condition of attending any Meeting or receiving any Board Papers, each Observer must duly execute and deliver to Kaupthing a non-disclosure agreement (in the form set out in Appendix VI to this Agreement) (as amended from time to time by written agreement between Kaupthing and the CBI) (a "**Non-Disclosure Agreement**"). If any Observer does not duly execute and deliver such Non-Disclosure Agreement prior to any Meeting or the distribution of any Board Papers, Kaupthing will be entitled to prohibit that Observer from attending all Meetings and from receiving any Board Papers until the Observer has duly executed and delivered such Non-Disclosure Agreement to Kaupthing.

The CBI hereby irrevocably and unconditionally agrees to be responsible for and to covenant with Kaupthing (for itself and on behalf of its subsidiaries) that it will pay, satisfy, discharge and fulfil any and all losses, damages and liabilities of any nature (and all costs and expenses reasonably incurred by Kaupthing and/or any of its subsidiaries in connection therewith) in connection with or arising as a result of any Observer breaching or otherwise failing to observe the terms of any Non-Disclosure Agreement applicable to that Observer. The CBI further irrevocably and unconditionally covenants with Kaupthing (for itself and on behalf of its subsidiaries) to keep Kaupthing and its subsidiaries fully and effectively indemnified at all times from and against any and all losses, damages and liabilities of any nature (and all costs and expenses reasonably incurred by Kaupthing and/or any of its subsidiaries in connection therewith) in connection with, or arising as a result of, any Observer breaching or otherwise failing to observe the terms of any Non-Disclosure Agreement applicable to that Observer.

CASH SWEEP MECHANISM IN RELATION TO ISK

Article 12

On the Agreement Effective Date Kaupthing shall transfer to the CBI (or such other party as the CBI may designate in writing prior to the Agreement Effective Date) an amount in ISK equal to its Available Cash on that date less:

(i) to the extent not paid by Kaupthing on or before the Agreement Effective Date, an amount in respect of Icelandic bank tax equal to the Bank Tax Amount;

(ii) ISK 1,506,300,000, being the projected Domestic Operating Expenses of Kaupthing and Kaupthing's subsidiaries (other than Arion Bank), as determined by Kaupthing in its sole discretion, for the period from 1 July 2015 up to and including 31 December 2015;

(iii) ISK 5,000,000,000 in respect of the projected Domestic Operating Expenses of Kaupthing and Kaupthing's subsidiaries (other than Arion Bank) (as determined by Kaupthing in its sole discretion) for the 36 month period from 1 January 2016 until 31 December 2018 (the "**Gross Domestic Operating Expenses**");

(iv) ISK 1,500,000,000 in respect of the value added tax projected to be payable by Kaupthing in the period from the Agreement Effective Date until 31 December 2018 to the Icelandic tax authorities in respect of services provided to Kaupthing by foreign service providers in the years 2013-2015 (the "**Gross VAT Amount**"); and

(v) the Disputed Creditor Claims Reserves (if any) as at that date.

On each Semi-Annual Transfer Date prior to 31 December 2018 beginning on the Semi-Annual Transfer Date occurring on 15 July 2016, Kaupthing shall transfer to the CBI (or such other party as the CBI may designate in writing prior to that Semi-Annual Transfer Date) an amount equal to its Available Cash less:

(a) all and any Kaupthing Proceeds of Monetisation received by Kaupthing in the period since the Agreement Effective Date (without prejudice to Kaupthing's obligations under the Shareholders' Proceeds Apportionment Agreement and the Bond);

(b) the Gross Domestic Operating Expenses less the aggregate of all amounts paid by Kaupthing in respect of Domestic Operating Expenses in the period from 1 January 2016 to that Semi-Annual Transfer Date;

(c) the Gross VAT Amount less any amount paid by Kaupthing in respect of value added tax in the period from the Agreement Effective Date to that Semi-Annual Transfer Date to the Icelandic tax authorities in respect of services provided to Kaupthing by foreign service providers in the years 2013-2015;

(d) the Disputed Creditor Claims Reserves (if any) as at that Semi-Annual Transfer Date;

(e) any rebate or refund received by Kaupthing in respect of any withholding or other taxes relating to payments by Arion Bank to Kaupthing pursuant to EMTN Bonds (as defined in the Bond) issued in favour of Kaupthing; and

(g) any ISK amount held by the Company as a result of converting foreign currency into ISK to meet Domestic Operating Expenses and other ISK outflows.

Kaupthing will use commercially reasonable efforts in its capacity as shareholder to procure that all amounts in ISK which it is lawfully entitled to receive from its wholly-owned subsidiaries (other than any Kaupthing Proceeds of Monetisation received by any such wholly-owned subsidiaries (without prejudice to Kaupthing's obligations under the Shareholders' Proceeds Apportionment Agreement and the Bond)) are distributed to Kaupthing, provided that nothing in this Article 12 shall require Kaupthing to seek payment from any wholly-owned subsidiary in ISK where that payment would not otherwise be paid or payable in ISK.

Article 13

On (i) 3 January 2019 and (ii) each Semi-Annual Transfer Date thereafter beginning on the Semi-Annual Transfer Date occurring on 15 July 2019, Kaupthing agrees that it shall transfer to the CBI (or other such party as the CBI may designate in writing prior to 31 December 2018) the Available Cash at that date less (a) the Disputed Creditor Claims Reserves (if any) as at that date, (b) all and any Kaupthing Proceeds of Monetisation received by Kaupthing in the period since the Agreement Effective Date (without prejudice to Kaupthing's obligations under the Shareholders' Proceeds Apportionment Agreement and the Bond), (c) any rebate or refund received by Kaupthing in respect of any withholding or other taxes relating to payments by Arion Bank to Kaupthing pursuant to EMTN Bonds (as defined in the Bond) issued in favour of Kaupthing, and (d) any ISK amount held by the Company as a result of converting foreign currency into ISK to meet Domestic Operating Expenses and other ISK outflows.

RESERVATIONS

Article 14

Both Parties are aware and hereby acknowledge that the nominal value of the Transferred Assets and the Retained Assets does not reflect their market value or their expected recovery rate.

Kaupthing accepts no responsibility in relation to the Transferred Assets and the Retained Assets, nor in relation to the nominal value, the market value, the legality, the transferability, the recovery or any other related matters in each case in relation to the Transferred Assets and the Retained Assets. The CBI has no right to make claims against Kaupthing, should it become evident that the market value or the recovery rate of the Transferred Assets or the underlying ISK assets of the Retained Assets is contrary to expectations.

NOTIFICATIONS

Article 15

Should the CBI need to send a notification to Kaupthing, or vice versa, all such notifications shall be in writing and sent by email, or in another verifiable manner, as provided below:

To CBI: To be confirmed

To Kaupthing: [redacted]

Kaupthing ehf.

Borgartún 26

Reykjavik

notifications@kaupthing.com

Should the contact details of Parties accepting notifications according to the above be changed, all counter parties shall be notified without undue delay.

A notification sent by email shall be deemed received that same Business Day, if the email was sent before 5PM (Icelandic time) that Business Day, otherwise it shall be deemed received the Business Day after. A notification sent by post shall be deemed received when the party has confirmed receipt.

CONFIDENTIALITY

Article 16

The content of this Agreement, to the extent it has not been made public, is confidential between the Parties and neither Party shall provide any information on its content, unless provided by law or both Parties agree to provide such information. Notwithstanding the foregoing, the Parties are hereby authorised, as applicable, to disclose to any and all of:

(i) its legal, corporate finance and other professional advisers from time to time;

(ii) its creditors from time to time;

(iii) any potential purchaser of any claim (or any part thereof) of any creditor against Kaupthing from time to time;

(iv) any legal or beneficial owner of any debt or equity securities issued by Kaupthing from

time to time; and

(v) any prospective purchaser of the legal or beneficial interest in any debt or equity securities issued by Kaupthing from time to time,

the existence and content of this Agreement.

The Parties are also authorised to inform the domestic counterparties of Kaupthing as referred to in Article 2 of this Agreement, that Kaupthing has transferred the relevant claim(s) and/or rights as referred to in Article 3 of this Agreement.

MISCELLANEOUS

Article 17

If at any time after the date of this Agreement Kaupthing acquires any assets in ISK, or becomes aware of any assets in ISK it holds, in each case against domestic or foreign counterparties (including financial claims, rights and shares) which are not already listed in Appendix I, Appendix II, Appendix III or Appendix V to this Agreement as either Transferred Assets, Retained Assets or FX Retained Assets then Kaupthing shall promptly notify the CBI of each such asset and, unless any of the exceptions listed in Articles 12 or 13 apply to such asset:

(i) each such asset shall constitute either a Transferred Asset, a Retained Asset or an FX Asset (as the case may be) for the purposes of this Agreement and Kaupthing and the CBI shall discuss in good faith and agree in writing which of these categories applies to each such asset; and

(ii) the provisions of this Agreement shall apply on a *mutatis mutandis* basis to each such asset as if it was a Transferred Asset, Retained Asset or FX Retained Asset, as the case may be.

Article 18

This Agreement shall take effect on and from the Agreement Effective Date and shall terminate solely with the consent of both Parties.

Article 19

The terms of this Agreement may be amended or waived with the prior consent of both Parties.

Article 20

This Agreement is governed by Icelandic law. Should a dispute arise in relation to this Agreement, it shall be resolved before the District Court of Reykjavik.

This Agreement is made in two copies, each Party holding one copy.

Representatives of each Party sign this Agreement for confirmation, before witnesses.

Signature page – assignment agreement

On behalf of Kaupthing

Witness: [redacted]

On behalf of CBI [redacted]

Witness: [redacted]

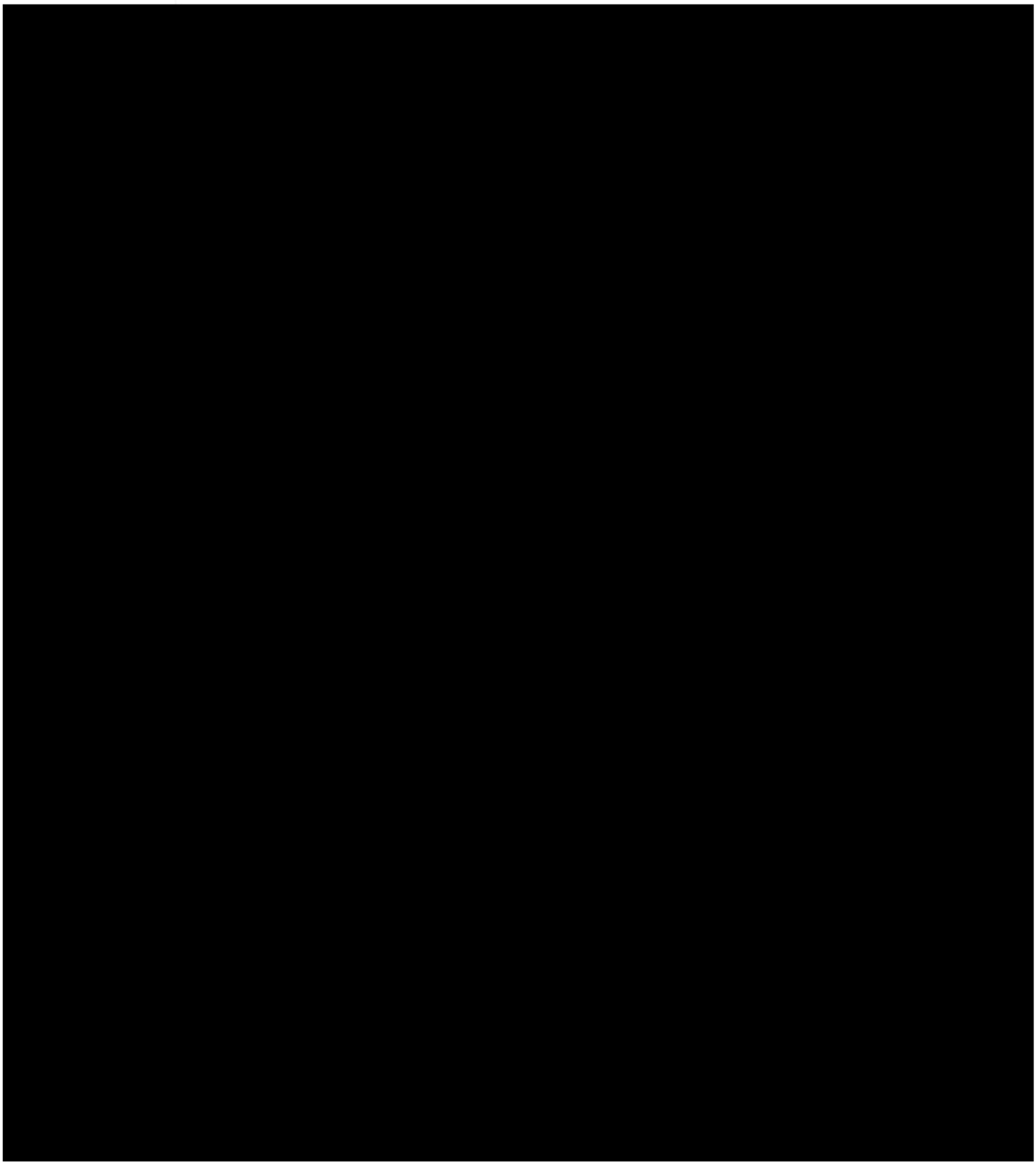
APPENDIX I

The Transferred Assets

[redacted]

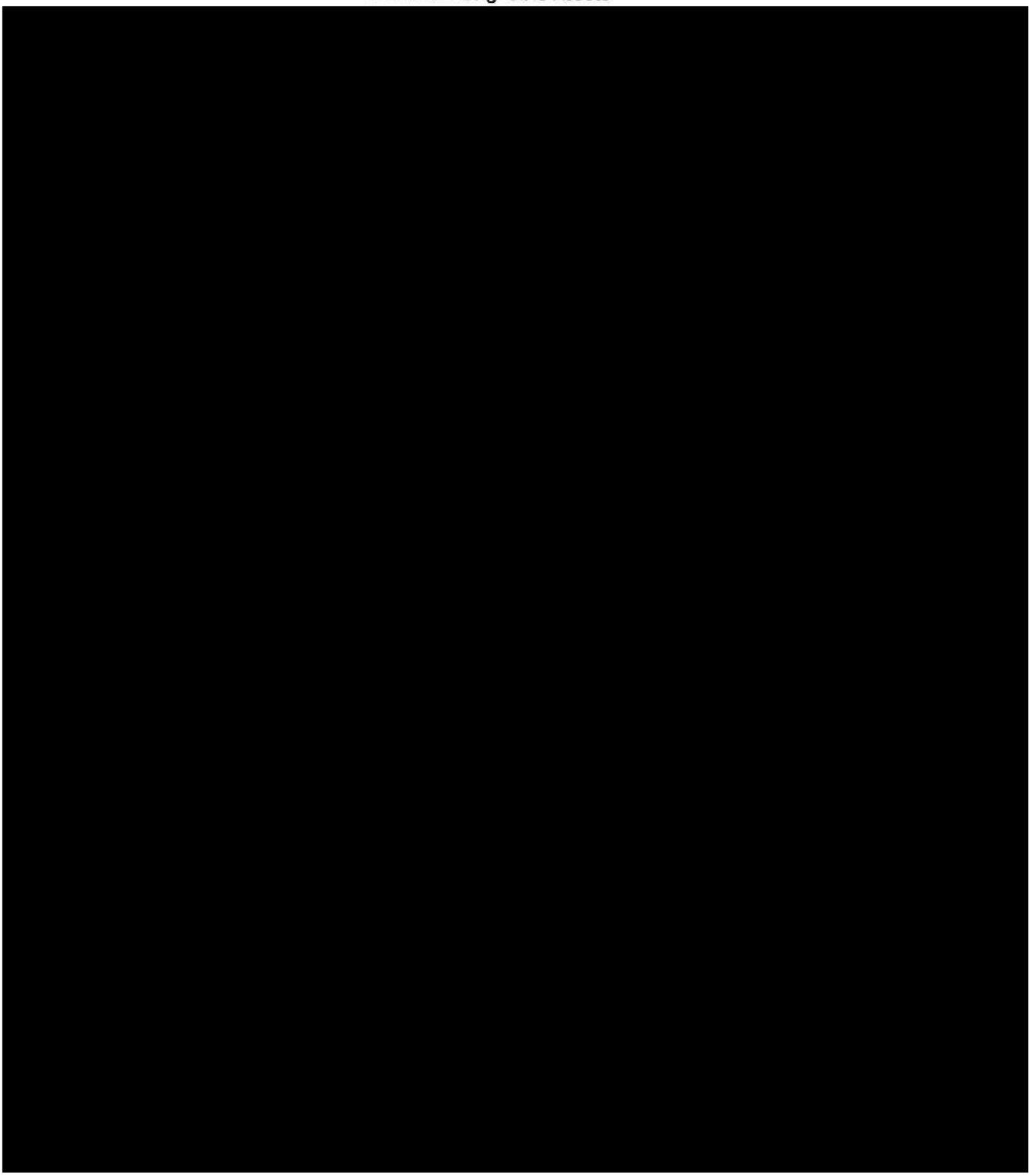
APPENDIX II

The Disputed Claims



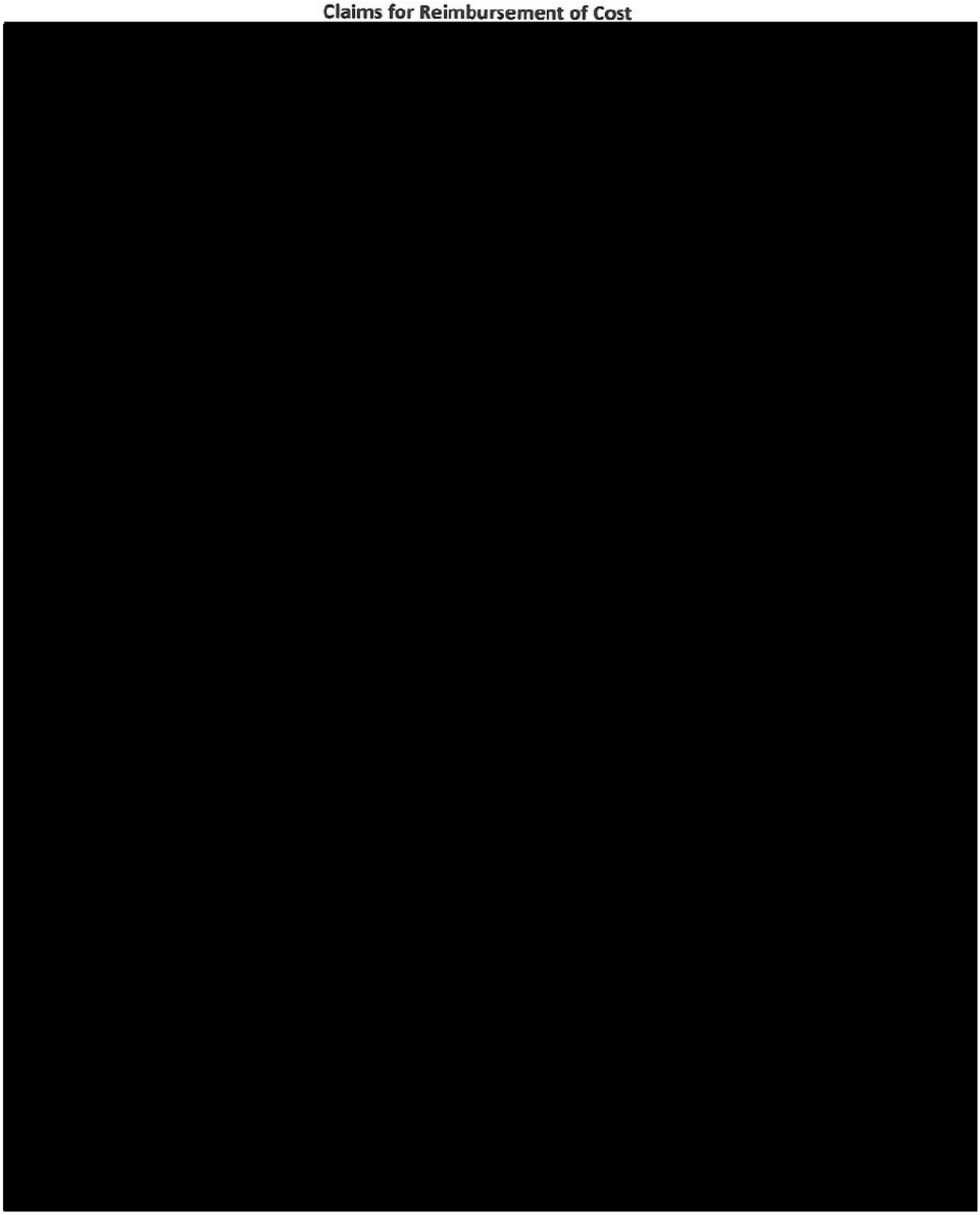
APPENDIX III

The Non-Assignable Assets



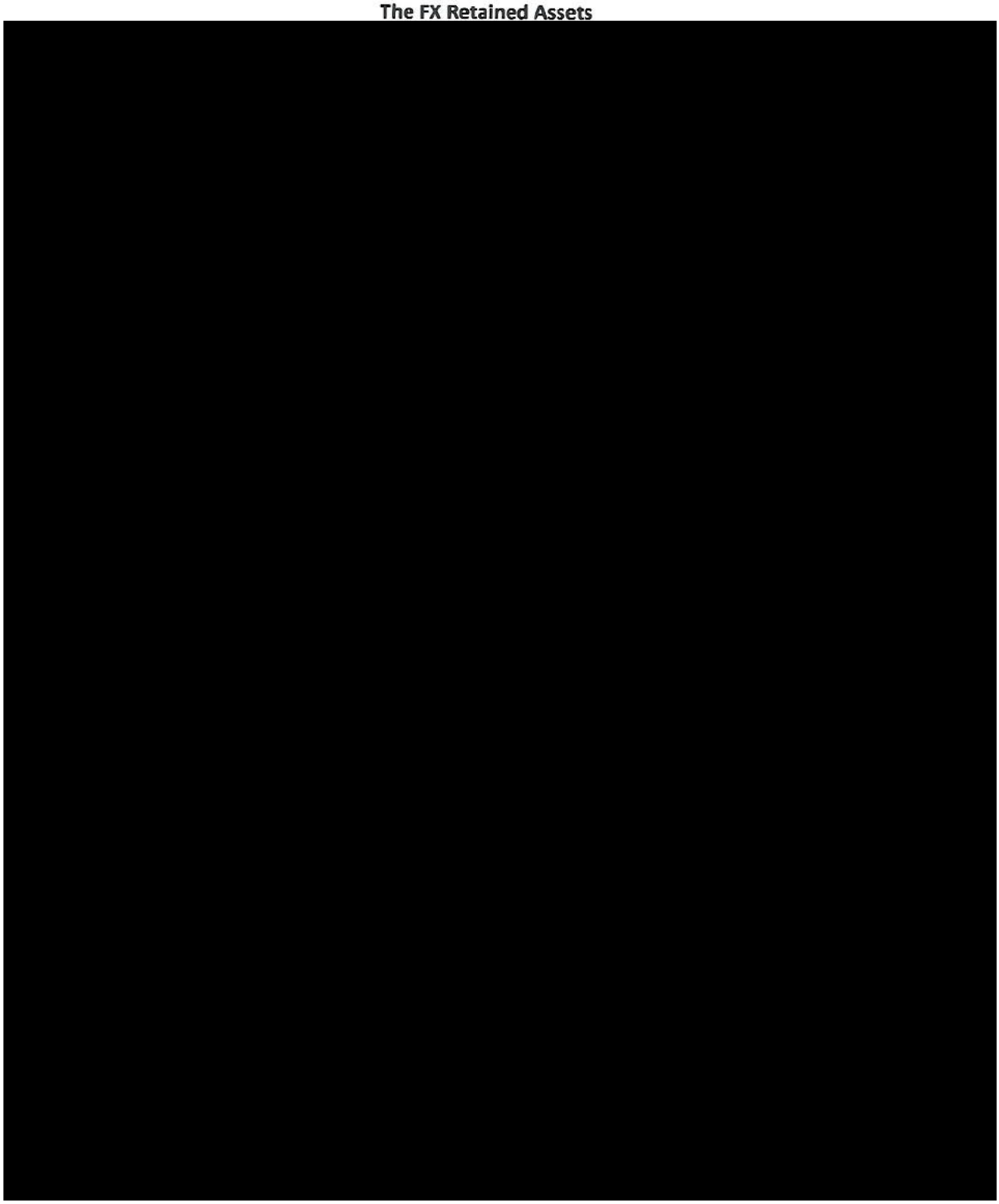
APPENDIX IV

Claims for Reimbursement of Cost



APPENDIX V

The FX Retained Assets



Execution version

WHITE & CASE

Dated 11 January 2016

Set-off Agreement

between

Arion Bank hf.
as Issuer

and

Kaupthing ehf.
as Purchaser

White & Case LLP
5 Old Broad Street
London EC2N 1DW

This Agreement is made on 11 January 2016

Between:

(1) **ARION BANK HF.** (the "**Issuer**"); and

(2) **KAUPTHING EHF.** (the "**Purchaser**").

Whereas:

(A) The Issuer proposes to issue U.S.$747,481,000 Resettable Notes due 2023 (the "**Notes**") under the €2,000,000,000 Euro Medium Term Note Programme established by it.

(B) The Purchaser has agreed to subscribe for and purchase the Notes pursuant to a subscription agreement dated on or about the date of this Agreement between the Issuer and the Purchaser (the "**Subscription Agreement**") at an agreed purchase price (the "**Purchase Price**").

(C) Pursuant to a purchase agreement between the Purchaser and the Central Bank of Iceland (*Seðlabanki Íslands*) (the "**CBI**") dated on or about the date of this Agreement, the Purchaser has agreed to purchase from the CBI the loan made by the CBI to the Issuer dated 22 January 2010 (as amended on 15 April 2014 and 31 March 2015) the current outstanding amount of which is equivalent to U.S.$428,239,099 (the "**CBI Loan**").

(D) In addition, the Issuer currently holds U.S.$319,242,528 deposits on behalf of the Purchaser (the "**USD Deposits**").

(E) The Issuer and the Purchaser have agreed to set-off the Issuer's obligation to make payment of all amounts outstanding under the CBI Loan and to return the USD Deposits to the Purchaser (together, the "**Issuer Set-off Obligations**") against the Purchaser's obligation to make payment of the Purchase Price payable by the Purchaser to the Issuer under the Subscription Agreement (the "**Purchaser Set-off Obligations**").

(F) The Issuer has, pursuant to clause 2 of the amendment agreement to the CBI Loan dated 15 April 2014, the right to prepay any amount of the CBI Loan prior to the maturity date on 1 November 2016.

It is agreed as follows:

1. Set-Off

1.1 The Issuer and the Purchaser irrevocably agree that upon the Notes being credited to Arion Bank hf. account number [redacted] in the name of the Purchaser):

(a) the Issuer Set-off Obligations and the Purchaser Set-off Obligations will hereby be set-off against one another;

(b) as a result of such set-off and with immediate effect, the Purchase Price payable by the Purchaser under the Subscription Agreement shall be deemed to be paid, satisfied and discharged in full; and

(c) as a result of such set-off and with immediate effect, all amounts payable by the Issuer under the CBI Loan shall be deemed to be paid, satisfied and discharged in full, all security under the CBI Loan shall be released and the USD Deposits shall be closed-out and discharged to the extent necessary to meet the Purchase Price payable by the Purchaser under the Subscription Agreement in full after the set-off in full of all amounts payable under the CBI Loan, on the understanding that any remaining amount of the USD Deposits shall not be set-off but shall continue to be held by the Issuer on behalf of the Purchaser.

1.2 The Issuer and the Purchaser irrevocably agree and confirm that:

(a) the set-off arrangements pursuant to this Agreement are in full and final settlement and discharge of any and all amounts, obligations and/or liabilities to make payment as between the parties, in each case in respect of the Issuer Set-off Obligations and the Purchaser Set-off Obligations;

(b) each of them is hereby released and discharged from all and any further obligations in respect of the CBI Loan; and

(c) their respective rights against each other in respect of the CBI Loan are hereby cancelled.

2. Further Assurances

The Purchaser will as soon as reasonably practicable take, without recourse or warranty and at the sole cost of the Issuer, such action as the Issuer may reasonably request to procure the release of the relevant secured assets from any security interests created by the Issuer in respect of the CBI Loan and/or the reassignment of such secured assets to the Issuer.

3. Applicable Law and Jurisdiction

3.1 Applicable Law

This Agreement is governed by and construed in accordance with Icelandic law. Any matter, claim or dispute arising out of, or in connection with, this Agreement, whether contractual or non-contractual, is to be governed by and determined in accordance with Icelandic law.

3.2 Jurisdiction

The parties irrevocably agree that the courts of Iceland are to have exclusive jurisdiction to settle any dispute which arises out of, or in connection with, this Agreement and each party irrevocably submits and agrees to submit to the jurisdiction of the Icelandic courts in accordance with this clause 3.2.

4. Severability

In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

5. Counterparts

This Agreement (and each variation or waiver in respect of any provision of it) may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart of this Agreement.

This Agreement has been entered into on the date stated at the beginning.

Issuer
ARION BANK HF.

By: Stefán Pétursson
CFO

Eiríkur Magnús Jensson
Head of Funding
Arion Bank

Purchaser
KAUPTHING EHF.

.....
By:

This Agreement has been entered into on the date stated at the beginning.

Issuer
ARION BANK HF.

.....
By:

Purchaser
KAUPTHING EHF.

By:

Execution Version

WHITE & CASE

Dated 11 January 2016

Subscription Agreement

relating to

U.S.$747,481,000 Resettable Notes due 2023

issued pursuant to Arion Bank hf.'s
€2,000,000,000 Euro Medium Term Note Programme

between

Arion Bank hf.
Issuer

and

Kaupthing ehf.
Purchaser

White & Case LLP
5 Old Broad Street
London EC2N 1DW

Table of Contents

Page

This Agreement is made on 11 January 2016,

Between:

(1) **ARION BANK HF.** (the "**Issuer**"); and

(2) **KAUPTHING EHF.** (the "**Purchaser**"),

Whereas:

(A) The Issuer proposes to issue the Notes (as defined below) under the €2,000,000,000 Euro Medium Term Note Programme (the "**Programme**") established by it. The terms of the issue shall be as set out in the form of Final Terms attached to this Agreement as Annex A.

(B) The Noteholders and the Couponholders are entitled to the benefit of a Deed of Covenant (the "**Deed of Covenant**") dated 5 June 2015 executed as a deed by the Issuer in favour of certain accountholders or participants with Euroclear, Clearstream, Luxembourg and any/or other agreed clearing system. Payments of principal and interest on the Notes will be made on behalf of the Issuer by paying agents appointed under an agency agreement dated 23 April 2014, as supplemented by the Supplemental Agency Agreement (as defined below) (the "**Agency Agreement**") between the Issuer and the fiscal agent and paying agents named therein. This Agreement, the Deed of Covenant and the Agency Agreement are together referred to herein as the "**Agreements**".

(C) In connection with listing of the Notes on the Luxembourg Stock Exchange, the Issuer shall prepare a drawdown prospectus (the "**Drawdown Prospectus**").

It is agreed as follows:

1. Definitions

1.1 In this Agreement the following expressions have the following meanings:

"**Agreement Date**" means the date on which this Agreement is signed by or on behalf of all the parties to it.

"**Base Prospectus**" means the base prospectus relating to the Programme dated 5 June 2015 and the supplement to it dated 10 December 2015 which, together, constitute a base prospectus for the purposes of the Prospectus Directive.

"**Quotation Dealer Side Letter**" means the quotation dealer side letter between the Issuer and Deutsche Bank AG, London Branch, dated on or about the date hereof.

"**Clearstream, Luxemburg**" means Clearstream Banking, *société anonyme*.

"**Competent Authority**" means the CSSF in its capacity as competent authority under Article 21(1) of the Prospectus Directive.

"**CSSF**" means the *Commission de Surveillance du Secteur Financier*.

"**Euroclear**" means Euroclear Bank SA/NV.

"**Global Notes**" means the global notes representing the Notes, being a Temporary Global Note and/or, as the context may require, a Permanent Global Note, in each case without coupons or talons.

"**Issue Date**" means 11 January 2016 at 14.00 hours (London time).

"**listed on the Luxembourg Stock Exchange**" means the admission of the Notes to the official list of the Luxembourg Stock Exchange and to trading on the Market of the Luxembourg Stock Exchange.

"**Market**" means the EEA regulated market of the Luxembourg Stock Exchange.

"**Notes**" means U.S.$747,481,000 Resettable Notes due 2023 represented by the Global Note.

"**Permanent Global Note**" means a permanent global note substantially in the form set out in Part 2 of Schedule 4 of the Supplemental Agency Agreement, issued by the Issuer pursuant to this Agreement in exchange for the whole or part of a Temporary Global Note in respect of the Notes.

"**Programme Agreement**" means the amended and restated Programme Agreement dated 5 June 2015 between the Issuer and the Dealers named in it;

"**Prospectus Directive**" means Directive 2003/71/EC of the European Parliament and of the Council as amended by Directive 2010/73/EU and as further amended from time to time and shall include any relevant implementing measures of Luxembourg.

"**Purchase Price**" means the purchase price of 100 per cent. of the principal amount of the Notes.

"**Rating Agency**" means any of the following: (i) Standard & Poor's Rating Services, a division of the McGraw-Hill Companies, Inc.; (ii) Fitch Ratings Ltd; or (iii) Moody's Investors Service Limited.

"**Set-off Agreement**" means the set-off agreement between the Issuer and the Purchaser dated 11 January 2016.

"**Subsidiary**" means any entity whose affairs are required by law or in accordance with generally accepted accounting principles applicable in Iceland to be consolidated in the Issuer's consolidated accounts.

"**Supplemental Agency Agreement**" means the supplemental agency agreement dated 5 June 2015 between the Issuer and the fiscal agent and paying agents named therein.

"**Temporary Global Note**" means a temporary global note substantially in the form set out in Part 1 of Schedule 4 of the Supplemental Agency Agreement, issued in respect of the Notes.

1.2 **Other defined terms**

Terms defined in the Agency Agreement, the Programme Agreement, the Conditions and/or the Final Terms in respect of the Notes and not otherwise defined in this Agreement shall have the same meanings in this Agreement, except where the context otherwise requires.

1.3 **Interpretation**

In this Agreement, unless the contrary intention appears, a reference to a "**person**" includes any individual, company, unincorporated association, government, state agency, international organisation or other entity.

1.4 **Agreed Forms**

Any reference in this Agreement to a document being in "agreed form" means that the document in question has been agreed between the proposed parties thereto, subject to any amendments that the parties may agree prior to the Issue Date.

1.5 Legislation

Any reference in this Agreement to any enacting legislation or provision thereof or to any secondary legislation made thereunder shall be construed as a reference to such primary or secondary legislation as the same may have been, or may from time to time be, amended or re-enacted.

1.6 Headings

Headings and the table of contents are for ease of reference only and shall not affect the construction of this Agreement.

1.7 Clauses

Any reference in this Agreement to a Clause is, unless otherwise stated, to a Clause hereof.

2. Subscription

2.1 Subscription of the Notes

Subject to and in accordance with the provisions of this Agreement, the Issuer agrees to issue the Notes on the Issue Date and the Purchaser agrees to subscribe and pay for the Notes at the Purchase Price.

3. Closing

3.1 Closing

The Issuer shall procure the delivery of a duly executed Temporary Global Note initially representing the Notes and a duly executed Permanent Global Note to the common safekeeper (the "**Common Safekeeper**") for Euroclear and Clearstream to be held on terms agreed between the Purchaser, the Issuer and the Common Safekeeper. The Issuer will instruct the common service provider to instruct Euroclear and Clearstream, as the case may be, to release the Notes to the Purchaser (or to its order), free of payment, on the Issue Date. The Issuer and the Purchaser may agree to postpone the Issue Date to another date not later than 25 January 2016 at 14.00 hours (London time) as may be agreed between the Purchaser and the Issuer whereupon all references in this Agreement to the Issue Date shall be construed as being to that later date.

3.2 Payment Satisfied by Set-off

The Purchase Price payable by the Purchaser to the Issuer shall be deemed to be fully paid, satisfied and discharged upon the setting off of the Purchaser Set-off Obligations (as defined in the Set-off Agreement) pursuant to the Set-Off Agreement. No other payments from the Purchaser to the Issuer shall be due, nor any other obligations shall be required to be effected by the Purchaser, in respect of the Purchase Price.

4. Listing

4.1 Application for Listing

The Issuer confirms that it will make an application for the Notes to be listed on the Luxembourg Stock Exchange.

4.2 Obtaining a Listing

The Issuer will use all reasonable endeavours to ensure that the Notes are listed on the Luxembourg Stock Exchange as soon as practicable on or around the Issue Date and, in any event, by no later than the date falling 60 days after the Issue Date.

4.3 **Supply of Information**

The Issuer agrees to deliver to the CSSF and the Luxembourg Stock Exchange copies of the Drawdown Prospectus and to take such other steps and furnish all such documents, instruments, information and undertakings and publish all such advertisements or other material as may be required for the purpose of obtaining such listing on the Luxembourg Stock Exchange.

4.4 **Maintenance of Listing**

The Issuer will use all reasonable endeavours to maintain the listing of the Notes on the Luxembourg Stock Exchange for as long as any Note is outstanding or until such time as payment in respect of principal and interest in respect of all the Notes has been duly provided for, whichever is the earlier. If, however, it is unable to do so, having used such endeavours, or if it reasonably considers the maintenance of such listing to be unduly onerous, the Issuer will instead use all reasonable endeavours promptly to obtain and thereafter to maintain a listing for the Notes on such other stock exchange as may be agreed between the Issuer and the Purchaser.

5. Representations and Warranties

5.1 **Issuer's Representations**

The Issuer represents, warrants and agrees to and with the Purchaser as follows:

(a) **Incorporation, capacity and authorisation:** The Issuer and each of its consolidated Subsidiaries has been duly incorporated and is validly existing in good standing under the laws of its jurisdiction of incorporation with full power and authority to own, lease and operate its properties and conduct its business as described in the Base Prospectus and, in the case of the Issuer, to execute and perform its obligations under the Agreements;

(b) **Approvals:** The Issuer (i) has, or has made an application to obtain, all licences, permits, authorisations, consents and approvals, certificates, registrations and orders ("**Licences**") and has made all necessary declarations and filings with all government agencies that are necessary to own or lease its properties and conduct its businesses as described in the Base Prospectus and (ii) is conducting its business and operations in compliance with all applicable laws, regulations and guidelines;

(c) **Legal, binding and enforceable:** The issue of the Notes and the execution and delivery of the Agreements by the Issuer have been duly authorised by the Issuer and, in the case of the Notes, upon due execution, issue and delivery in accordance with the Agency Agreement, will constitute, and, in the case of the Agreements constitute, legal, valid and binding obligations of the Issuer enforceable in accordance with their respective terms subject to the laws of bankruptcy and other laws affecting the rights of creditors generally;

(d) **No breach:** The execution and delivery of the Agreements, the issue, offering and distribution of the Notes and the performance of the terms of the Notes and the Agreements will not infringe any law, regulation, order, rule, decree or statute applicable to the Issuer or to which its property may be subject and are not contrary to the provisions of the constitutional documents of the Issuer and will not result in any

breach of the terms of, or constitute a default under, any instrument, agreement or order to which the Issuer is a party or by which the Issuer or its property is bound;

(e) **No winding up or dissolution:** The Issuer has not taken any action nor, to the best of its knowledge or belief having made all reasonable enquiries, have any steps been taken or legal proceedings commenced for the winding up or dissolution of the Issuer;

(f) **No Event of Default:** No Event of Default has occurred or circumstances arisen which, had the Notes already been issued, might reasonably be expected to (whether or not with the giving of notice and/or the passage of time and/or the fulfilment of any other requirement) constitute an Event of Default;

(g) **Taxation:** (i) All required consents, approvals, authorisations, orders, filings, registrations or qualifications of or with any court or governmental authority have been given, fulfilled or done (including, but not limited to, any applicable exemptions that may be obtained from (A) the RSK ensuring that payments of interest to Noteholders residing outside of Iceland will not constitute taxable income in Iceland under the provisions of Article 3(8) of the Income Tax Act no. 90/2003 (save for the certificate from the RSK confirming the exempt status of the Notes under the Programme, which will be obtained by the Issuer prior to the Issue Date and the registration of the Notes with the RSK which will be done by the Issuer prior to the Issue Date), and (B) the Central Bank of Iceland in respect of payment upon the early redemption of the Notes in accordance with the provisions providing for early redemption contained in the Final Terms or in respect of any other applicable foreign currency control restrictions in force in Iceland) and (ii) no other action or thing (including, without limitation, the payment of any stamp or other similar tax or duty) is required to be taken, fulfilled or done by the Issuer for or in connection with (A) the execution, issue and offering of the Notes and compliance by the Issuer with the terms of the Notes or (B) the execution and delivery of, and compliance with the terms of, the Agreements;

(h) **No withholding:** Save as described in the Base Prospectus, all payments of principal, premium and interest by or on behalf of the Issuer in respect of the Notes made to holders of the Notes who are non-residents of Iceland shall be made without withholding or deduction for any taxes or duties imposed or levied by or on behalf of Iceland or any political subdivision or any authority thereof or therein having power to tax;

(i) **Approvals for business:** All corporate approvals and authorisations required by the Issuer for or in connection with (i) the execution, issue and offering of the Notes and compliance by the Issuer with the terms of the Notes and (ii) the execution and delivery of, and compliance with the terms of, the Agreements have been obtained and are in full force and effect;

(j) **Status:** The Notes will, upon issue, be direct and unsubordinated obligations of the Issuer and rank *pari passu* among themselves and (save for certain obligations required to be preferred by law) equally with all other unsecured obligations (other than subordinated obligations, if any) of the Issuer, from time to time outstanding.

5.2 **Representations Repeated**

The representations and warranties contained in Clause 5.1 (*Issuer's Representations*) shall be deemed to be repeated (with reference to the facts and circumstances then subsisting) on each date from the date hereof to the Issue Date (inclusive).

6. Purchaser's Representations

6.1 It is acknowledged and agreed by the Purchaser that, other than the representations and warranties in Clause 5, no other representations or warranties, express or implied, are given by the Issuer or have been relied upon by the Purchaser in relation to its purchase of the Notes.

6.2 Without prejudice to Clauses 5 and 6.1, the Purchaser hereby acknowledges, represents, warrants and agrees to and with the Issuer that it is relying upon its own independent investigation, due diligence and appraisal of all such matters as it deems necessary or appropriate and which it considers to be sufficient in relation to the purchase of the Notes.

7. Covenants of the Issuer

The Issuer undertakes with the Purchaser that:

7.1 **Notification**

The Issuer will notify the Purchaser promptly of any material change affecting any of its representations, warranties and agreements in this Agreement at any time prior to payment being made to the Issuer on the Issue Date and take such steps as may be reasonably requested by the Purchaser to remedy the same.

7.4 **Ratings**

(a) The Issuer will promptly notify the Purchaser of any change in the ratings given by any Rating Agency of any of the Issuer's debt or upon it becoming aware that such ratings are listed on "Creditwatch" or other similar publication of formal review by the relevant Rating Agency.

(b) The Issuer will obtain a rating of the Notes from at least one Rating Agency at the earlier of the Reset Date or promptly following such other date (at any time) on which the Purchaser delivers to the Issuer a written request to obtain a rating of the Notes.

(c) Once a rating of the Notes has been obtained from at least one Rating Agency and for so long as any Notes remain outstanding thereafter, the Issuer undertakes to maintain a rating of the Notes from at least one Rating Agency.

7.5 **Lawful compliance**

The Issuer will at all times ensure that all necessary action is taken and all necessary conditions are fulfilled (including, without limitation, obtaining and, where relevant, maintaining in full force and effect all necessary permissions, consents or approvals of all relevant governmental authorities) so that it may lawfully comply with its obligations under the Notes and the Agreements and, further, so that it may comply with any applicable laws, regulations and guidance from time to time promulgated by any governmental and regulatory authorities relevant in the context of the Agreements and the issue of the Notes.

8. Conditions Precedent

8.1 The Purchaser shall only be obliged to subscribe and pay for the Notes if the following conditions precedents are fulfilled:

(a) **Representations and warranties true and correct**: There not having occurred at the Issue Date any event making untrue or incorrect any of the representations and warranties contained in Clause 5.

(b) **No outstanding breach:** There being no outstanding breach of any of the obligations of the Issuer under this Agreement, the Agency Agreement or the Deed of Covenant which has not been expressly waived by the relevant counterparties on or prior to the Issue Date.

(c) **Closing certificate**: At the Issue Date, there shall have been delivered to the Purchaser a certificate, dated the Issue Date, of a duly authorised officer of the Issuer to the effect of (a) and (b) above.

(d) **Quotation Dealer Side Letter**: the Quotation Dealer Side Letter, in the agreed form, shall have been executed by all parties thereto on or prior to the Issue Date.

(e) **Consents**: There being in full force and effect all governmental or regulatory resolutions, approvals or consents required for the Issuer to issue the Notes on the Issue Date and for the Issuer to fulfil its obligations under the Notes, including any applicable exemptions that may be obtained from the Icelandic Directorate of Internal Revenue (the "**RSK**") or from the Central Bank of Iceland, and the Issuer having delivered to the Purchaser certified copies of those resolutions, approvals or consents and, where applicable, certified English translations of them.

(f) **Legal Opinions**: On or prior to the Issue Date, there shall have been delivered to the Purchaser opinions, each in such form and with such content as the Purchaser may reasonably require, dated the Issue Date, of:

(i) [redacted] legal advisers to the Issuer as to English law; and

(ii) [redacted] legal advisers to the Issuer as to Icelandic law;

8.2 **Consequences**

If any of the conditions set out in Clause 8.1 (*Conditions Precedent*) is not satisfied on or prior to the Issue Date or otherwise waived by the Purchaser pursuant to Clause 8.3 (*Waiver*), the parties to this Agreement shall be released and discharged from their respective obligations under this Agreement (except for the respective obligations of the parties pursuant to Clause 10 (*Survival of Representations and Obligations*)).

8.3 **Waiver**

The Purchaser may at its discretion waive compliance with the whole or any part of this Clause 8 (*Conditions Precedent*).

9. Termination

9.1 Notwithstanding anything contained in this Agreement, the Purchaser may, by notice to the Issuer given at any time prior to payment of the net subscription monies for the Notes to the Issuer on the Issue Date, terminate this Agreement in any of the following circumstances:

(a) **Inaccuracy of Representation**: If there shall have come to the notice of the Purchaser any inaccuracy or alleged inaccuracy of, or any event rendering untrue or incorrect or allegedly untrue or incorrect in any respect, any of the warranties and representations contained in Clause 5 (*Representations and Warranties*) (or any deemed repetition thereof) of this Agreement.

(b) **Breach of Obligation**: The Issuer fails to perform any of its obligations under this Agreement.

(c) **Failure of Condition Precedent**: If any of the conditions specified in Clause 8 (*Conditions Precedent*) has not been satisfied or waived by the Purchaser.

9.2 **Consequences of Termination**

Upon such notice being given, this Agreement shall terminate and each of the parties to this Agreement shall be released and discharged from their respective remaining obligations under this Agreement, except for any liability arising before or in relation to such termination.

10. Survival of Representations and Obligations

The representations, warranties, agreements and undertakings in this Agreement shall continue in full force and effect notwithstanding any actual or constructive knowledge of the Purchaser with respect to any of the matters referred to in the representation and warranties, completion of the arrangements for the subscription and issue of the Notes, any investigation made by or on behalf of the Purchaser or the termination of this Agreement pursuant to Clause 8.1 or Clause 9.

11. Notices

Any notice or notification in any form to be given by one party to the other may be delivered in person or sent by letter, email or fax:

in the case of the Issuer, to it at:

Arion Bank hf.

Fax: +354 444 7319
Email: treasuryclearing@arionbanki.is (with a copy to mtndesk@arionbanki.is)
Attention: [redacted]

in the case of the Purchaser, to it at:

Kaupthing ehf.

Borgartun 26
105 Reykjavik
Iceland
Fax: +354 444 6129
Email: treasury.securities@kaupthing.com
Attention: Director, Treasury Department

Communications shall take effect, in the case of a letter, when delivered or, in the case of a fax or an email, when received. Communications not by letter shall be confirmed by letter but failure to send or receive the letter of confirmation shall not invalidate the original communication.

12. Applicable Law and Jurisdiction

12.1 **Applicable Law**

This Agreement is governed by and construed in accordance with Icelandic law. Any matter, claim or dispute arising out of, or in connection with, this Agreement, whether contractual or non-contractual, is to be governed by and determined in accordance with Icelandic law.

12.2 **Jurisdiction**

The parties irrevocably agree that the courts of Iceland are to have exclusive jurisdiction to settle any dispute which arises out of, or in connection with, this Agreement and each party

irrevocably submits and agrees to submit to the jurisdiction of the Icelandic courts in accordance with this clause 12.2.

13. Severability

In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

14. Counterparts

This Agreement (and each variation or waiver in respect of any provision of it) may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart of this Agreement.

Signature Page – Subscription Agreement

This Agreement has been entered into on the date stated at the beginning.

Issuer
ARION BANK HF.

By: .....
Stefán Pétursson
CFO

.....
Eiríkur Magnús Jensson
Head of Funding
Arion Bank

Purchaser
KAUPTHING EHF.

By: .....

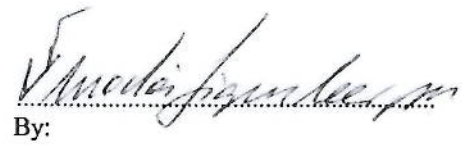
Signature Page – Subscription Agreement

This Agreement has been entered into on the date stated at the beginning.

Issuer
ARION BANK HF.

.....
By:

Purchaser
KAUPTHING EHF.


By:

Annex A

Form of Final Terms

FINAL TERMS

THESE FINAL TERMS HAVE BEEN PREPARED BY THE BANK IN CONNECTION WITH THE ISSUE OF THE NOTES DESCRIBED BELOW, WHICH AS OF THEIR ISSUE DATE ARE NEITHER TO BE ADMITTED TO TRADING ON A REGULATED MARKET IN THE EUROPEAN ECONOMIC AREA NOR OFFERED IN THE EUROPEAN ECONOMIC AREA IN CIRCUMSTANCES WHERE A PROSPECTUS IS REQUIRED TO BE PUBLISHED UNDER THE PROSPECTUS DIRECTIVE. ACCORDINGLY, NO PROSPECTUS IS REQUIRED PURSUANT TO DIRECTIVE 2003/71/EC FOR THE ISSUE OF THE BELOW NOTES.

11 January 2016

ARION BANK HF

Issue of USD747,481,000 Resettable Notes due 2023
under the €2,000,000,000
Euro Medium Term Note Programme

PART A – CONTRACTUAL TERMS

Terms used herein shall be deemed to be defined as such for the purposes of the Conditions set forth in the Base Prospectus dated 5 June 2015 and the supplement to it dated 10 December 2015 (the **Base Prospectus**). This document constitutes the Final Terms of the Notes described herein and must be read in conjunction with the Base Prospectus. Full information on the Bank and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Base Prospectus.

1.	(a)	Series Number:	3
	(b)	Tranche Number:	1
	(c)	Date on which the Notes will be consolidated and form a single Series:	Not Applicable
2.	Specified Currency or Currencies:		United States dollars (**USD**)
3.	Aggregate Nominal Amount:		
	(a)	Series:	USD747,481,000
	(b)	Tranche:	USD747,481,000
4.	Issue Price:		100 per cent. of the Aggregate Nominal Amount
5.	(a)	Specified Denominations:	USD200,000 and integral multiples of USD1,000 in excess thereof up to and including USD399,000. No Notes in definitive form will be issued with a denomination above USD399,000.

	(b)	Calculation Amount:	USD1,000
6.	(a)	Issue Date:	11 January 2016
	(b)	Interest Commencement Date:	Issue Date
7.	Maturity Date:		Interest Payment Date falling in or nearest to January 2023
8.	Interest Basis:		In respect of each Interest Period occurring during the Floating Rate Period (as defined below), USD 3 month LIBOR + 2.60 per cent. Floating Rate and, in respect of each Interest Period occurring during the Credit Spread Reset Period (as defined below), USD 3 month LIBOR + the Credit Spread (see paragraph 13 and Annex 1 below)
9.	Redemption/Payment Basis:		Subject to any purchase and cancellation or early redemption, the Notes will be redeemed on the Maturity Date at 100 per cent. of their nominal amount
10.	Change of Interest Basis:		Not Applicable
11.	Put/Call Options:		Issuer Call (see paragraph 15 below)

PROVISIONS RELATING TO INTEREST (IF ANY) PAYABLE

12.	Fixed Rate Note Provisions		Not Applicable
13.	Floating Rate Note Provisions		Applicable
	(a)	Specified Period(s)/Specified Interest Payment Dates:	(i) 11 January, 11 April, 11 July and 11 October in each year from (and including) 11 January 2016 to (but excluding) 11 January 2018 (the **Reset Date**) (together, such Interest Periods, the **Floating Rate Period**); and (ii) 11 January, 11 April, 11 July and 11 October in each year from (and including) the Reset Date to (but excluding) the Maturity Date (together, such Interest Periods, the **Credit Spread Reset Period**), in each case, subject to adjustment in accordance with the Business Day Convention set out in (b) below

(b)	Business Day Convention:	Modified Following Business Day Convention	
(c)	Additional Business Centre(s):	Not Applicable	
(d)	Manner in which the Rate of Interest and Interest Amount is to be determined:	Screen Rate Determination	
(e)	Party responsible for calculating the Rate of Interest and Interest Amount (if not the Fiscal Agent):	Not Applicable	
(f)	Screen Rate Determination:		
	• Reference Rate:	USD 3 month LIBOR	
	• Interest Determination Date(s):	Second London business day prior to the start of each Interest Period	
	• Relevant Screen Page:	Reuters LIBOR01	
(g)	ISDA Determination:	Not Applicable	
(h)	Linear Interpolation:	Not Applicable	
(i)	Margin(s):	(i)	in respect of each Interest Period occurring during the Floating Rate Period, + 2.60 per cent. per annum; and
		(ii)	in respect of each Interest Period occurring during the Credit Spread Reset Period, + the Credit Spread (as determined in accordance with the provisions for such determination set out in Annex 1)
(j)	Minimum Rate of Interest:	(i)	in respect of each Interest Period occurring during the Floating Rate Period, 2.60 per cent. per annum; and
		(ii)	in respect of each Interest Period occurring during the Credit Spread Reset Period, the Credit Spread
(k)	Maximum Rate of Interest:	Not Applicable	
(l)	Day Count Fraction:	Actual/360	

14. Zero Coupon Note Provisions — Not Applicable

PROVISIONS RELATING TO REDEMPTION

15.	Issuer Call:		Applicable
	(a)	Optional Redemption Date(s):	31 March, 30 June, 30 September and 31 December in each year from the Issue Date until the Reset Date and the Business Day immediately preceding the Reset Date.
	(b)	Optional Redemption Amount:	USD 1,000 per Calculation Amount
	(c)	If redeemable in part:	
		(i) Minimum Redemption Amount:	Not Applicable
		(ii) Maximum Redemption Amount:	If the Notes are to be redeemed pursuant to the Issuer Call on a partial redemption basis, the aggregate nominal amount of Notes outstanding immediately following the Issuer Call shall be at least USD165,000,000
	(d)	Notice periods:	Minimum period: 5 days Maximum period: 30 days
16.	Mandatory Prepayment Events:		See Annex 1
17.	Final Redemption Amount:		USD1,000 per Calculation Amount

GENERAL PROVISIONS APPLICABLE TO THE NOTES

18.	Form of Notes:		
	(a)	Form:	Temporary Global Note exchangeable for a Permanent Global Note which is exchangeable for Definitive Notes only upon an Exchange Event
	(b)	New Global Note:	Yes
19.	Additional Financial Centre(s):		Not Applicable
20.	Talons for future Coupons to be attached to Definitive Notes:		Yes, as the Notes have more than 27 coupon payments, Talons may be required if, on exchange into definitive form, more than 27 coupon payments are still to be made

Signed on behalf of **ARION BANK HF.**:

By: By:

Duly authorised *Duly authorised*

PART B – OTHER INFORMATION

1.	**LISTING AND ADMISSION TO TRADING**		
	(i)	Listing and Admission to trading	Not Applicable
	(ii)	Estimate of total expenses related to admission to trading:	Not Applicable
2.	**RATINGS**		
	Ratings:		The Notes to be issued are expected to be rated at the earlier of (i) promptly following the delivery of a written request by any Noteholder to the Bank or (ii) the Reset Date.
3.	**YIELD** (*Fixed Rate Notes only*)		
	Indication of yield:		Not Applicable
4.	**OPERATIONAL INFORMATION**		
	(i)	ISIN:	XS1344761256
	(ii)	Common Code:	134476125
	(iii)	Any clearing system(s) other than Euroclear and Clearstream, Luxembourg and the relevant identification number(s):	Not Applicable
	(iv)	Delivery:	Delivery free of payment
	(v)	Names and addresses of additional Paying Agent(s) (if any):	Not Applicable
	(vi)	Intended to be held in a manner which would allow Eurosystem eligibility:	Yes. Note that the designation "yes" simply means that the Notes are intended upon issue to be deposited with one of the ICSDs as common safekeeper and does not necessarily mean that the Notes will be recognised as eligible collateral for Eurosystem monetary policy and intra day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon the ECB being satisfied that Eurosystem eligibility criteria have been met.

5. DISTRIBUTION

(i)	Method of distribution:	Non-syndicated
(ii)	If syndicated, names of Managers:	Not Applicable
(iii)	Date of Subscription Agreement:	11 January 2016
(iv)	Stabilisation Manager(s) (if any):	Not Applicable
(v)	If non-syndicated, name of relevant Dealer:	Not Applicable
(vi)	U.S. Selling Restrictions:	Reg. S Compliance Category 2; TEFRA D

ANNEX 1

Credit Spread

The **Credit Spread** applicable to each Interest Period occurring during the Credit Spread Reset Period shall be determined by the Calculation Agent on the Reset Date in accordance with the following provisions:

(a) As soon as reasonably practicable after 9.00 a.m. (London time) on the Reset Date, the Calculation Agent shall request each Quotation Dealer to submit a Spread Indication at or before the Reset Time.

(b) If:

(i) more than one Quotation Dealer submits a Spread Indication to the Calculation Agent at or before the Reset Time on the Reset Date , the Credit Spread shall be determined by the Calculation Agent as the arithmetic mean of such Spread Indications;

(ii) only one Quotation Dealer submits a Spread Indication to the Calculation Agent at or before the Reset Time on the Reset Date, such Spread Indication shall constitute the Credit Spread; and

(iii) in the event Deutsche Bank AG, London Branch (**Deutsche Bank**) (or an alternative independent investment bank of international repute as notified to the Noteholders in accordance with Condition 12, with references in this Annex 1 to Deutsche Bank being construed accordingly) is not one of the Quotation Dealers (Deutsche Bank having agreed with the Bank in a side letter dated 11 January 2016 that where it is one of the Quotation Dealers it shall provide a Spread Indication by the Reset Time on the Reset Date) and no Quotation Dealer submits a Spread Indication to the Calculation Agent by the Reset Time on the Reset Date, the Calculation Agent shall as soon as practicable after the Reset Time on the Reset Date request Deutsche Bank to submit a Spread Indication as soon as practicable and such Spread Indication as submitted by Deutsche Bank shall constitute the Credit Spread and references in this Annex 1 to a Quotation Dealer shall be construed accordingly as references to Deutsche Bank, where applicable;

provided that the Credit Spread shall not be less than zero.

(c) The Calculation Agent shall determine the Credit Spread as soon as practicable after the Reset Time on the Reset Date and shall notify the Fiscal Agent of the Credit Spread.

(d) The Calculation Agent shall as soon as practicable after it has determined the Credit Spread notify Kaupthing of (i) the Credit Spread and (ii) the relevant Spread Indications (and the corresponding identity of the submitting Quotation Dealer(s)) submitted to the Calculation Agent pursuant to paragraphs (a) and (b) above.

(e) Any Quotation Dealer or Deutsche Bank, as the case may be, shall be acting exclusively upon request from the Calculation Agent and none of the Calculation Agent, any Quotation Dealer or Deutsche Bank shall have any relationship of agency or trust with, and shall not be liable nor incur any liability towards, the Noteholders or the Bank in relation to the provision of any such Spread Indication.

(f) In this paragraph:

Calculation Agent means Arion Bank hf as calculation agent in respect of the determination of the Credit Spread;

Investors means third party independent investors based in London, Paris, Frankfurt, Geneva and/or New York who operate in, and have experience of, the international capital markets;

Quotation Dealers means the three independent investment banks of international repute which shall provide Spread Indications on the Reset Date at the request of the Calculation Agent, the first of which shall be selected by the Bank, the second of which shall be selected by Kaupthing ehf. (**Kaupthing**) and the third of which shall be selected jointly by the Bank and Kaupthing, in each case, in respect of the Reset Date;

Representative Notes means a hypothetical debt security with a nominal amount equal to the aggregate nominal amount of the Notes outstanding as at the Reset Date and having the same terms and conditions that are applicable to the Notes from the Reset Date;

Reset Time means, in respect of the Reset Date, 2.00 p.m. (London time) on the Reset Date; and

Spread Indication means, in respect of any Quotation Dealer and the Reset Date, the margin quoted by the relevant Quotation Dealer which reflects the relevant Quotation Dealer's view (acting in good faith and a commercially reasonable manner) of the credit spread per annum that would result from a hypothetical primary market offering to Investors of the Representative Notes on the basis of an issue price at par.

Mandatory Prepayment Event

Upon the occurrence of a Mandatory Prepayment Event, the Bank shall redeem the Notes (a **Mandatory Prepayment**), not less than 20 and not more than 45 days following such Mandatory Prepayment Event in whole or in part, as determined by the amount of the relevant Additional MTN Proceeds, at the Mandatory Prepayment Amount, plus accrued interest to (but excluding) the date on which such Notes are redeemed (the **Note Prepayment Date**), which Mandatory Prepayment shall be funded by application of the relevant Additional MTN Proceeds from such Mandatory Prepayment Event, provided that, if the Notes can only be redeemed in part (and not in whole) because the relevant Additional MTN Proceeds are less than the nominal amount of the Notes then outstanding, no Mandatory Prepayment shall occur if the nominal amount of the Notes outstanding immediately following such redemption would be less than USD165,000,000. The Bank shall give the Noteholders notice in accordance with Condition 12 (which notice shall be irrevocable, specify the occurrence of the Mandatory Prepayment Event, the aggregate amount of the Notes to be redeemed and the date fixed for redemption of the Notes). In the case of a partial redemption of Notes, the Notes to be redeemed (**Redeemed Notes**) will (i) in the case of Redeemed Notes represented by definitive Notes, be selected individually by lot, not more than 30 days prior to the date fixed for redemption and (ii) in the case of Redeemed Notes represented by a Global Note, be selected in accordance with the rules of Euroclear and/or Clearstream, Luxembourg, (to be reflected in the records of Euroclear and Clearstream, Luxembourg as either a pool factor or a reduction in nominal amount, at their discretion). In the case of Redeemed Notes represented by definitive Notes, a list of the serial numbers of such Redeemed Notes will be published in accordance with Condition 12 not less than 15 days prior to the date fixed for redemption.

For these purposes:

Additional MTN Proceeds means 75 per cent. of the aggregate net proceeds received by the Bank from an issue by the Bank of debt securities which is within the scope of a Mandatory Prepayment Event;

Mandatory Prepayment Amount means USD1,000 per Calculation Amount;

Mandatory Prepayment Event means the Bank (or a special purpose vehicle subsidiary of the Bank set up for the purpose of issuing debt securities) issues debt securities with a nominal amount greater than or equal to USD165,000,000 or such equivalent amount in a currency other than Icelandic Króna (**ISK**) during the Relevant Period, provided that no Mandatory Prepayment Event shall occur if all the proceeds of such issue of debt securities are used by the Bank to prepay, repay, redeem, or purchase and cancel forthwith debt securities denominated in a currency other than ISK, which are outstanding as at the Issue Date and have an originally scheduled maturity date not later than 30 months after the Issue Date; and

Relevant Period means the period from (and including) the Issue Date to (and including) the Reset Date.

KAUPTHING EHF.

and

KAUPSKIL EHF.

and

THE CENTRAL BANK OF ICELAND (*SEÐLABANKI ÍSLANDS*)

SHAREHOLDERS' PROCEEDS APPORTIONMENT AGREEMENT

relating to

ARION BANKI HF.

Dated 13 January 2016

Table of Contents

THIS AGREEMENT (the "**Agreement**") is entered into on 13 January 2016

BETWEEN

(1) The Central Bank of Iceland (*Seðlabanki Íslands*), whose principal office is at Kalkofnsvegi 1, 150 Reykjavik (hereinafter referred to as "**CBI**");

(2) Kaupskil ehf. (registered id. 580609-0150), whose registered office is at Borgatún 26, 105 Reykjavik, Iceland (hereinafter referred to as "**Kaupskil**"); and

(3) Kaupthing ehf. (registered id. 560882-0419), whose registered office is at Borgatún 26, 105 Reykjavik, Iceland (hereinafter referred to as "**Kaupthing**")

WHEREAS:

(A) As at the date of this Agreement, Icelandic State Financial Investments (registered id. 620909-0170) ("**ISFI**") holds 260,000,000 ordinary shares with an aggregate nominal value of ISK260,000,000.00 in Arion (as defined below) (representing 13% of the issued share capital of Arion as at the date of this Agreement) and Kaupskil holds 1,740,000,000 ordinary shares with an aggreate nominal value of ISK1,740,000,000.00 in Arion (representing 87% of the issued share capital of Arion as at the date of this Agreement);

(B) Kaupskil is a wholly owned subsidiary of Kaupthing;

(C) Arion, the Government (as defined below) and Kaupskil entered into a shareholders' agreement relating to Arion on 3 September 2009; and

(D) as contemplated in a formal request by Kaupthing for the Exemptions submitted by Kaupthing to the CBI on 21 October 2015 (which request replaced the formal request by Kaupthing for the Exemptions submitted by Kaupthing to the CBI on 4 September 2015), the Parties (as hereinafter defined) agree to enter into this Agreement regulating the sharing of the proceeds of any Monetisation (as hereinafter defined) on the terms set out herein.

NOW THE PARTIES HAVE AGREED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

"**Affiliate**" means, in relation to any person, a subsidiary undertaking of that person or a parent undertaking of that person or any other subsidiary undertaking of that parent undertaking;

"**Agreement Effective Date**" means the date on which the latest of the following occurs:

(a) the Composition Unconditional Date;

(b) the date on which the CBI irrevocably grants the Exemptions; and

(c) Kaupskil, Arion and ISFI validly execute and deliver to Kaupthing the Shareholders' Agreement Amendment Agreement;

"**Arion**" means Arion Banki hf. (formerly known as New Kaupthing Bank hf.) (registered id. 581008-0150), whose registered office is at Borgatún 26, 105 Reykjavik, Iceland;

"**Arion Stake**" means Kaupthing's ownership interest in the Qualifying Shares, which as at the date of this Agreement, is held indirectly by means of its holding of 100% of the share capital in Kaupskil, which, in turn, holds the Qualifying Shares;

"**Arion Term Sheet**" means term sheet dated 19 October 2015 between Arion and Kaupthing;

"**Assignment Agreement**" means an agreement dated on or around the date hereof between Kaupthing and the CBI by which Kaupthing agrees to transfer to the CBI (or such entity as the CBI may designate) certain specified claims and assets;

"**Board**" means the board of directors of Kaupthing;

"**Bond**" means the secured bond in the principal amount of ISK 84 billion granted by Kaupthing in favour of the CBI on or around the date hereof;

"**Business Day**" means a day except a Saturday or Sunday, on which banks in Reykjavik are open for business generally;

"**CBI Designee**" means such person as the CBI may designate;

"**Composition**" means a composition of Kaupthing's liabilities in accordance with Chapter XXI of the Bankruptcy Act and Article 103Aa of the Financial Undertakings Act;

"**Composition Proposal**" means the composition proposal proposed by Kaupthing to certain of its unsecured creditors pursuant to Chapter XXI of the Bankruptcy Act and Article 103a of the Financial Undertakings Act;

"**Composition Unconditional Date**" means the date on which the latest of the following occurs: (a) the requisite majority of unsecured creditors of Kaupthing (by number and by value) has approved the Composition Proposal and either (b) the District Court has approved the Composition and the deadline for appealing the decision of the District Court to the Supreme Court has expired, or (c) if the decision of the District Court is appealed, the Supreme Court has confirmed the Composition or such appeals are withdrawn or lapse;

"**Confidential Information**" means all information and records wherever located and which are not publicly available and in each case whether or not recorded;

"**Exemptions**" means the necessary exemptions from the Act on Foreign Exchange no. 87/1992 required to enable Kaupthing to fulfil the terms of the Composition;

"**Expense Period**" means the period from (and including) 1 January 2015 until the date on which the Final Monetisation is completed;

"**Final Monetisation**" means the Monetisation as a result of which Kaupthing no longer holds any portion of the Arion Stake;

"**Framework Agreement**" means the framework agreement dated 18 September 2015 between Arion and Kaupthing;

"**Government**" means the Ministry of Finance (registered id. 550169-2829), on behalf of the Government of Iceland, whose registered office is at Arnahvoll, Reykjavik, Iceland.

"**Group**" means Kaupskil, any New Holding Company, Arion and any other undertaking which is a subsidiary undertaking of Kaupskil from time to time and references to "**Group Company**" and "**member of the Group**" shall be construed accordingly;

"**Indemnity Costs**" means:

(a) the aggregate of all liabilities, costs, fees and expenses incurred, or which may be payable, at any time and from time to time by Kaupthing, Kaupskil and/or any New Holding Company, arising from or relating to claims against Kaupthing, Kaupskil and/or any New Holding Company in respect of any contractual warranties or indemnities given by Kaupthing, Kaupskil and/or any New Holding Company in connection with any

Monetisation or Reorganisation Transaction (including in relation to Arion or any Shares or any Kaupskil Shares); and

(b) the cost of any insurance policies purchased by Kaupthing, Kaupskil and/or any New Holding Company to insure against the risk of any such claims;

"**Independent Opinion**" means a fairness opinion issued by the Investment Bank in which such Investment Bank confirms that the terms of the acquisition in question are on an arm's length basis;

"**Investment Bank**" means an internationally-recognised investment bank, which is independent of Kaupthing and the Kaupthing Claimants, selected by Kaupthing;

"**IPO**" means an initial public offering with subsequent listing and trading of shares on a regulated market of the whole or any part of the issued share capital of Arion or of any class of the issued share capital of any Group Company (including any New Holding Company);

"**ISK**" means Icelandic krona;

"**Kaupskil Shares**" means the ordinary shares with an aggregate nominal value of ISK 10,168,667,173 in Kaupskil held by Kaupthing as at the date of this Agreement and "**Kaupskil Share**" means any one of them (as the context may require);

"**Kaupthing Claimants**" means a group of restricted holders of Kaupthing claims, as set out in Schedule 2 to this Agreement, and "**Kaupthing Claimant**" shall be construed accordingly;

"**Kaupthing Future Dividends**" means any cash received at any time by Kaupthing, any New Holding Company and/or Kaupskil (in each case in its capacity as a shareholder) after the Agreement Effective Date in respect of any dividends paid by Arion to Kaupskil or any New Holding Company in respect of the period from (and including) the Agreement Effective Date, but excluding any Kaupthing Monetisation Dividends;

"**Kaupthing Monetisation Dividends**" means any cash received at any time by Kaupthing from Kaupskil or any New Holding Company (in each case in Kaupthing's capacity as shareholder) after the Agreement Effective Date by way of dividend or other distribution made upon or in connection with any Sale or other Monetisation;

"**Kaupthing Prior Receipts**" means the aggregate amount of all cash held by Kaupthing, Kaupskil and any New Holding Company on the Agreement Effective Date and any cash received at any time by Kaupthing, any New Holding Company and/or Kaupskil (in each case in its capacity as a shareholder) after the Agreement Effective Date in respect of any return of proceeds, repayment or distribution of any amount by any Group Company (whether by way of redemption, repayment, dividend or other distribution, return of capital or otherwise) in respect of the period prior to the Agreement Effective Date;

"**Kaupthing Proceeds of Monetisation**" means the sum of any economic return received by Kaupthing in respect of the Qualifying Shares in cash from all Monetisations on a total return basis (whether by way of Sale or capital reduction or Kaupthing Monetisation Dividends).

Kaupthing Proceeds of Monetisation shall not include:

(i) any amount received by any Group Company or Kaupthing in respect of interest, principal or any other amounts payable in respect of debt securities issued by Arion or any other Group Company and held by Kaupthing or any subsidiary undertaking thereof or any amounts received by Kaupthing or any subsidiary undertaking thereof in connection with commercial banking services

or similar arrangements entered into with Arion or any other Group Company from time to time;

(ii) any Kaupthing Prior Receipts;

(iii) any Kaupthing Future Dividends;

(iv) any rebate or refund received by Kaupthing, any New Holding Company or Kaupskil in respect of withholding or other taxes relating to any Kaupthing Prior Receipts or any Kaupthing Future Dividends; or

(v) any amount received by Kaupthing, any New Holding Company or Kaupskil after the Agreement Effective Date that does not derive from, or relate to (i) the Qualifying Shares or (ii) the assets beneficially owned by Arion as at the Agreement Effective Date or acquired by Arion after the Agreement Effective Date,

and such exclusions from Kaupthing Proceeds of Monetisation shall, to the extent provided therein, represent "Available Cash" as defined in, and for the purposes of, Article 12 of the Assignment Agreement;

"**Monetisation**" means any transaction (other than any Reorganisation Transaction) in which Kaupthing, directly or indirectly, sells, assigns, transfers or otherwise disposes (including by way of any Sale or IPO) of all or any of the Arion Stake and "**Monetised**" shall be construed accordingly;

"**Monetisation Costs**" means:

(a) any and all fees, costs, expenses and liabilities incurred, or which are payable, at any time and from time to time by each of Kaupthing, Kaupskil and/or any New Holding Company in respect of the Expense Period in connection with the monitoring and administering of each of Kaupthing, Kaupskil and/or any New Holding Company (including but not limited to any and all fees, costs, expenses and liabilities in respect of the remuneration of the board of directors of each of Kaupthing, Kaupskil and/or any New Holding Company); plus

(b) any and all fees, costs, expenses and liabilities incurred, or which are payable, at any time and from time to time by Kaupthing, Kaupskil and/or any New Holding Company in connection with any Monetisation and/or any Reorganisation Transaction (including but not limited to: (i) fees and expenses of third parties engaged in connection therewith; (ii) fees and expenses payable in respect of any Independent Opinion or any valuation or recommendation or other determination given by any Investment Bank pursuant to clause 3; (iii) fees and costs in connection with all preparatory work for any and each potential Monetisation Transaction and/or any and each potential Reorganisation Transaction in each case whether or not successfully implemented; and (iv) all and any Indemnity Costs); plus

(c) any taxes payable from time to time in connection with any Monetisation and/or any Reorganisation Transaction by Kaupthing, Kaupskil and/or any New Holding Company; plus

(d) any taxes payable by Kaupthing in connection with any cancellation of amounts outstanding under the Bond pursuant to clause 5.2 of the Bond; plus

(e) the cost of any Independent Opinion obtained pursuant to Clause 2.6; plus

(f) the cost of any valuation obtained pursuant to Clause 3.5;

"**Monetisation Process**" means the process for effecting a Monetisation;

"**New Holding Company**" means any new parent undertaking of Kaupskil and/or Arion, which is formed for the purpose of facilitating: (i) a Reorganisation Transaction; or (ii) a Monetisation;

"**Parties**" means the parties to this Agreement and "**Party**" means each of them;

"**Qualifying Shares**" means the 1,740,000,000 ordinary shares with an aggregate nominal value of ISK1,740,000,000.00 in Arion held by Kaupskil as at the date of this Agreement, representing 87% of the issued share capital of Arion as at the date of this Agreement (and, in any event, excluding any additional Shares acquired by Kaupthing or any Group Company from the Government or ISFI or any other person after the date of this Agreement whether pursuant to any additional issue of Shares or pursuant to clause 9 (*Kaupthing Holdco's Option*) of the Shareholders' Agreement or otherwise) and all other (if any) Shares directly resulting from any sub-division, consolidation or re-classification of such Shares and "**Qualifying Share**" means any one of them;

Relevant Third Party Offer" has the meaning given to that term in Clause 3.1 (*Step-in Right*);

"**Reorganisation Transaction**" means any reorganisation of the Group by any means including the acquisition of any shares in, or any assets of, Arion by a New Holding Company or any other reorganisation of the Group involving any Group Company's share capital (including the conversion, consolidation, sub-division or redesignation (as appropriate) of any Shares) in preparation for a Monetisation, in each case in respect of which Kaupthing has given its prior written consent and the overall effect of such reorganisation is not to alter the proportionate direct and indirect economic ownership interests (calculated as percentages) in Arion at that time as between (i) Kaupthing and Kaupskil on the one hand; and (ii) the Government and ISFI on the other hand;

"**Sale**" means any sale of (a) all or any of the Qualifying Shares by Kaupskil; (b) all or any of the Kaupskil Shares by Kaupthing; and/or (c) all or any shares in any New Holding Company by Kaupthing or Kaupskil;

"**Sale Percentage**" means the percentage of the Arion Stake which is the subject of the relevant Monetisation;

"**Shareholders' Agreement**" means the shareholders' agreement relating to Arion between Arion, the Government and Kaupskil dated 3 September 2009 in the form in effect as of the date of this Agreement and as amended and varied pursuant to the Shareholders' Agreement Amendment Agreement and as further amended, modified or supplemented from time to time but only to the extent that Kaupthing has given its prior written consent to such amendments, modifications and supplements;

"**Shareholders' Agreement Amendment Agreement**" means an agreement entered into among Arion, Kaupskil and ISFI on or before the date of this Agreement, in the form set out in Schedule 4;

"**Shares**" means shares in Arion from time to time and "**Share**" means any one of them;

"**Step-in Right**" means the right, but not the obligation, of the CBI or the CBI Designee to acquire all but not some of the Qualifying Shares which are the subject of the applicable Relevant Third Party Offer on the same terms as are offered to, or offered by, the third party pursuant to that Relevant Third Party Offer (save that the consideration payable by the CBI or the CBI Designee (as applicable) for such Qualifying Shares shall all be in cash in an amount

equal to the offer price offered for such Qualifying Shares to that third party or offered by that third party pursuant to that Relevant Third Party Offer using (as applicable) the prevailing onshore selling rate of exchange published by the CBI on the date on which the relevant payment is made and/or valuation for any non-cash consideration aspect of the applicable Relevant Third Party Offer as determined by the Investment Bank);

"**Surviving Provisions**" means Clauses 8 (*Duration and Termination*), 9 (*Confidentiality*), 10 (*Conflicts and Further Covenants*), 11 (*Notices*), 12 (*Language*), 13 (*Remedies and Waivers*), 14 (*Invalidity*), 16 (*Amendments*), 17 (*Assignment*), 18 (*Costs*), 19 (*Counterparts*) and 20 (*Law and Jurisdiction*) of this Agreement and, for the purposes of interpreting such Clauses, Clause 1 (*Definitions and Interpretation*); and

"**Working Hours**" means 8.30 a.m. to 6.30 p.m. on a Business Day.

1.2 References to the Parties include their respective successors in title, permitted assigns, estates and legal personal representatives as the case may be.

1.3 Unless otherwise specified, references in this Agreement to a person include an individual, company, corporation, firm, partnership, joint venture, association, organisation, institution, trust or agency whether or not having a separate legal personality.

1.4 Unless otherwise specified, references in this Agreement to the singular include a reference to the plural and references to one gender shall include all genders and vice versa (in each case) unless the context otherwise requires.

1.5 References to Clauses and Schedules are to clauses and schedules of this Agreement.

1.6 References in this Agreement to a procuring obligation of any Party or any other person shall include that person exercising all of its voting rights and using any and all powers vested in it from time to time as a holder of any Shares or any other interest in any Group Company and/or under the Shareholders' Agreement and/or any of the articles of association of any Group Company to ensure compliance with the underlying obligation to which that procurement obligation relates so far as it is reasonably able to do so, whether that means acting alone or (to the extent that it is lawfully able to do so) acting with others.

1.7 All headings in this Agreement shall be ignored in the interpretation of this Agreement.

1.8 In this Agreement, an undertaking is a parent undertaking in relation to another undertaking, a subsidiary undertaking, if it holds a majority of the voting rights in it.

1.9 In this Agreement:

(A) general words introduced by the word "other" or "including" or "include" shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things; and

(B) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words.

1.10 This Agreement shall take effect from the Agreement Effective Date.

2 MONETISATION OF ARION

2.1 Kaupthing will use commercially reasonable efforts to:

2.1.1 initiate a Monetisation Process not later than the Composition Unconditional Date; and

2.1.2 subject to Clause 2.2, target to complete the Final Monetisation by not later than 31 December 2016.

2.2 The obligations of Kaupthing under Clause 2.1.2 shall not apply if in Kaupthing's reasonable opinion from time to time, a fair market value, which is satisfactory and acceptable to Kaupthing, for any interest (including any Qualifying Shares and/or any Kaupskil Shares and/or any shares in any New Holding Company) to be disposed of, directly or indirectly, pursuant to any Monetisation would be unlikely to be achieved at or by that point in time.

2.3 Kaupthing will (acting reasonably), to the extent permitted by applicable law or regulation, establish the timing, structure, pricing and all other terms and conditions of any Monetisation and any Reorganisation Transaction and select all professional advisers, including any underwriter and any financial advisors, to be engaged by Kaupthing or any Group Company to provide any services in connection with any Monetisation or any Reorganisation Transaction. Kaupskil agrees not to take any action, and shall procure to the fullest extent allowed under applicable law or regulation that no Group Company will take any action, in connection with any actual or proposed Monetisation or any actual or proposed Reorganisation Transaction without the prior written consent of Kaupthing, which consent shall not be unreasonably withheld or delayed.

2.4 Kaupskil agrees to take all commercially reasonable actions, and to use all commercially reasonable efforts to procure to the extent permitted by applicable law or regulation (including by taking such acts as are described in Clause 1.6) that all actions are taken by each and any Group Company, in each case as are reasonably requested by Kaupthing in connection with any actual or proposed Monetisation or any actual or proposed Reorganisation Transaction, including, without limitation, giving such co-operation and assistance as Kaupthing reasonably requests, and providing any requisite consents or approvals required pursuant to, and facilitating and entering into any amendments to, or replacements of, the Shareholders' Agreement and/or any of the articles of association (as amended from time to time) of any Group Company.

2.5 In connection with any Monetisation by way of an IPO, to the fullest extent permitted by applicable law or regulation, Kaupskil will transfer, and shall use all commercially reasonable efforts to procure that each Group Company transfers, such number of Shares (and/or such amount or number of its interests (in the form of shares or otherwise) in any Group Company) as Kaupthing may reasonably determine in order to facilitate such IPO.

2.6 If pursuant to any Monetisation (other than by way of IPO) any portion of the Arion Stake is acquired by any Kaupthing Claimant, Kaupthing shall, on the reasonable request of the CBI, obtain an Independent Opinion, confirming that the terms of such acquisition are on an arm's length basis. The costs of any such Independent Opinion shall be paid by Kaupthing and shall be Monetisation Costs.

2.7 Upon request at any time and from time to time from Kaupthing, Kaupskil shall take, and shall procure to the fullest extent allowed under applicable law or regulation that each Group Company takes and does, any and all actions and things necessary, appropriate and/or desirable (in each case as determined by Kaupthing (acting reasonably)) to effect any Reorganisation Transaction which Kaupthing determines (acting reasonably) is necessary, appropriate or desirable in connection with, or for the purposes of, any Monetisation.

2.8 To the extent permitted by applicable law or regulation, Kaupskil agrees to co-operate with Kaupthing in order to facilitate the satisfaction of any condition to the Exemptions should their entering into, and completion of the steps described in, the Framework Agreement and the

Arion Term Sheet prove insufficient to facilitate the grant of the Exemptions and/or the satisfaction of any condition to the Exemptions.

3 STEP-IN RIGHT

3.1 If Kaupthing offers any of the Qualifying Shares to any third party, or receives an offer to acquire any of the Qualifying Shares from a third party which Kaupthing is willing to accept, in either case at a price (the "**Offer Price**") which is equal to or less than (A) 0.8x the book value of Arion (as determined by reference to the latest audited accounts for Arion at that time) multiplied by (B) the Sale Percentage (a "**Relevant Third Party Offer**"), it shall notify the CBI in writing of the terms of such offer within 3 Business Days of making or receiving such offer (a "**Sale Notice**");

3.2 Subject to clause 3.6, (A) within 5 Business Days of the date of the applicable Sale Notice, the CBI will have the right, but not the obligation, to notify Kaupthing that the CBI or the CBI Designee wishes to exercise the Step-in Right in respect of the Relevant Third Party Offer which is the subject of the applicable Sale Notice and, if applicable, that it requests that an independent valuation from an Investment Bank is obtained pursuant to clause 3.5 (a "**Step-in Notice**"); and (B) if a Step-in Notice has been sent pursuant to, and in accordance with, Clause 3.2(A), within 30 days of the date of the applicable Sale Notice (the "**Step-in Right Period**"), the CBI or the CBI Designee (as applicable) must complete the acquisition of all (and not just some) of such Qualifying Shares which are the subject of the applicable Sale Notice on the terms set out in the applicable Sale Notice.

3.3 If the CBI has not sent such Step-in Notice within the applicable 5 Business Days, or, if it has sent such a Step-in Notice within the applicable 5 Business Days but the CBI or the CBI Designee (as applicable) has not completed the acquisition of all (and not just some) of the Qualifying Shares which are the subject of the applicable Sale Notice within the applicable Step-in Right Period, the Step-in Right with respect to the applicable Relevant Third Party Offer shall automatically terminate with immediate effect from the expiry of such 5 Business Day period or such Step-in Right Period (as applicable) and, thereafter, Kaupthing shall have the right to sell the Qualifying Shares which were the subject of that Sale Notice to the third party named as purchaser in the Sale Notice (or to a third party which is an Affiliate of the third party named as purchaser in the Sale Notice) on terms no different from those set out in that Sale Notice (save that Kaupthing may elect (but is not obliged) to require that the consideration payable for such Qualifying Shares may include non-cash consideration) at any time within 6 months from the date on which the applicable period to that Sale Notice expires (the "**Sale Period**").

3.4 If a Sale Notice has been given by Kaupthing and Kaupthing does not sell the Qualifying Shares which were the subject of that Sale Notice within the Sale Period applicable to that Sale Notice, and (ii) a further Relevant Third Party Offer (a "**Further Relevant Third Party Offer**") is made or received after the applicable Sale Period has expired, Kaupthing shall within 5 Business Days of the date on which the Further Relevant Third Party Offer was made or received, issue the CBI with a Sale Notice in respect of that Further Relevant Third Party Offer and the provisions of Clauses 3.2, 3.3, 3.5 and 3.6 shall apply on a *mutatis mutandis* basis in respect of any Sale Notice issued pursuant to this Clause 3.4.

3.5 If a Relevant Third Party Offer is made or received and a Sale Notice is sent by Kaupthing to the CBI, Kaupthing shall, on the reasonable request of the CBI set out in the applicable Step-in Notice, obtain an independent valuation from an Investment Bank, confirming that Kaupthing's valuation of any non-cash consideration aspect of the applicable Relevant Third

Party Offer used for the purposes of such offer and (if exercised) the Step-in Right represents the fair market value of that non-cash consideration. The costs of any such independent valuation shall be paid by Kaupthing and shall be Monetisation Costs. Any such valuation shall not impact the timetable set forth in this clause 3 or, if the CBI has sent a Step-in Notice within the applicable 5 Business Days, the obligation on the CBI or the CBI Designee (as applicable) to complete the acquisition of all (and not just some) of the Qualifying Shares which are the subject of the applicable Sale Notice within the applicable Step-in Right Period save that if the valuation range of the non-cash consideration aspect of the Relevant Third Party Offer produced by the Investment Bank is less than the cash value for such non-cash consideration specified in the applicable Sale Notice, the mid-point of that valuation range for such non-cash consideration shall be used to calculate the cash amount payable by the CBI or the CBI Designee (as applicable) in lieu of such non cash consideration.

3.6 If any part of a Relevant Third Party Offer involves an IPO of any Shares, the Step-in Right shall be varied in such manner and to such extent as is recommended by an Investment Bank as being necessary and/or desirable in connection with the proposed IPO and any book-building exercise in connection therewith, and the Parties undertake to co-operate fully with each other to develop a process to implement the Step-in Right in a manner which reflects such recommendation from the Investment Bank as soon as reasonably practicable after such recommendation is made.

4 APPORTIONMENT OF KAUPTHING PROCEEDS OF MONETISATION

4.1 If Kaupthing disposes of any or all of its interest in the Arion Stake pursuant to one or more Monetisations, Kaupthing shall pay, in accordance with this Clause 4, to the CBI (or to such other persons as may be designated to receive such amount by the CBI) a proportion of the total of all Kaupthing Proceeds of Monetisation as follows:

4.1.1 in respect of that portion of the total of all Kaupthing Proceeds of Monetisation, which is less than or equal to ISK 100,000,000,000, 0% of such portion;

4.1.2 in respect of that portion of the total of all Kaupthing Proceeds of Monetisation, which is more than ISK 100,000,000,000 but less than or equal to ISK 140,000,000,000, 33⅓% of such portion;

4.1.3 in respect of that portion of the total of all Kaupthing Proceeds of Monetisation, which is more than ISK 140,000,000,000 but less than or equal to ISK 160,000,000,000, 50% of such portion; and

4.1.4 in respect of that portion of the total of all Kaupthing Proceeds of Monetisation, which is more than ISK 160,000,000,000, 75% of such portion.

4.2 Subject to Clause 4.4 below, amounts payable to the CBI (or the CBI Designee) pursuant to Clause 4.1 above shall be paid not later than 10 Business Days following receipt by Kaupthing in cash of the relevant amount of Kaupthing Proceeds of Monetisation, subject to the CBI having provided all relevant details for such payment to be made to the relevant receiving bank.

4.3 Amounts payable to the CBI (or the CBI Designee) pursuant to Clause 4.1 above may be paid in any currency as determined in the absolute discretion of Kaupthing.

4.4 For the purposes of calculating any amounts paid or payable under this Clause 4, any Kaupthing Proceeds of Monetisation shall be the amount of ISK received by Kaupthing pursuant to the applicable Monetisation or, if such amount is received by Kaupthing in a

currency other than ISK, the amount of ISK which could be purchased by exchanging the relevant amounts of foreign currencies received by Kaupthing pursuant to the applicable Monetisation based on the prevailing onshore selling rate of exchange published by the CBI on the date on which the relevant payment is made pursuant to Clause 4.1 above.

5 WORKED EXAMPLE

5.1 The Parties acknowledge that Schedule 1 contains an illustrative, non-binding, worked example of how the Kaupthing Proceeds of Monetisation would be apportioned pursuant to Clause 4.

5.2 The Parties acknowledge and agree that the aggregate maximum amount that could be payable pursuant to:

5.2.1 Clause 4.1.2 is ISK 13,333,333,333.33; and

5.2.2 Clause 4.1.3 is ISK 10,000,000,000.

6 CBI OBSERVER

6.1 Subject to Clauses 6.3, 6.4 and 6.5, Kaupthing shall ensure that one representative of the CBI (in this capacity, the "**Observer**") will, for so long as the Final Monetisation has not occurred, be entitled to attend, on behalf of the CBI, the parts of meetings of the Board (or any committee of the Board) at which Arion or any proposed Monetisation will be discussed or considered ("**Meetings**") (but not any part of any meeting of the Board (or any committee of the Board) at which any other matter is discussed or considered).

6.2 Kaupthing must ensure that:

6.2.1 the Observer is given at least as much notice of the date, time and place of, and agenda for, all Meetings as is given to members of the Board generally and, in any event, no less notice than is required to be given to members of the Board under Kaupthing's constitutional documents subject to such notice being waived or shortened, with the consent of the Observer; and

6.2.2 the Observer is supplied with copies of all relevant board papers which relate to Arion or the proposed Monetisation ("**Board Papers**") which are supplied or distributed generally to members of the Board for the purposes of Meetings at the same time as those Board Papers are supplied to those members.

6.3 An Observer will be entitled to attend Meetings as an observer only and will have no rights or liabilities with regard to the direction and/or conduct of the management of Kaupthing by virtue of being entitled to attend, and attending, Meetings as an Observer. In its capacity as an Observer, an Observer will not have a vote at any Meetings and will not be, or entitled to be, counted in the quorum of any Meeting.

6.4 As a condition of and prior to attending any Meeting or receiving any Board Papers, each Observer must duly execute and deliver to Kaupthing a non-disclosure agreement (in the form appended in Schedule 3) (as amended from time to time by written agreement between Kaupthing and the CBI) (a "**Non-Disclosure Agreement**"). If any Observer does not duly execute and deliver such Non-Disclosure Agreement prior to any Meeting or the distribution of any Board Papers, Kaupthing will be entitled to prohibit that Observer from attending all Meetings and from receiving any Board Papers pursuant to Clause 6.1 until the Observer has duly executed and delivered such Non-Disclosure Agreement to Kaupthing.

6.5 The CBI hereby irrevocably and unconditionally agrees to be responsible for and to covenant with Kaupthing (for itself and on behalf of each Group Company) that it will pay, satisfy, discharge and fulfil any and all losses, damages and liabilities of any nature (and all costs and expenses reasonably incurred by Kaupthing and/or any Group Company in connection therewith) in connection with or arising as a result of any Observer breaching, or otherwise failing to observe, the terms of any Non-Disclosure Agreement applicable to that Observer. The CBI further irrevocably and unconditionally covenants with Kaupthing (for itself and on behalf of each Group Company) to keep Kaupthing and each Group Company fully and effectively indemnified at all times from and against any and all losses, damages and liabilities of any nature (and all costs and expenses reasonably incurred by Kaupthing and/or any Group Company in connection therewith) in connection with, or arising as a result of, any Observer breaching or otherwise failing to observe the terms of any Non-Disclosure Agreement applicable to that Observer.

7 REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to the others that:

7.1 it has the full power and authority to execute, deliver and perform this Agreement in accordance with its terms; and

7.2 its entry into the Agreement does not directly or indirectly breach any law applicable to it, or any of its contractual obligations to third parties.

8 DURATION AND TERMINATION

8.1 Without prejudice to the accrued rights of any Party and save in respect of the Surviving Provisions:

8.1.1 this Agreement shall terminate at such time as all of the Arion Stake has been Monetised (whether by one or more than one Monetisation) and the Kaupthing Proceeds of Monetisation from such Monetisation(s) have been applied and distributed in accordance with Clause 4; and

8.1.2 this Agreement may be terminated by express written agreement of all of the Parties.

8.2 Save as expressly stated in this Agreement, the termination of the Shareholders' Agreement (or any amendment, modification or supplement thereto) shall not affect the terms of this Agreement.

9 CONFIDENTIALITY

9.1 Notwithstanding anything in clause 14 (*Confidentiality*) of the Shareholders' Agreement:

9.1.1 any of the Parties may use Confidential Information relating to any Group Company and/or the Shareholders' Agreement and disclose any of it:

(i) if such Party is required to do so by applicable law; or

(ii) to its legal, corporate finance and other professional advisers and any other person (including any potential purchaser) to the fullest extent necessary or desirable in connection with any Monetisation or any Reorganisation Transaction, provided that such persons to whom such information is disclosed by a Party are bound by a duty of confidentiality to the disclosing Party to keep such Confidential Information confidential (save if and to the extent that any

disclosure of such Confidential Information by that person is required by applicable law) and to not use any of such Confidential Information for any purpose other than any Monetisation or any Reorganisation Transaction or as permitted by the Shareholders' Agreement;

9.1.2 the publication or disclosure of any Confidential Information relating to any Group Company and/or the Shareholders' Agreement by any Party or any person who received such Confidential Information in accordance with Clause 9.1.1, which is necessary or desirable to be made public in connection with any proposed Monetisation or any Reorganisation Transaction is permitted and each Party who is a party to the Shareholders' Agreement irrevocably waives any claims that it may have, from time to time, pursuant to the Shareholders' Agreement in respect of any such publication or such disclosure; and

9.1.3 this Agreement shall not be considered Confidential Information.

10 CONFLICTS AND FURTHER COVENANTS

10.1 If any of the provisions of this Agreement are in conflict with any of the articles of association of any Group Company (as amended from time to time) and/or the Shareholders' Agreement, the Parties agree that, as between the Parties, the provisions of this Agreement shall prevail, and, on request by Kaupthing, the other Parties shall, and shall procure that all Group Companies, take all actions and do all things to effect any amendments to such articles of association and/or the Shareholders' Agreement to make them consistent with this Agreement.

10.2 Except as expressly provided in this Agreement and subject to the terms hereof, the Shareholders' Agreement shall continue in full force and effect. Each of the Parties who are parties to the Shareholders' Agreement undertakes to the other Parties not to amend the terms of the Shareholders' Agreement without Kaupthing's prior written consent to each such proposed amendment.

11 NOTICES

11.1 Except where expressly stated otherwise in this Agreement, a notice under this Agreement shall only be effective if it is in writing, unless otherwise stated, may be made by fax or written document but not by email.

11.2 Notices under this Agreement shall be sent to a Party at its address, and for the attention of the individual, set out below:

11.2.1 For Kaupskil:

Name: Kaupskil ehf.

Address: Borgatún 26, 105 Reykjavik, Iceland

With a copy to: Sigtun 42, 105 Reykjavik, Iceland

For the attention of: [redacted]

Email: [redacted]

11.2.2 For Kaupthing:

Name: Kaupthing ehf.

Address: Borgatún 26, 105 Reykjavik, Iceland

For the attention of: [redacted]

Email: notifications@kaupthing.com

11.2.3 For the CBI:

Name: Central Bank of Iceland (*Seðlabanki Íslands*)

Address: Kalkofnsvegi 1, 150 Reykjavik, Iceland

For the attention of: To be confirmed

Email: To be confirmed

provided that a Party may change its notice details on giving notice to the other Parties of the change in accordance with this Clause 11.

11.3 Any notice given under this Agreement shall, in the absence of earlier receipt, be deemed to have been duly given as follows:

11.3.1 if delivered personally, on delivery;

11.3.2 if sent by first class inland post, two clear Business Days after the date of posting;

11.3.3 if sent by airmail, six clear Business Days after the date of posting; and

11.3.4 if sent by fax, when transmitted.

11.4 Any notice given under this Agreement outside Working Hours in the place to which it is addressed shall be deemed not to have been given until the start of the next period of Working Hours in such place.

12 LANGUAGE

12.1 Each notice or other communication under, or in connection with, this Agreement shall be:

12.1.1 in English; or

12.1.2 if in Icelandic, accompanied by an English translation made by a translator, and certified by an officer of the Party giving the notice or other communication to be accurate.

12.2 The receiving Party shall be entitled to assume the accuracy of and rely upon any English translation of any document provided pursuant to this Clause 12.

13 REMEDIES AND WAIVERS

13.1 No delay or omission by any Party in exercising any right, power or remedy provided by law or under this Agreement shall:

13.1.1 affect that right, power or remedy;

13.1.2 operate as a waiver of it; or

13.1.3 operate as an affirmation of this Agreement.

13.2 The single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not, unless otherwise expressly stated, preclude any other or further exercise of it or the exercise of any other right, power or remedy.

13.3 The rights, powers and remedies provided under this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by law.

14 INVALIDITY

14.1 If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

14.1.1 the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or

14.1.2 the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement

15 FURTHER ASSURANCES

Each of the Parties agrees that it shall, to the extent commercially reasonable, co-operate fully with the other Parties to do all such further acts and things and execute any further documents as may be necessary to give full effect to the arrangements contemplated by this Agreement, including passing any board or shareholder resolutions of any Group Company, making any amendments to any of the articles of association of any Group Company and submitting any registrations, as may be necessary.

16 AMENDMENTS

This Agreement may only be varied in writing and signed by each of the Parties.

17 ASSIGNMENT

17.1 No Party (other than the CBI in accordance with Clause 17.2) may assign, or purport to assign all or any part of the benefit of, or its rights or benefits under, this Agreement.

17.2 The CBI may not assign, transfer or otherwise dispose of (whether directly or indirectly) its rights under this Agreement to any other person or entity other than to any Icelandic governmental body, agency or organisation.

18 COSTS

Each Party shall pay its own costs relating to the negotiation, preparation, execution and performance by it of this Agreement.

19 COUNTERPARTS

This Agreement (and each variation or waiver in respect of any provision of it) may be executed in any number of counterparts, and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart of this Agreement.

20 LAW AND JURISDICTION

20.1 This Agreement is governed by and construed in accordance with Icelandic law. Any matter, claim or dispute arising out of, or in connection with, this Agreement, whether contractual or non-contractual, is to be governed by and determined in accordance with Icelandic law.

20.2 The Parties irrevocably agree that the courts of Iceland are to have exclusive jurisdiction to settle any dispute which arises out of, or in connection with, this Agreement and each Party irrevocably submits and agrees to submit to the jurisdiction of the Icelandic courts in accordance with this Clause 20.2.

IN WITNESS WHEREOF each Party has executed this Agreement, or caused this Agreement to be executed by its duly authorised representatives.

Schedule 1

Worked Example

Worked Example 1

In the event that Arion is sold pursuant to one or more Monetisations and the aggregate of all Kaupthing Proceeds of Monetisation is **ISK 180,000,000,000**, the following amount would be payable to the CBI (or to the CBI Designee):

none in respect of the first ISK 100,000,000,000 of the aggregate of all Kaupthing Proceeds of Monetisation;

33⅓% of the next ISK 40,000,000,000 of the aggregate of all Kaupthing Proceeds of Monetisation, being ISK 13,333,333,333.33; *plus*

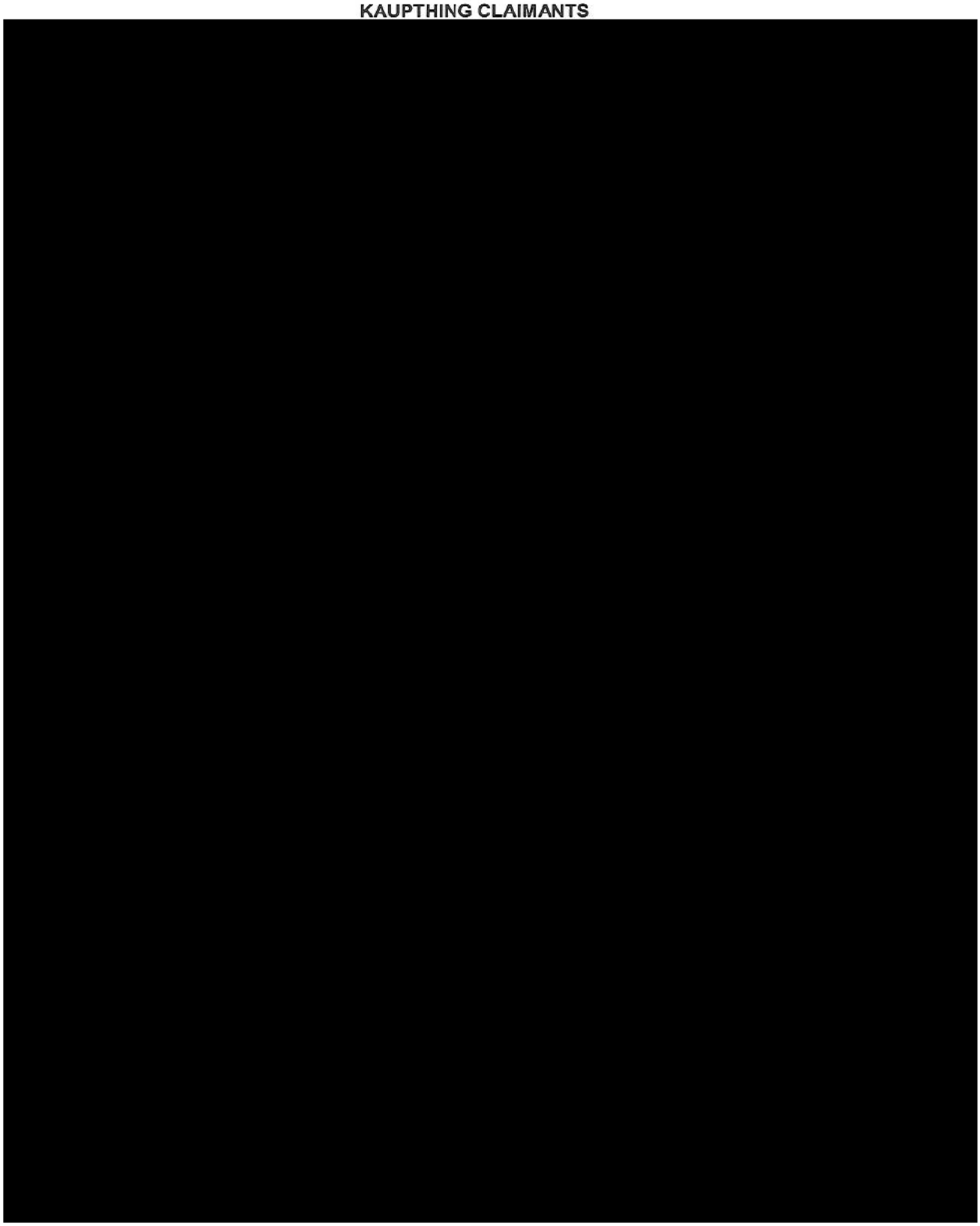
50% of the next ISK 20,000,000,000 of the aggregate of all Kaupthing Proceeds of Monetisation, being ISK 10,000,000,000; *plus*

75% of the next ISK 20,000,000,000 of the aggregate of all Kaupthing Proceeds of Monetisation, being ISK 15,000,000,000,

equalling a total of **ISK 38,333,333,333.33**.

Schedule 2

KAUPTHING CLAIMANTS



Schedule 3

FORM OF NON-DISCLOSURE AGREEMENT

[Letterhead of Kaupthing ehf.]

Private and Confidential

To: [*relevant person*] (the "**Observer**")

From: Kaupthing ehf.

[●] 20[●]

Dear Sirs,

Non-disclosure agreement

You are acting as an Observer (as such term is defined in clause 7.1 of the Shareholders' Proceeds Apportionment Agreement) at certain parts of meetings of the Board (or any [committee of the Board]/[appropriate sub-committee].

We have agreed to provide you with certain Confidential Information relating to the Company Group for the Permitted Purpose. In consideration of our disclosing the Confidential Information to you, you agree with and undertake to the Company, and to each member of the Company Group, on the terms set out below.

This agreement is a Non-Disclosure Agreement defined in clause 7.4 and referred to in clauses 7.4 and 7.5 of the Shareholders' Proceeds Apportionment Agreement.

It is agreed that:

1. Definitions and Interpretation

1.1 All capitalised terms not otherwise defined in this Non-Disclosure Agreement shall have the same meaning ascribed to them in the Shareholders' Proceeds Apportionment Agreement.

1.2 In this letter:

"**Affiliate**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company;

"**Arion**" means Arion Banki hf. (registered id. 581008-0150) whose registered office is at Borgatun 26, 105 Reykjavik, Iceland;

"**Authorised Recipient**" means the CBI or such other party as the CBI designates from time to time to receive the CBI's share of the Kaupthing Proceeds of Monetisation pursuant to the Shareholders' Proceeds Apportionment Agreement;

"**Bankruptcy Act**" means the Icelandic Act No. 21/1991 on Bankruptcy, etc., as amended;

"**Board**" means the board of directors of the Company from time to time;

"**Company**" means Kaupthing hf., incorporated and registered in Reykjavik, Iceland, with registration number 5608820419 whose principal place of business is at Borgatun 26, 105 Reykjavik, Iceland, including, Kaupthing ehf. as subsequently converted into a private limited liability company following the conclusion of the Winding-Up Proceedings;

"**Company Group**" means the Company, Kaupskil and Arion Bank and each of their respective Affiliates from time to time;

"**Composition**" means a composition of the Company's liabilities in accordance with Chapter XXI of the Bankruptcy Act and Article 103A of the Financial Undertakings Act;

"**Confidential Information**" means all and any information disclosed to you (in your capacity as the Observer) or to the Authorised Recipient before, on or after the date of this Non-Disclosure Agreement, including but not limited to:

(a) the existence and terms of this Non-Disclosure Agreement;

(b) any information relating to the Company Group, including without limitation any information relating to the business, affairs, financial performance, forecasts, strategies, services, customers, clients, suppliers, licensors, employees, plans (including present and future business plans), intentions, marketing opportunities, operations, processes, product information, know-how, designs, formulations, trade secrets or software of the Company Group which is disclosed to you or the Authorised Recipient by or on behalf of the Company Group whether orally, in electronic form, in writing or in whatever form or by any other means, or by the inspection of tangible objects, including, but not limited to, documents, prototypes, samples, business opportunities, records, assets, liabilities, research, development, know-how, product plans, designs, costs, finances, spread sheets, marketing plans, prices, facilities and equipment;

(c) any information relating to the Monetisation Process, any proposed Monetisation or Monetisation, or any proposed Reorganisation Transaction or Reorganisation Transaction;

(d) any information relating to any Relevant Third Party Offer or the exercise by the CBI (or the CBI Designee) of any Step-in Right;

(e) any information relating to the Shareholders' Proceeds Apportionment Agreement or the Shareholders' Agreement;

(f) any information relating to the Winding-Up Proceedings and/or the Composition; and

(g) any reports, analyses, compilations, studies, forecasts or other documents or data prepared by, on behalf of, or for, you or the Authorised Recipient which contain, derive from or otherwise reflect any information described in any of paragraphs (a) to (c) above;

"**Copies**" means copies of Confidential Information including any document, electronic file, note, extract, analysis, compilation, forecast, study (whether prepared by us or on our behalf or by you or on your behalf) or any other way of representing or recording and recalling information which contains, reflects or is otherwise derived from Confidential Information;

"**Financial Undertakings Act**" means the Act No. 161/2002 on Financial Undertakings, as amended;

"**Holding Company**" means, in relation to a person, any other company or corporation of which it is a Subsidiary;

"**Permitted Purpose**" means, for as long as the Final Monetisation has not occurred, attending, on behalf of the CBI, the parts of meetings of the Board (or any [committee of the Board]/[appropriate sub-committee]) at which Arion or any proposed Monetisation will be discussed or considered (but not any part of any meeting of the Board (or any [committee of the Board]/[appropriate sub-committee]) at which any other matter is discussed or considered);

"**Shareholders' Proceeds Apportionment Agreement**" means the agreement entered into on

[•] 2016 among the Company, the Icelandic State Financial Investments, the CBI and Kaupskil ehf. relating to the sharing of the proceeds of any monetisation of Arion;

"**Subsidiary**" means a person of which another person has direct control or owns directly or indirectly more than fifty per cent. (50%) of the voting capital or similar right of ownership, and "control" for this purpose means (i) the power to direct the management and the policies of the person or (ii) the right to appoint or remove directors holding a majority of the voting rights exercisable at any meeting of the board of directors (or the equivalent) of that person, in each case whether through the ownership of voting capital, by contract or otherwise; and

"**Winding-Up Proceedings**" means the court sanctioned winding-up proceedings of the Company in accordance with the Bankruptcy Act and the Financial Undertakings Act which were commenced on 25 May 2009.

2. Duty of Confidentiality

2.1 You will:

(a) keep the Confidential Information secret and confidential and will not disclose it to any person other than to the Authorised Recipient provided that you shall procure that the Authorised Recipient complies with the terms of this Non-Disclosure Agreement in respect of all such Confidential Information that is disclosed to it by you; and

(b) keep the Confidential Information securely and properly protected against theft, damage, loss and unauthorised access (including access by electronic means), with at least the same degree of care that you apply to your own confidential information provided that you shall procure that the Authorised Recipient complies with the terms of this Non-Disclosure Agreement in respect of all such Confidential Information that is disclosed to it by you.

2.2 Neither you nor the Authorised Recipient will, without the Company's prior written consent:

(a) make copies of documents containing Confidential Information or authorise any other person to do so other than for the purpose of disclosures to the Authorised Recipient in accordance with the terms of this Non-Disclosure Agreement; or

(b) use the Confidential Information for any purpose other than the Permitted Purpose.

2.3 You will notify the Company immediately upon becoming aware that any of the Confidential Information has been disclosed to, or obtained by, a third party otherwise than as permitted by this Non-Disclosure Agreement.

3. Exceptions

3.1 The undertakings in this Non-Disclosure Agreement will not apply to Confidential Information which:

(a) at the time of its disclosure is publicly available; or

(b) subsequently becomes publicly available other than as a result of a direct or indirect breach of the terms of this Non-Disclosure Agreement by you or the Authorised Recipient; or

(c) was already in your lawful possession or that of the Authorised Recipient prior to the date of disclosure pursuant to this Non-Disclosure Agreement as evidenced by your written records; or

(d) subsequently comes lawfully into your possession or that of the Authorised Recipient from a third party which is entitled to provide it without obligations of confidentiality.

3.2 You and the Authorised Recipient shall be permitted to disclose any Confidential Information:

(a) which is required to be disclosed by law, regulation or any governmental or competent authority provided that you shall as soon as possible, so far as practicable and save in any instance to the extent prohibited by such law or regulation, notify to, and consult with, the Company and take into account the Company's reasonable requirements as to the timing, content and manner and making or despatch of such disclosure; and

(b) to your legal or financial advisers who need to know such information for the Permitted Purpose in each case so long as such advisers are bound by confidentiality obligations with respect to such information.

4. Obligation to Procure Compliance by the Authorised Recipient

You will inform the Authorised Recipient to whom you disclose Confidential Information of its confidential nature and of the undertakings set out in this Non-Disclosure Agreement. You will procure that the Authorised Recipient who receives any Confidential Information complies with the terms of this Non-Disclosure Agreement as if it were a party to it.

5. Destruction or Return of Confidential Information and Copies

As soon as reasonably practicable, and in any event within ten business days, following written request, you will, and shall procure that the Authorised Recipient will (at the Authorised Recipient's (as applicable) own expense):

(a) destroy or return to the Company all Confidential Information and Copies; and

(b) destroy or permanently erase all Confidential Information and Copies from any computer, word processor or other device containing it.

You and the Authorised Recipient may retain one copy of the Confidential Information required to be retained by you pursuant to law, regulation, internal compliance policy or corporate governance procedures or automated backup archiving practices, provided that in such cases any Confidential Information retained will remain subject to the terms of this Non-Disclosure Agreement indefinitely and notwithstanding paragraph 8 (*Duration*) below.

6. Personal Data

You acknowledge that the Confidential Information may include personal data which is subject to the Icelandic Act no. 77/2000 or other equivalent laws and regulations in other jurisdictions ("**DP Laws**"). Accordingly, insofar as the Confidential Information comprises personal data for the purposes of applicable DP Laws, you undertake to comply with such applicable DP Laws and to notify the Company promptly on becoming aware of any actual, suspected or alleged loss, leak or unauthorised processing of any personal data.

7. No Right or Licence

No right or licence in any of the Confidential Information is granted by the Company Group to you or the Authorised Recipient.

8. Duration

Save as otherwise specifically provided for herein, you acknowledge and agree that the undertakings set out in this Non-Disclosure Agreement will terminate and be of no further force and effect from the date falling 10 years after the Company delivers a written notice of termination to you.

9. Assignment

You may not assign your rights under this Non-Disclosure Agreement without the Company's prior written consent.

10. Remedies

Without prejudice to any other rights or remedies that the Company may have, you acknowledge that any breach or threatened breach of this Non-Disclosure Agreement may cause serious loss or damage to the Company Group and that monetary damages may not be an adequate remedy for any such breach or threatened breach of the provisions of this Non-Disclosure Agreement. Accordingly, a person bringing a claim under this Non-Disclosure Agreement will be entitled to apply for specific performance, injunctive relief and any other form of equitable relief or any combination of these remedies for a threatened or actual breach of this Non-Disclosure Agreement, in addition to any other available remedies. No proof of special damages will be necessary to enforce this Non-Disclosure Agreement. The Company hereby specifically advises the Observer, and the Observer acknowledges by its signature of this Non-Disclosure Agreement for itself and on behalf of the Authorised Recipient, that a breach of the obligations contained in this Non-Disclosure Agreement may be a breach of Article 58 of the Financial Undertakings Act.

11. Waiver

No delay or omission in exercising any right or remedy under this letter will operate as a waiver, nor shall any single or partial exercise preclude any further exercise of any other right or remedy under this Non-Disclosure Agreement or otherwise.

12. Severability of Provisions

If any term of this letter is or becomes invalid or unenforceable, it shall be deemed to be severed from this letter and replaced with one having an effect as close as possible to the deficient provision. The remaining terms of this Non-Disclosure Agreement will continue in full force.

13. Conflicts

If there is any conflict between the terms of this Non-Disclosure Agreement and the Shareholders' Proceeds Apportionment Agreement, the terms of the Shareholders' Proceeds Apportionment Agreement shall prevail.

14. Governing Law and Jurisdiction

This letter, including any non-contractual obligations arising out of or in connection with this letter, shall be governed by and construed in accordance with Icelandic law, and each party irrevocably submits to the exclusive jurisdiction of the Icelandic courts.

This letter may be executed in any number of counterparts each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument.

Yours faithfully,

By.....
for and on behalf of **Kaupthing ehf.**

We acknowledge and agree to the matters set out in your letter dated [•] (of which this is a copy).

By.....
[*relevant prospective Observer*]

Date.....

Schedule 4

FORM OF SHAREHOLDERS' AGREEMENT AMENDMENT AGREEMENT

KAUPTHING HF.

and

KAUPSKIL EHF.

and

ARION BANKI HF.

and

ICELANDIC STATE FINANCIAL INVESTMENTS

SHAREHOLDERS' AGREEMENT AMENDMENT AGREEMENT

relating to

ARION BANKI HF.

January 2016

THIS AGREEMENT (the "**Agreement**") is entered into on January 2016

BETWEEN

(4) Icelandic State Financial Investments (registered id. 620909-0170), whose principal office is at Borgartún 3, 105 Reykjavík (hereinafter referred to as "**ISFI**");

(5) Kaupskil ehf. (registered id. 580609-0150), whose registered office is at Borgatún 26, 105 Reykjavik, Iceland (hereinafter referred to as "**Kaupskil**");

(6) Kaupthing hf. (registered id. 560882-0419), whose registered office is at Borgatún 26, 105 Reykjavik, Iceland (hereinafter referred to as "**Kaupthing**"); and

(7) Arion Banki hf. (registered id. 581008-0150), whose registered office is at Borgatún 19, 105 Reykjavik, Iceland (hereinafter referred to as "**Arion**", formerly known as New Kaupthing Bank hf.).

WHEREAS:

(E) as at the date of this Agreement, ISFI holds 260,000,000 ordinary shares with an aggregate nominal value of ISK 260,000,000.00 in Arion (representing 13% of the issued share capital of Arion as at the date of this Agreement) and Kaupskil holds 1,740,000,000 ordinary shares with an aggregate nominal value of ISK1,740,000,000.00 in Arion (representing 87% of the issued share capital of Arion as at the date of this Agreement);

(F) Kaupskil is a wholly owned subsidiary of Kaupthing;

(G) the Ministry of Finance (registered id. 550169-2829), on behalf of the Government of Iceland (hereinafter referred to as the "**Government**"), Arion and Kaupskil entered into a shareholders' agreement relating to Arion on 3 September 2009;

(H) By virtue of Act 88/2009, with effect from when the Act came into force, the Governments holding of 260,000,000 ordinary shares in Arion with an aggregate nominal value of ISK 260,000,000.00 is managed by the ISFI. Accordingly, with effect from when the Act came into force, the management of all rights and obligations of the Government with respect to the holding in Arion including, without limitation, voting rights at shareholders meetings and other rights under the shareholders agreement has been transferred to the ISFI; and

(I) the Parties (as hereinafter defined) agree to enter into this Agreement amending the terms of that shareholders' agreement on the terms set out herein.

NOW THE PARTIES HAVE AGREED AS FOLLOWS:

21 DEFINITIONS AND INTERPRETATION

1.2 In this Agreement:

"**Arion Stake**" means Kaupthing's ownership interest in the Qualifying Shares, which as at the date of this Agreement, is held indirectly by means of its holding of 100% of the share capital in Kaupskil, which, in turn, holds the Qualifying Shares;

"**Business Day**" means a day except a Saturday or Sunday, on which banks in Reykjavik are open for business generally;

"**Final Monetisation**" means the Monetisation as a result of which Kaupthing no longer holds any portion of the Arion Stake;

"**Group**" means Kaupskil, any New Holding Company, Arion and any other undertaking which is a subsidiary undertaking of Kaupskil from time to time and references to "**Group Company**" and "**member of the Group**" shall be construed accordingly;

"**IPO**" means an initial public offering with subsequent listing and trading of shares on a regulated market of the whole or any part of the issued share capital of Arion or of any class of the issued share capital of any Group Company (including any New Holding Company);

"**ISFI Stake**" means ISFI's ownership interest in any of the Shares, which as at the date of this Agreement constitutes ISFI's holding of 260,000,000 ordinary shares with an aggregate nominal value of ISK 260,000,000.00 in Arion (representing 13% of the issued share capital of Arion as at the date of this Agreement);

"**ISK**" means Icelandic krona;

"**Kaupskil Shares**" means the ordinary shares with an aggregate nominal value of ISK 10,168,667,173 in Kaupskil held by Kaupthing as at the date of this Agreement and "**Kaupskil Share**" means any one of them (as the context may require);

"**Monetisation**" means any transaction (other than any Reorganisation Transaction) in which Kaupthing, directly or indirectly, sells, assigns, transfers or otherwise disposes of (including by way of any Sale or IPO) all or any of the Arion Stake and "**Monetised**" shall be construed accordingly;

"**New Holding Company**" means any new parent undertaking of Kaupskil and/or Arion, which is formed for the purpose of facilitating: (i) a Reorganisation Transaction; or (ii) a Monetisation;

"**Parties**" means the parties to this Agreement and "**Party**" means each of them;

"**Qualifying Shares**" means the 1,740,000,000 ordinary shares with an aggregate nominal value of ISK 1,740,000,000.00 in Arion held by Kaupskil as at the date of this Agreement, representing 87% of the issued share capital of Arion as at the date of this Agreement (and, in any event, excluding any additional Shares acquired by Kaupthing or any Group Company from ISFI or any other person after the date of this Agreement whether pursuant to any additional issue of Shares or pursuant to clause 9 (*Kaupthing Holdco's Option*) of the Shareholders' Agreement or otherwise) and all other (if any) Shares directly resulting from any sub-division, consolidation or re-classification of such Shares and "**Qualifying Share**" means any one of them;

"**Reorganisation Transaction**" means any reorganisation of the Group by any means including the acquisition of any shares in, or any assets of, Arion by a New Holding Company or any other reorganisation of the Group involving any Group Company's share capital (including the conversion, consolidation, sub-division or redesignation (as appropriate) of any Shares) in preparation for a Monetisation, in each case in respect of which Kaupthing has given its prior written consent and the overall effect of such reorganisation is not to alter the proportionate direct and indirect economic ownership interests (calculated as percentages) in Arion at that time as between (i) Kaupthing and Kaupskil on the one hand; and (ii) the Government and ISFI on the other hand;

"**Sale**" means any sale of (a) all or any of the Qualifying Shares by Kaupskil; (b) all or any of the Kaupskil Shares by Kaupthing; and/or (c) all or any shares in any New Holding Company by Kaupthing or Kaupskil;

"**Shareholders' Agreement**" means the shareholders' agreement relating to Arion between Arion, the Government and Kaupskil dated 3 September 2009 in the form in effect as of the date of this Agreement and as amended and varied pursuant to this Agreement and as further amended, modified or supplemented from time to time but only to the extent that Kaupthing has given its prior written consent to such amendments, modifications and supplements;

"**Shares**" means shares in Arion from time to time and "**Share**" means any one of them; and

"**Surviving Shareholders' Agreement Provisions**" means clauses 14 (*Confidentiality*) and 17.4 (*Announcements*) of the Shareholders' Agreement and, for the purposes of interpreting such clauses, clause 1 (*Definitions and Interpretation*) of the Shareholders' Agreement.

1.3 References in this Agreement to a procuring obligation of the ISFI or of any Group Company or any other person shall include that person or the ISFI (as applicable) exercising all of its voting rights and using any and all powers vested in it from time to time as a holder of any Shares or any other interest in any Group Company and/or under the Shareholders' Agreement and/or any of the articles of association of any Group Company to ensure compliance with the underlying obligation to which that procurement obligation relates so far as it is reasonably able to do so, whether that means acting alone or (to the extent that it is lawfully able to do so) acting with others.

1.4 In this Agreement, an undertaking is a parent undertaking in relation to another undertaking, a subsidiary undertaking, if it holds a majority of the voting rights in it.

1.5 In this Agreement:

(C) general words introduced by the word "other" or "including" or "include" shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things; and

(D) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words.

22 AGREEMENTS IN RESPECT OF THE SHAREHOLDERS' AGREEMENT

22.1 Each of the Parties agrees that clauses 3.3, 3.4, 6.1 (*Permitted transfer*), 6.4 (*Tag-Along Option*), 8 (*New Shareholders*) and 17.4.1 of the Shareholders' Agreement shall be irrevocably waived for the purposes of, and shall not apply to, any Reorganisation Transaction or any other agreement, arrangement or transaction, which is approved in writing by Kaupthing and is entered into by any party to the Shareholders' Agreement in connection with, or for the purpose of, any Monetisation or any Reorganisation Transaction.

22.2 Each of the Parties (other than Arion) agrees that upon 50% or more of the Arion Stake being Monetised by way of one or more than one IPO, Arion shall be irrevocably and unconditionally released from its obligations pursuant to and arising under the Shareholders' Agreement.

22.3 Each of the Parties agrees that without prejudice to the accrued rights of any party to the Shareholders' Agreement, clauses 2.2, 2.4, 2.6, 3.3 and 3.4 of the Shareholders' Agreement shall terminate at such time as:

22.3.1 50% or more of the Arion Stake is Monetised by way of one or more than one Sale or by way of a combination of one or more than one Sale and IPO; or

22.3.2 70% or more of the Arion Stake is Monetised by way of one or more than one IPO.

22.4 Each of the Parties agrees that without prejudice to the accrued rights of any party to the Shareholders' Agreement, the Shareholders' Agreement (other than the Surviving Shareholders' Agreement Provisions) shall terminate automatically and with immediate effect at such time as the Final Monetisation has completed.

22.5 Each of the Parties agrees that:

22.5.1 clauses 3.3 and 3.4 of the Shareholders' Agreement shall not apply to a new shareholder which acquires all or any part of the ISFI Stake pursuant to clause 6.1 of the Shareholders' Agreement or otherwise; and

22.5.2 such new shareholder shall have no veto rights in respect of any resolution put before a meeting of the board of directors of Arion.

23 FURTHER ASSURANCES

Each of the Parties agrees that it shall, to the extent commercially reasonable, co-operate fully with the other Parties to do all such further acts and things and execute any further documents as may be necessary to give full effect to the arrangements contemplated by this Agreement, including passing any board or shareholder resolutions of any Group Company, making any amendments to any of the articles of association of any Group Company and submitting any registrations, as may be necessary.

24 MISCELLANEOUS

24.1 The provisions of clauses 1.2, 1.3, 1.4, 1.5, 1.6, 11 (*Representations and Warranties*), 14 (*Confidentiality*), 15 (*Conflicts and Further Covenants*), 16 (*Notices*) and 17 (*Miscellaneous*) of the Shareholders' Agreement shall apply on a mutatis mutandis basis in this Agreement as if those provisions had been set out expressly in this Agreement.

24.2 This Agreement (and each variation or waiver in respect of any provision of it) may be executed in any number of counterparts, and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart of this Agreement.

25 LAW AND JURISDICTION

25.1 This Agreement is governed by and construed in accordance with Icelandic law. Any matter, claim or dispute arising out of, or in connection with, this Agreement, whether contractual or non-contractual, is to be governed by and determined in accordance with Icelandic law.

25.2 The Parties irrevocably agree that the courts of Iceland are to have exclusive jurisdiction to settle any dispute which arises out of, or in connection with, this Agreement and each Party irrevocably submits and agrees to submit to the jurisdiction of the Icelandic courts in accordance with this Clause 5.2.

IN WITNESS WHEREOF each Party has executed this Agreement, or caused this Agreement to be executed by its duly authorised representatives.

Signature Pages

Signed by)

for and on behalf of Icelandic State Financial Investments (*acting on behalf of the Icelandic Government pursuant to Act no. 88/2009*))

Signed by)

for and on behalf of Kaupskil ehf.)

Signed by)

for and on behalf of Kaupthing hf.)

Signed by)

for and on behalf of Arion Banki hf.)

Signature Page – Shareholders' Proceeds Apportionment Agreement

Signed by)

for and on behalf of the Central Bank of Iceland)

Signed by)

for and on behalf of Kaupskil ehf.)

Signed by)

for and on behalf of Kaupthing ehf.)

BOND

(Icelandic: skuldabréf)

KAUPTHING EHF., REG. NO: 560882-0419, BORGARTÚNI 26, 105 REYKJAVÍK,
*(the "**Debtor**")*

does hereby agree and acknowledge to owe

THE CENTRAL BANK OF ICELAND, REG. NO: 560269-4129, KALKOFNSVEGI 1, 150 REYKJAVÍK
*(the "**Central Bank**")*

ISK 84,000,000,000
(*ISK eighty four billion*).

1. BACKGROUND

With this Bond the Debtor has agreed and acknowledged to owe the Central Bank ISK 84,000,000,000 (ISK eighty four billion), subject to the terms set out herein, as part of an overall plan to conclude the Debtor's Composition Proposal.

2. DEFINITIONS AND INTERPRETATION

2.1. Definitions

In this Bond the following terms shall have the meaning ascribed to them below:

Arion Bank means Arion banki hf., reg. no. 581008-0150, Borgartún 19, 105 Reykjavík.

Arion Disposal Proceeds means the Kaupthing Proceeds of Monetisation (as defined in the Shareholders' Proceeds Apportionment Agreement) less all amounts paid or payable to the CBI (or such other person designated by the CBI) under the Shareholders' Proceeds Apportionment Agreement.

Arion Stake means the Debtor's ownership interest in Arion Bank, being an interest in 1,740,000,000 ordinary shares in the share capital of Arion Bank (representing 87% of the issued share capital of Arion Bank), which as at the date of this Bond is held by the Debtor indirectly by means of its holding of 100% of the issued share capital in Kaupskil.

Bond Effective Date means the date on which the later of the following occurs:

(a) the Composition Unconditional Date; and

(b) the date on which the CBI irrevocably grants the Exemptions.

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in Iceland.

Cash Equivalents means:

(a) certificates of deposit maturing within one year after the relevant date of calculation and issued by a bank or financial institution which has a rating for its long term unsecured and non-credit enhanced debt obligations of A or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or A 3

or higher by Moody's Investor Services Limited or a comparable rating from an internationally recognised credit rating agency;

(b) any investment in marketable debt obligations issued or guaranteed or fully insured by the Government of the United States, the United Kingdom, or any member state of the European Economic Area or any Participating Member State which is rated at least A by Standard & Poor's Ratings Group or A2 by Moody's Investors Service, Inc maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;

(c) commercial paper or other debt securities not convertible or exchangeable to any other security for which a recognised trading market exists, which is issued by an issuer rated at least A 1 by Standard & Poor's Ratings Group or P 1 by Moody's Investors Service, Inc. and which matures within one year after the relevant date of calculation; or

(d) any investment in money market funds which (i) have a credit rating of either A 1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P 1 or higher by Moody's Investor Services Limited, (ii) which invest substantially all their assets in securities of the types described in paragraphs (a) to (c) above and (iii) can be turned into cash on not more than 30 days' notice.

Composition means a composition of the Debtor's liabilities in accordance with Chapter XXI of the Bankruptcy Act and Article 103Aa of the Financial Undertakings Act.

Composition Proposal means the composition proposal proposed by the Debtor to certain of its unsecured creditors pursuant to Chapter XXI of the Bankruptcy Act and Article 103a of the Financial Undertakings Act.

Composition Unconditional Date means the date on which the last of the following occurs: (a) the requisite majority of unsecured creditors of the Debtor (by number and by value) has approved the Composition Proposal and either (b) the District Court has approved the Composition and the deadline for appealing the decision of the District Court to the Supreme Court has expired, or (c) if the decision of the District Court is appealed, the Supreme Court has confirmed the Composition or such appeals are withdrawn or lapse.

Disposal means any transaction in which the Debtor, directly or indirectly, sells, assigns, transfers or otherwise disposes (including by way of initial public offering) of all or any part of the Arion Stake.

Domestic Party means a party that is considered a domestic party pursuant to Article 1 of Act No. 87/1992 on Foreign Exchange.

EMTN Bond means one or more bonds issued by Arion Bank in currencies other than ISK under an international standard financing program, so-called EMTN-program (e. Euro Medium Term Note), in the principal amount of US$747,481,000, with ISIN number XS1344761256, with a minimum tenor of seven years.

Exemptions means the necessary exemptions from the Act on Foreign Exchange no. 87/1992 required to enable the Debtor to fulfil the terms of the composition.

First Instalment Payment Date means the second anniversary of the Bond Effective Date (or, if that date is not a Business Day, the next Business Day after that date).

Interest Payment Date means each anniversary of the Bond Effective Date, up to and including the Second Instalment Payment Date, or, if that date is not a Business Day, the next Business Day after that date.

ISK means Icelandic Kronur, being the lawful currency of Iceland or any currency which replaces the Icelandic Kronur.

Kaupskil means Kaupskil ehf. (registered id. 580609-0150), whose registered office is at Borgatún 26, 105 Reykjavik, Iceland.

Pledge means the security created pursuant to the Pledge Agreement.

Pledge Agreement means the pledge agreement entered into on or around the date of this Bond between the Debtor and the Central Bank relating to (i) the EMTN Bonds, (ii) cash amounts paid to the Debtor by Arion Bank pursuant to the EMTN Bonds, (iii) shares in Kaupskil held by the Debtor from time to time, and (iv) Cash Equivalents.

Second Instalment Payment Date means the third anniversary of the Bond Effective Date (or, if that date is not a Business Day, the next Business Day after that date).

Shareholders' Proceeds Apportionment Agreement means the agreement entered into on or around the date of this Bond among the Debtor, the Ministry of Finance on behalf of the Government of Iceland, the Icelandic State Financial Investments, the Central Bank and Kaupskil relating to the sharing of the proceeds of any Disposal.

3. REPAYMENT

3.1. To the extent not repaid or cancelled in full pursuant to the other provisions of this Bond, the Bond shall be repaid in two instalments in accordance with this Clause 3. The first instalment shall be due and payable on the First Instalment Payment Date. The second instalment shall be due and payable on the Second Instalment Payment Date.

3.2. The instalment payable on the First Instalment Payment Date shall be in an amount equal to 50% of the principal amount outstanding under this Bond on the First Instalment Payment Date, taking into account any reduction, cancellation and/or prepayment of the principal amount of this Bond pursuant to Clause 5 of this Bond.

3.3. The instalment payable on the Second Instalment Payment Date shall be in an amount equal to the principal amount outstanding under this Bond on the Second Instalment Payment Date, taking into account any reduction, cancellation and/or prepayment of the principal amount of this Bond pursuant to Clause 5 of this Bond.

4. INTEREST AND INTEREST DUE DATES

The interest rate for this Bond shall be 5.5% per annum. Interest shall accrue from day to day on the principal amount outstanding under this Bond from the Bond Effective Date until the principal amount of the Bond shall become due and payable,

and accrued interest shall be paid on each Interest Payment Date. Interest shall be calculated on the basis of a 30 day month and a 360 day year.

5. MANDATORY PREPAYMENT FROM ARION DISPOSAL PROCEEDS

5.1. If, at any time when any amount remains outstanding under this Bond the Debtor receives Arion Disposal Proceeds it shall, not later than (15) fifteen days after the date on which the Debtor receives such Arion Disposal Proceeds:

(i) if the principal amount outstanding under this Bond together with interest thereon is greater than or equal to the Arion Disposal Proceeds, prepay an amount equal to the Arion Disposal Proceeds (or the ISK equivalent of such Arion Disposal Proceeds converted into ISK at the prevailing onshore exchange rate) in redemption of a portion of the principal amount outstanding under this Bond together with accrued interest thereon equal to such Arion Disposal Proceeds; or

(ii) if the principal amount outstanding under this Bond together with interest thereon is less than the Arion Disposal Proceeds, prepay an amount equal to the principal amount then outstanding under this Bond together with accrued interest thereon on that date.

5.2. If any amount remains outstanding under this Bond following: (i) the Disposal of all of the Arion Stake and the application (pursuant to Clause 5.1) of all Arion Disposal Proceeds in prepayment of a portion of the principal amount of this Bond together with accrued interest on such amounts prepaid, all amounts (including any interest amounts), or (ii) enforcement of the Pledge and the application of all the proceeds of enforcement towards satisfaction of a portion of the principal amount of this Bond together with accrued interest on such amounts prepaid, then (in each case) all amounts then outstanding under this Bond shall be automatically cancelled.

5.3. The Debtor is not permitted to make prepayments (partial or full) under this Bond otherwise than from Arion Disposal Proceeds.

6. INTEREST ON PREPAYMENTS AND CANCELLATION OF INTEREST

6.1. Any prepayment of principal under this Bond shall be made together with accrued interest on the amount prepaid without premium or penalty.

6.2. Accrued interest on the principal amount cancelled pursuant to any cancellation of principal under Clause 5.2 of this Bond shall be cancelled at the same time as the principal to which it relates without premium or penalty.

7. CALCULATION OF PRINCIPAL AMOUNT OF BOND

Within 15 days of the date on which any amount is repaid, prepaid or cancelled pursuant to this Bond, the Debtor shall notify the Central Bank of the principal amount then outstanding under this Bond following that repayment, prepayment or cancellation (as applicable), which determination shall, in the absence of manifest error, be conclusive of the principal amount then outstanding under this Bond.

8. SECURITY

8.1. The Debtor shall enter into the Pledge Agreement on the date of this Bond.

8.2. The Debtor may request the Central Bank to release the assets subject to the Pledge from the Pledge from time to time in accordance with the terms of the Pledge Agreement.

9. DEFAULT AND ACCELERATION

9.1. If:

9.1.1. any sum due and payable under this Bond is not paid when due and remains unpaid for (15) fifteen days from notice in writing from the Central Bank to the Debtor of the occurrence of such non-payment; or

9.1.2. the Debtor materially breaches the terms of the Pledge Agreement,

the Central Bank may by notice to the Debtor declare all amounts owing under this Bond (together with accrued interest thereon) to be immediately due and payable.

9.2. Immediately upon notice being served on the Debtor pursuant to Clause 9.1 and until all amounts of the then outstanding principal amount of the Bond are repaid in full, interest shall accrue on the outstanding principal amount of the Bond at the rate at that time and from time to time thereafter provided for penalty interest by the Central Bank pursuant to Article 6(1) of Act No. 38/2001 on Interest and Indexation.

10. NOTICES

10.1. Communications in writing

Any communication to be made under or in connection with this Bond shall be made in writing and, unless otherwise stated, may be made by letter or e-mail. All communication shall be in Icelandic or English.

10.2. Addresses

All notices between the parties in connection with this Bond shall be sent as set out below, unless either party notifies the counterparty on changes to the information below with no less than (5) five days' notice:

a) Kaupthing ehf. Borgartúni 26, 105 Reykjavík

email: notifications@kaupthing.com

C/o: [redacted]

b) Central Bank of Iceland: to be confirmed.

10.3. Changes

Both parties shall notify the counterparty immediately on changes to address or e-mail stipulated in Clause 10.2 above.

10.4. Delivery

All communication or document made or delivered by one person to another under or in connection with this Bond shall only be effective:

a) if by a way of letter, when it has been left at the relevant address or sent by registered mail to the relevant address, provided the letter is referred to the relevant department and recipient as set out in Clause 10.2 above; or

b) if by way of e-mail, the following business day.

11. ASSIGNMENT

The Central Bank may not assign, transfer or otherwise dispose of (whether directly or indirectly) its rights under this Bond to any other person or entity other than to

any Icelandic governmental body, agency or organisation. Partial transfers of the rights under this Bond are not permitted.

12. GOVERNING LAW AND JURISDICTION

12.1. This Bond is governed by Icelandic law.

12.2. Disputes arising out of or in connection to this Bond shall be settled before the District Court of Reykjavík.

12.3. Any dispute arising out of this Bond or the Pledge Agreement, may be brought before the District Court of Reykjavík under the rules of Chapter 17 of Act. No. 91/1991.

13. MISCELLANEOUS

13.1. This Bond shall take effect on the Bond Effective Date.

13.2. This Bond may only be varied or amended in writing with the prior consent of each of the Debtor and the Central Bank.

13.3. The Debtor signs this Bond before two witnesses.

IN WITNESS WHEREOF the Debtor has executed this Bond, or caused this Bond to be executed by its duly authorised representatives.

Reykjavík, 13 January 2016
Location and date

Issuer's signature

Witnesses:

[redacted]

THE PLEDGE AGREEMENT

Icelandic: Handveðssamningur

(the "**Pledge**")

Kaupþing ehf. (the "**Pledgor**")
ID No. 560882-0419
Borgartúni 26
105 Reykjavík

To guarantee the due and harmless payment of a bond (Icelandic: *skuldabréf*) in the amount of ISK 84,000,000,000, issued on 12 January 2016 (the "**Bond**"), to the Central Bank of Iceland, ID No. 560269-429, Kalkofnsvegi 1, 150 Reykjavík (the "**Pledgee**") and irrespective of whether regarding principal, interest, indexation, default interest, collection cost or other cost, whatever it may be, the following assets are pledged to the Pledgee:

(1) Bonds issued by Arion bank hf. ("Arion") in the principal amount of US$747,481,000 with the ISIN Number XS1344761256, maintained in a securities custody account (Icelandic: *vörslureikningur*) of the Pledgor [redacted] with account number [redacted] including but not limited to, the right to receive principal and interest payments payable thereon (the "Pledged Bonds");

(2) Cash amounts (in respect of principal and interest payments) paid to the Pledgor by Arion pursuant to the Pledged Bonds and maintained in a cash custody account (the "Cash Account") of the Pledgor [redacted] with account number [redacted] (the "Pledged Funds");

(3) Any Cash Equivalents (as defined in the Bond) which are purchased or otherwise acquired by the Pledgor using the Pledged Funds pursuant to the terms of this Pledge (the "Pledged Cash Equivalents"); and

(4) Shares in Kaupskil ehf. (registered id. 580609-0150, whose registered office is at Borgatún 26, 105 Reykjavik, Iceland) ("Kaupskil") held by the Pledgor from time to time (the "Kaupskil Shares"),

(together the "Pledged Assets")

This Pledge Agreement and the security interest over the Pledged Assets hereunder shall remain unaffected by any payment extension with respect to the Bond or any amendment, extension or renewal of the Bond.

For so long as any amount remains outstanding under the Bond (the "**Security Period**"), the Pledgor shall be prohibited from pledging, transferring or otherwise

disposing of the Pledged Assets by any means, except (i) in the case of the Pledged Bonds, with the prior written consent of the Pledgee, (ii) in the case of the Kaupskil Shares, in accordance with the Shareholders' Proceeds Apportionment Agreement (as defined in the Bond), and/or (iii) in the case of the Pledged Funds and/or the Pledged Cash Equivalents, as permitted under this Pledge Agreement.

The Pledgor may at any time by written notice to the Pledgee request that some or all of the Pledged Bonds be sold and other financial instruments substituted for some or all of the Pledged Bonds. The Pledgor may request the sale of such financial instruments substituted, more than once. All financial instruments substituted in the above mentioned manner shall be pledged to the Pledgee hereunder. The Pledgee is not obliged to approve the Pledgor's request to sell the Pledged Bonds.

From time to time at its sole discretion, the Pledgor may (but is not obliged to) use the Pledged Funds to purchase or otherwise invest in Cash Equivalents. The Pledgor may at any time substitute Pledged Cash Equivalents for other Cash Equivalents or cash provided that all Cash Equivalents or cash substituted in the above mentioned manner shall be pledged to the Pledgee hereunder.

Save to the extent the Pledgor instructs the Pledgee to apply any amount of interest or other return paid on the Pledged Bonds, the Pledged Funds or the Pledged Cash Equivalents in or towards payment of any interest due on the Bond, any interest or other return paid on the Pledged Bonds, the Pledged Funds or the Pledged Cash Equivalents shall be credited to the Cash Account. The Pledgor may withdraw any amount standing to the credit of the Cash Account at any time provided that following such withdrawal the aggregate of (i) the face value of the Pledged Bonds, (ii) the face value of the Pledged Cash Equivalents and (iii) the amount of the Pledged Funds as a proportion of the outstanding principal amount of the Bond at that time is greater than 115% (the "**Pledge Ceiling**").

The Pledgee confirms by its signature the obligation to execute all such documents and do such other things as may be required to allow the Pledgor to purchase or otherwise invest in or receive an economic return from the Pledged Cash Equivalents.

The Pledgor declares that the Pledged Assets are free from any liens or encumbrances other than those created pursuant to this Pledge Agreement.

If at any time at which any payment or prepayment of the Bond is made or any amount of the Bond is cancelled, an amount equal to the aggregate of (i) the face value of the Pledged Bonds, (ii) the face value of the Pledged Cash Equivalents and (iii) the amount of the Pledged Funds as a proportion of the outstanding principal amount of the Bond at that time is greater than the Pledge Ceiling following that payment, prepayment or cancellation (as applicable) as notified by the Pledgor to the Pledgee, the Pledgee shall promptly, and in any event within 5 days, release from this Pledge Agreement that amount of the Pledged Bonds, Pledged Cash Equivalents and/or Pledged Funds (at the option of the Pledgor) as is necessary to reduce the aggregate of (i) the face value of the Pledged Bonds, (ii) the face value of the Pledged Cash Equivalents and (iii) the amount of the Pledged Funds as a proportion of the outstanding principal amount of the Bond at that time, so that it is

equal to the Pledge Ceiling (such released Pledged Bonds, Pledged Cash Equivalents and/or Pledged Funds being the "**Released Assets**"). Upon release from the Pledge, the Pledgor shall thereafter be free to dispose of the Released Assets.

If the Bond is accelerated pursuant to clause 9.1 of the Bond this Pledge Agreement shall become immediately enforceable and, thereafter, following written notice to the Pledgor, the Pledgee can choose one of the following options: (i) have the Pledged Assets (other than the Pledged Funds) sold at market value, as it is at each time, without forced sale (i.e. the highest price offered) on any market the Pledgee decides, domestic and / or foreign; (ii) redeem the Pledged Assets (other than the Pledged Funds) at market price (i.e. the highest price offered or expected to be offered) on any market the Pledgee decides, domestic and / or foreign; or (iii) have the Pledged Assets (other than the Pledged Funds) sold at a forced sale cf. Item 3, Article 6 (1) of Act No. 90/1991 on Forced Sales, in each case to the extent necessary towards the payment of the Bond.

Should the Pledgor's assistance be needed for the purposes of a transfer, or for the Pledgee to be able to use the Pledged Assets in accordance with this Pledge Agreement, the Pledgor commits to taking all reasonable measures necessary in this respect. Should the Pledgor not stand by this commitment, the Pledgee can seek assistance from a District Commissioner (Icelandic: *sýslumaður*) and/or a District Court (Icelandic: *héraðsdómur*) to implement the action which the Pledgor has failed to implement.

In the event of enforcement of the Pledge by the Pledgee hereunder, in part or in full, the Pledgor hereby grants full and unlimited power of attorney to the Pledgee to transfer the Pledged Assets, on behalf of the Pledgor, to any other party the Pledgee may select, including itself.

This Pledge Agreement will automatically terminate, and the Pledged Assets will automatically be released upon: (i) cancellation of all amounts outstanding under the Bond pursuant to clause 5.2 of the Bond; or (ii) the repayment in full of all amounts outstanding under the Bond.

The Kaupskil Shares will be automatically released from the security created under this Pledge Agreement upon: (i) the entry into by the Pledgor of definitive documentation (a "**Sale Agreement**") for the sale of some or all of the Kaupskil Shares; and (ii) the satisfaction or waiver of all conditions to completion of the sale of those shares, other than: (a) payment of the purchase price therefor; and (b) release of the Kaupskil Shares from the security created by this Pledge Agreement.

The CBI shall execute such documents as are necessary or desirable to: (i) enable the Kaupskil Shares to be sold pursuant to a Sale Agreement free from the security created by this Pledge Agreement; and/or (ii) evidence the release of the security over the Kaupskil Shares in connection with the sale of those shares pursuant to a Sale Agreement.

The Pledgor declares that it allows the Pledgee to provide a notification of the Pledge to:

(a) the relevant depository with regards to the Pledged Bonds cf. Article 16 of Act No. 131/1997 on the Electronic Registration of Securities;

(b) the relevant financial institution with regards to the Pledged Funds;
(c) the board of directors of Kaupskil with regards to the pledge over the Kaupskil Shares, cf. Article 20(1) of Act No. 138/1994, on Private Limited Liability Companies; and
(d) to any other entity applicable with regards to the Pledged Cash Equivalents,

in order to perfect the Pledge and provide all necessary legal protection against enforcement measures and other contractual measures.

The Pledgor is hereby authorised to disclose to any and all of:

(a) its legal, corporate finance and other professional advisers from time to time;
(b) its creditors from time to time;
(c) any potential purchaser of any claim (or any part thereof) of any creditor against the Pledgor;
(d) any legal or beneficial owner of any debt or equity securities issued by the Pledgor from time to time; and
(e) any prospective purchaser of the legal or beneficial interest in any debt or equity securities issued by the Pledgor from time to time,

the existence and content of this Pledge.

The Pledgee is hereby authorised to disclose details of this Pledge and the Pledged Assets to any and all of its legal, corporate finance and other professional advisers from time to time.

Should the Pledgee choose not to use its rights under this Pledge Agreement, whether partly or in full, this shall not limit the Pledgee from deciding to exercise such rights at a later stage.

Any amendment or waiver under this Pledge Agreement shall be in writing and agreed between the Pledgor and the Pledgee.

The Pledgee confirms by its signature the obligation to release the Pledged Assets from the Pledge at the times and in the manner provided for in this Pledge Agreement and to execute all such documents and do such other things as may be required to effect the release of the Pledged Assets.

This Pledge Agreement shall become effective on the date on which the last of the following occurs:

(a) (i) the requisite majority of unsecured creditors of the Pledgor (by number and by value) has approved the composition proposal of the Pledgor and either (ii) the District Court has approved the composition of the Pledgor and the deadline for appealing the decision of the District Court to the Supreme Court has expired, or (iii) if the decision of the District Court is appealed, the Supreme Court has confirmed the composition of the Pledgor or such appeals are withdrawn or lapse; and
(b) the date on which the Pledgee irrevocably grants the necessary exemptions from the Act on Foreign Exchange no. 87/1992 required to enable the Pledgor to fulfil the terms of its composition with its unsecured creditors.

Should a dispute arise in relation to this Pledge Agreement, it shall be referred to the District Court of Reykjavik.

In confirmation thereof, the Pledgor hereby signs this Pledge Agreement in the presence of two witnesses.

Reykjavík, 13 January 2016

On behalf of the Pledgor

On behalf of the Pledgee

Witnesses:

[redacted]

HÉRAÐSDÓMUR
REYKJAVÍKUR

ÚRSKURÐUR

15. desember 2015

Mál nr. N-9/2015:

Dómari: Hólmfríður Grímsdóttir héraðsdómari

ÚRSKURÐUR

Héraðsdóms Reykjavíkur þriðjudaginn 15. desember 2015 í máli nr. N-9/2015:

Krafa slitastjórnar Kaupþings hf.
um staðfestingu nauðasamnings fyrir félagið.

Hinn 25. maí 2009 skipaði Héraðsdómur Reykjavíkur slitastjórn fyrir Kaupþing hf., kt. 560882-0419, Borgartúni 26, Reykjavík.

Slitastjórnin gaf út innköllun til skuldheimtumanna, sem birtist fyrra sinni í Lögbirtingablaðinu 30. júní 2009, og lauk kröfulýsingarfresti 30. desember sama ár. Þegar kröfulýsingarfrestinum lauk þann 30. desember 2009, setti slitastjórnin saman skrá yfir þær kröfur sem lýst hafði verið og hófst handa við að yfirfara kröfulýsingar og viðurkenna kröfur og raða þeim í réttindaröð. Nokkrir kröfuhafafundir voru haldnir af hálfu slitastjórnar þar sem skrá félagsins yfir lýstar kröfur var til umræðu. Slitastjórnin afhenti þeim kröfuhöfum sem sóttu fundina skrá yfir þær kröfur sem lýst hafði verið, auk upplýsinga um hvaða kröfur hefðu verið viðurkenndar af slitastjórninni og hverjum hafnað.

Samkvæmt heimild í 3. mgr. 103. gr. a laga nr. 161/2002, um fjármálafyrirtæki, ákvað slitastjórn Kaupþings að leggja fyrir kröfuhafa frumvarp að nauðasamningi fyrir félagið, en samkvæmt ákvæðinu getur slitastjórn, þegar hún telur tímabært, leitað nauðasamnings til að ljúka slitameðferð ef eignir fjármálafyrirtækis nægja ekki til fullrar greiðslu krafna sem ekki hefur endanlega verið hafnað við slitameðferð.

Frumvarp félagsins að nauðasamningi er dagsett 6. nóvember 2015 og var boðað til kröfuhafafundar í því skyni að bera frumvarpið undir atkvæði samningskröfuhafa með auglýsingu sem birt var í Lögbirtingarblaði 10. nóvember sl.

Með bréfi til slitastjórnar Kaupþings, dags. 18. nóvember 2015, gaf Seðlabanki Íslands út vottorð, sbr. 4. mgr. 103. gr. a laga nr. 161/2002, um fjármálafyrirtæki, um að það væri mat Seðlabankans að frumvarp félagsins til nauðasamnings félagsins myndi hvorki valda óstöðugleika í gengis- og peningamálum né raska fjármálastöðugleika.

Á fundi með atkvæðismönnum 24. nóvember sl. var frumvarpið samþykkt með 100% atkvæða eftir höfðatölu og 100% atkvæða eftir kröfufjárhæðum. Mætt var á fundinn fyrir 93,66% af kröfufjárhæðum og voru atkvæði talin í samræmi við fyrirmæli 2. mgr. 52. gr. laga nr. 21/1991, um gjaldþrotaskipti, sbr. einnig 2. mgr. 152. gr. sömu laga. Reyndi því ekki á vægi ágreiningsatkvæða við atkvæðagreiðsluna. Í kjölfarið lýsti fundarstjóri því yfir að þar sem meira en 60% kröfuhafa, eftir fjölda kröfuhafa sem tóku þátt í atkvæðagreiðslunni, og meira en 70% greiddra atkvæða eftir

fjárhæðum hefðu greitt atkvæði með samþykkt nauðasamningsfrumvarpsins teldist það samþykkt, sbr. 3. mgr. 103. gr. a laga nr. 161/2002, um fjármálafyrirtæki.

Með bréfi slitastjórnar til Héraðsdóms Reykjavíkur 25. nóvember sl. var þess óskað að dómurinn staðfesti nauðasamning félagsins. Boðað var til þinghalds 7. desember 2015 með auglýsingu er birtist í Lögbirtingablaðinu 27. nóvember sl.

Við fyrirtöku málsins 7. desember 2015 voru ekki höfð uppi nein andmæli við staðfestingu nauðasamningsins, en lögmenn slitastjórnar óskuðu eftir stuttum fresti til að leggja fram þýðingar á viðaukum við skýringarrit með nauðasamningi. Var málinu frestað í því skyni til þriðjudagsins 8. desember 2015. Í þinghaldinu ítrekuðu lögmenn slitastjórnar beiðni um staðfestingu nauðasamningsins og var málið því tekið til úrskurðar.

Frumvarpið er nokkuð að vöxtum og efni þess er rakið ítarlega í auglýsingu sem birt er í Lögbirtingablaðinu 27. nóvember sl. Meginefni frumvarpsins er með eftirfarandi hætti:

1. *Inngangur*

1.1 *Þetta er frumvarp að nauðasamningi samkvæmt XXI. kafla laga um gjaldþrotaskipti og 103. gr. a laga um fjármálafyrirtæki útbúið af slitastjórn fyrir hönd Kaupþings hf., kt. 560882-0419, Borgartúni 26, 105 Reykjavík.*

1.2 *Nauðasamningsfrumvarp þetta er á íslensku. Til hagræðis fyrir erlenda kröfuhafa hefur verið útbúin ensk þýðing af nauðasamningsfrumvarpinu. Sé misræmi á milli íslensku og ensku útgáfunnar gildir sú íslenska.*

1.3 *Skýringarritið með nauðasamningsfrumvarpinu (e. Information Memorandum) og önnur tiltekin skjöl sem tengjast frumvarpinu hafa frá og með 23. október 2015 verið gerð aðgengileg almennum kröfuhöfum, sem heimild hafa til að kjósa um nauðasamningsfrumvarpið, á lokaðri vefsíðu félagsins og hafa einnig legið frammi til skoðunar fyrir slíka kröfuhafa á skrifstofu félagsins að Borgartúni 26, 105 Reykjavík.*

2. *Skilgreiningar og túlkun*

Hugtök sem eru notuð í þessu nauðasamningsfrumvarpi skulu hafa þá merkingu sem þeim er gefin í viðauka 1 (Skilgreiningar) við þetta frumvarp, að því marki sem þau eru ekki skilgreind í megintexta frumvarpsins.

3. *Réttur til lágmarksgreiðslu*

3.1 *Sérhver samningskröfuhafi og lágmarksgreiðslukröfuhafi skulu eiga rétt til lágmarksgreiðslu í reiðufé frá félaginu samkvæmt 2. mgr. 36. gr. laga um gjaldþrotaskipti („**lágmarksgreiðsla**") til greiðslu á viðurkenndum almennum kröfum kröfuhafans, í heild eða að hluta, með eftirfarandi hætti:*

(a) ef almennar kröfur viðkomandi kröfuhafa nema samanlagt fjárhæð sem jafngildir eða er lægri en kr. 4.600.000, skulu þær greiðast að fullu;

*(b) ef almennar kröfur viðkomandi kröfuhafa nema samanlagt fjárhæð sem er hærri en kr. 4.600.000, en er lægri en eða jafngildir nauðasamningsviðmiðinu (slíkar almennar kröfur slíks greiðslukröfuhafa verða hér eftir nefndar „**greiðslukrafa**"), skal greiða greiðslukröfuhafanum fjárhæð sem jafngildir kr. 4.600.000, sem mun fullnægja (gagnvart félaginu) greiðslukröfu kröfuhafans í samræmi við ákvæði nauðasamningsfrumvarps þessa. Við greiðslu lágmarksgreiðslunnar til hvers greiðslukröfuhafa munu eftirstöðvar greiðslukröfu viðkomandi kröfuhafa falla niður gagnvart félaginu; og*

*(c) ef almennar kröfur viðkomandi kröfuhafa nema samanlagt hærri fjárhæð en nauðasamningsviðmiðinu (slíkar almennar kröfur slíks nauðasamningskröfuhafa verða hér eftir nefndar „**nauðasamningskrafa**"), skal greiða nauðasamningskröfuhafanum greiðslu að fjárhæð kr. 4.600.000, sem mun fullnægja (gagnvart félaginu) þeim hluta nauðasamningskröfunnar sem jafngildir nauðasamningsviðmiðinu.*

3.2 *Lágmarksgreiðslan getur numið lægri fjárhæð hafi aðilaskipti orðið að hluta kröfu tiltekins almenns kröfuhafa eftir að kröfulýsingarfresti við slitameðferð félagsins lauk þann 30. desember 2009. Hafi slík aðilaskipti átt sér stað skal það hlutfall lágmarksgreiðslunnar sem hver kröfuhafi á rétt til samræmast því hlutfalli kröfunnar sem viðkomandi kröfuhafi átti á fyrrnefndum degi. Lágmarksgreiðslan sem innt verður að hendi til hvers kröfuhafa getur aldrei orðið hærri en kr. 4.600.000, jafnvel þótt almenni kröfuhafinn eigi fleiri en eina almenna kröfu eða hafi öðlast þær fyrir framsal eftir framangreint tímamark.*

3.3 *Fjárhæð lágmarksgreiðslunnar í íslenskum krónum verður umreiknuð í evrur á grundvelli sölugengis Seðlabanka Íslands á greiðsludegi lágmarksgreiðslunnar, nema viðkomandi nauðasamningskröfuhafi eða lágmarksgreiðslukröfuhafi kjósi að fá greitt í íslenskum krónum.*

3.4 *Með fyrirvara um greinar 6 og 7 að neðan, mun lágmarksgreiðslan til samningskröfuhafa og lágmarksgreiðslukröfuhafa verða innt af hendi með rafrænum hætti af hálfu félagsins.*

4. *Nauðasamningsgreiðslur*

4.1 *Til viðbótar lágmarksgreiðslunni skulu nauðasamningskröfuhafar einnig fá greiðslur í formi peningagreiðslunnar og útgáfu og afhendingar breytanlegu*

*skuldabréfanna og hlutanna (sameiginlega nefnd „**nauðasamningsgreiðslurnar**").*

*Fyrir hverjar **10.000** krónur af samningskröfu nauðasamningskröfuhafa, eftir efndir nauðasamningskröfu viðkomandi kröfuhafa upp að nauðasamningsviðmiðinu með lágmarksgreiðslunni skv. gr. 3.1(c) að ofan, skal hver nauðasamningskröfuhafi eiga rétt á:*

(a) peningagreiðslunni að fjárhæð kr. 830 sem skal umreiknuð í evrur m.v. sölugengi Seðlabanka Íslands á greiðsludegi og greidd út í evrum;

(b) breytanlegu skuldabréfunum að samanlögðu nafnvirði (reiknað á grundvelli nafnverðs breytanlegu skuldabréfanna), að jafnvirði kr. 2.120 í breskum pundum m.v. sölugengi Seðlabanka Íslands á þeim degi sem skuldabréfunum er úthlutað, með fyrirvara um gr. 7.5; og

(c) hlutunum að heildarnafnvirði kr. 50 (reiknað á grundvelli nafnverðs hlutanna).

4.2 *Með fyrirvara um gr. 4.3 fela lágmarksgreiðslan og nauðasamningsgreiðslan samanlagt í sér boð um greiðslu á **30%** af samningskröfu hvers nauðasamningskröfuhafa. Við greiðslu lágmarksgreiðslunnar og nauðasamningsgreiðslnanna til hvers nauðasamningskröfuhafa falla eftirstöðvar samningskröfu viðkomandi kröfuhafa niður gagnvart félaginu.*

4.3 *Endanlegar endurheimtur samkvæmt breytanlegu skuldabréfunum og hlutunum velta á framtíðarsölu og virði undirliggjandi eigna félagsins, sem kunna að verða fyrir áhrifum af ýmsum veigamiklum innri og ytri óvissuþáttum, þ.m.t. lagalegri, pólitískri og efnahagslegri áhættu, svo sem nánar er lýst í 10. gr. og viðauka 2 við nauðasamningsfrumvarpið.*

4.4 *Engir vextir munu leggjast á eða verða greiddir af samningskröfum eða vegna lágmarksgreiðslna eða nauðasamningsgreiðslna frá gildistökudegi nauðasamningsins og þar til úthlutun á sér stað skv. 7. gr.*

4.5 *Fyrir eða á þeim degi sem hlutirnir verða gefnir út samkvæmt þessari 4. gr.:*
verður félagsformi félagsins breytt í einkahlutafélag (ehf.), og
núverandi hlutafé félagsins verður lækkað að fullu án endurgjalds til núverandi hluthafa sbr. heimild í 3. mgr. 103. gr. a laga um fjármálafyrirtæki.

4.6 *Hlutir sem gefnir verða út til hvers nauðasamningskröfuhafa samkvæmt þessari 4. gr. verða greiddir af félaginu með skuldajöfnun á móti þeim hluta samningskröfu viðkomandi samningskröfuhafa sem svarar til samanlagðs nafnvirðis hlutanna sem gefnir verða út til hans.*

4.7 *Hlutir sem nauðasamningskröfuhafi á tilkall til skv. þessari 4. gr. verða afhentir viðkomandi kröfuhafa með færslu í hlutaskrá félagsins á nafn kröfuhafans, sbr. þó 6. gr. og í samræmi við 7. gr. hér að neðan.*

5. *Gildistökudagur*

5.1 *Nauðasamningsfrumvarp þetta tekur gildi, og verður bindandi gagnvart félaginu, á gildistökudeginum.*

5.2 *Félagið mun ekki inna af hendi neinar greiðslur eða úthluta neinum réttindum skv. nauðsamningsfrumvarpinu fyrr en eftir gildistökudaginn.*

6. *Réttur til þess að taka við lágmarksgreiðslunni og nauðasamningsgreiðslunni*

Í samræmi við 6. mgr. 103. gr. a laga um fjármálafyrirtæki mun félagið ekki inna af hendi eða úthluta lágmarksgreiðslunni, peningagreiðslunni, breytanlegu skuldabréfunum og/eða hlutunum (eftir því sem við á), sem almennur kröfuhafi (eða sá sem hann tilnefnir, ef við á) ætti annars rétt á samkvæmt nauðasamningsfrumvarpi þessu, við eftirfarandi aðstæður:

(a) ef greiðslu eða úthlutun lágmarksgreiðslunnar, peningagreiðslunnar, breytanlegu skuldabréfanna og/eða hlutanna (eftir því sem við á) til viðkomandi almenns kröfuhafa (eða þess sem hann tilnefnir, ef við á) eru settar skorður eða kunna að vera settar skorður samkvæmt gildandi lögum eða reglum í einhverri lögsögu;

(b) ef gera má ráð fyrir því að greiðsla eða úthlutun lágmarksgreiðslunnar, peningagreiðslunnar, breytanlegu skuldabréfanna og/eða hlutanna (eftir því sem við á) til viðkomandi almenns kröfuhafa (eða þess sem hann tilnefnir, ef við á) myndi leiða til eða má ætla að leiði til þess að félaginu yrði gert að hlíta kröfu um skráningu, upplýsingagjöf eða öðrum kröfum samkvæmt gildandi lögum í einhverri lögsögu sem væru óhæfilega íþyngjandi;

(c) ef félaginu er, eða kann að vera, meinað að greiða eða úthluta lágmarksgreiðslunni, peningagreiðslunni, breytanlegu skuldabréfunum og/eða hlutunum (eftir því sem við á) til viðkomandi almenns kröfuhafa (eða þess sem hann tilnefnir, ef við á) vegna refsiaðgerða gegn slíkum aðila sem lögleiddar hafa verið, framkvæmdar eða framfylgt er af: (i) Íslandi, (ii) Evrópusambandinu eða einhverju aðildarríki þess, (iii) Bandaríkjunum, (iv) Sameinuðu þjóðunum, og/eða (v) að mati félagins, annarri þjóð, stjórnvaldi eða alþjóðastofnun í sambærilegri stöðu, þ.m.t. ef umboðsaðilar félagsins og/eða ráðgjafar geta ekki eða neita að aðstoða við úthlutunina vegna siðareglna og/eða sambærilegra staðla sem þeim er skylt að fylgja eða fylgja samkvæmt eigin ákvörðun; og/eða

(d) ef viðkomandi almennur kröfuhafi (eða sá sem hann tilnefnir) er búsettur í ríki sem í heild eða að hluta er beitt refsiaðgerðum sem

lögleiddar hafa verið, framkvæmdar eða framfylgt er af: (i) Íslandi, (ii) Evrópusambandinu eða einhverju aðildarríki þess, (iii) Bandaríkjunum, (iv) Sameinuðu þjóðunum, og/eða (v) að mati félagins, annarri þjóð, stjórnvaldi eða alþjóðastofnun í sambærilegri stöðu, þ.m.t. ef umboðsaðilar félagsins og/eða ráðgjafar geta ekki eða neita að aðstoða við úthlutunina vegna siðareglna og/eða sambærilegra staðla sem þeim er skylt að fylgja eða fylgja samkvæmt eigin ákvörðun,

*en hver slíkur almennur kröfuhafi (eða sá sem hann tilnefnir, eftir því sem við á) er hér eftir nefndur „**óhæfur kröfuhafi**" (e. Ineligable Person).*

7. ***Úthlutun til lágmarksgreiðslukröfuhafa og samningskröfuhafa***

7.1 *Svo fljótt sem verða má eftir gildistökudag skal félagið úthluta lágmarksgreiðslunni, peningagreiðslunni, breytanlegu skuldabréfunum og hlutunum (eftir því sem við á) til viðkomandi lágmarksgreiðslukröfuhafa eða samningskröfuhafa (eftir því sem við á) sem hafa skilað inn réttilega útfylltu rétthafabréfi sínu til félagsins fyrir rétthafafrestinn.*

7.2 *Peningagreiðslan og afhending breytanlegu skuldabréfanna, sbr. a- og b-lið 1. mgr. 4. gr., mun fara fram með rafrænum hætti.*

7.3 *Lágmarksgreiðslan, peningagreiðslan og/eða breytanlegu skuldabréfin (eftir því sem við á) sem tilheyra lágmarksgreiðslukröfuhafa eða samningskröfuhafa sem:*

(a) ekki hefur skilað inn réttilega útfylltu rétthafabréfi til félagsins fyrir rétthafafrestinn; og/eða

(b) er óhæfur kröfuhafi,

verða lögð inn á vörslureikning í nafni félagsins og verður úthlutað af stjórn félagsins (ásamt áföllnum vöxtum, ef við á) til viðkomandi lágmarksgreiðslukröfuhafa eða samningskröfuhafa svo fljótt sem verða má eftir að viðkomandi lágmarksgreiðslukröfuhafi eða samningskröfuhafi hefur skilað inn réttilega útfylltu rétthafabréfi til félagsins og (ef við á) er ekki lengur óhæfur kröfuhafi.

7.4 *Útgáfa hlutanna til nauðasamningskröfuhafa sem:*

(a) ekki hefur skilað inn réttilega útfylltu rétthafabréfi til félagsins fyrir rétthafafrestinn; og/eða

(b) er óhæfur kröfuhafi,

verður heimiluð samkvæmt samþykktunum og félagsstjórn verður skylt að gefa út hlutina til slíks nauðasamningskröfuhafa svo fljótt sem verða má eftir að nauðasamningskröfuhafinn hefur skilað inn réttilega útfylltu rétthafabréf til félagsins og (ef við á) er ekki lengur óhæfur kröfuhafi.

7.5 *Tilkall nauðasamningskröfuhafa til breytanlegu skuldabréfanna og hlutanna verður námundað niður að næstu heilu tölu (að því er varðar fjölda breytanlegra skuldabréfa og hluta) þannig að engu broti af viðkomandi greiðslu verður ráðstafað til nauðasamnings-kröfuhafa og engar frekari greiðslur munu eiga sér stað til viðkomandi kröfuhafa vegna slíkrar námundunar samkvæmt þessari grein 7.5.*

7.6 *Öll gjöld, kostnaður og/eða önnur útgjöld sem félagið verður fyrir:*

(a) vegna þess að lágmarksgreiðslukröfuhafi eða samningskröfuhafi veitti rangar eða ófullnægjandi upplýsingar í rétthafabréfi sínu; eða

(b) vegna sérhvers þriðja aðila (að frátöldum gjöldum, kostnaði, sköttum og/eða öðrum útgjöldum sannarlega og með beinum hætti sem fellur á félagið af hendi greiðslubanka félagsins) í tengslum við afhendingu lágmarksgreiðslunnar, peningagreiðslunnar, breytanlegu skuldabréfanna og/eða hlutanna (eftir því sem við á) í samræmi við skilmála rétthafabréfs lágmarksgreiðslukröfuhafa eða samningskröfuhafa (þ.m.t þóknanir milligönguaðila eða banka greiðsluþega og kostnaðar vegna gjaldeyrisviðskipta),

verða dregin frá þeim fjárhæðum sem koma til greiðslu vegna lágmarksgreiðslunnar, peningagreiðslunnar, breytanlegu skuldabréfanna og/eða hlutanna (eftir því sem við á) til viðkomandi lágmarksgreiðslukröfuhafa eða samningskröfuhafa (eftir því sem við á).

7.7 *Félaginu (eða banka eða umboðsaðila sem tilnefndur er af félaginu til þess að úthluta lágmarksgreiðslunni, peningagreiðslunni, breytanlegu skuldabréfunum og/eða hlutunum (eftir því sem við á) til viðkomandi lágmarksgreiðslukröfuhafa eða samningskröfuhafa) er heimilt að halda eftir, og draga frá slíkum greiðslum, alla frádráttarliði af viðkomandi greiðslum sem skylt er að draga frá, eða halda eftir, samkvæmt gildandi lögum.*

8. *Meðferð ágreiningskrafna og skilyrtra krafna*

8.1 *Í samræmi við 6. mgr. 103. gr. a laga um fjármálafyrirtæki verður lágmarksgreiðslan, peningagreiðslan og breytanlegu skuldabréfin (eftir því sem við á) vegna ágreiningskrafna og skilyrtra krafna, lagðar inn á vörslureikning í nafni félagsins að fjárhæð sem svarar til hæstu mögulegu fjárhæðar viðkomandi kröfu verði krafan á endanum samþykkt sem almenn krafa, og skal umræddum greiðslum því aðeins ráðstafað af félagsstjórn (ásamt áföllnum vöxtum, ef við á) til viðkomandi almenns kröfuhafa eins fljótt og verða má eftir að:*

(a) ágreiningskrafa, eða skilyrt krafa, verður viðurkennd krafa;

(b) *viðkomandi almennur kröfuhafi hefur skilað inn réttilega útfylltu rétthafabréfi til félagsins; og*

(c) *viðkomandi almennur kröfuhafi, að því marki sem hann var óhæfur kröfuhafi, telst ekki lengur vera óhæfur kröfuhafi.*

8.2 *Í samræmi við 6. mgr. 103. gr. a laga um fjármálafyrirtæki verður útgáfa hluta vegna ágreiningskrafna og skilyrtra krafna heimil samkvæmt samþykktunum og skal félagsstjórn vera skylt að gefa út hlutina til viðkomandi nauðasamningskröfuhafa svo fljótt sem verða má eftir að:*

(a) *ágreiningskrafa eða skilyrt krafa verður viðurkennd krafa, í eigu nauðasamningskröfuhafa;*

(b) *viðkomandi nauðasamningskröfuhafi hefur skilað inn réttilega útfylltu rétthafabréfi til félagsins; og*

(c) *viðkomandi nauðasamningskröfuhafi, að því marki sem hann var óhæfur kröfuhafi, telst ekki lengur vera óhæfur kröfuhafi.*

8.3 *Að því marki sem ágreiningskrafa, eða skilyrt krafa, verður krafa sem hefur verið endanlega hafnað:*

(a) *mun lágmarksgreiðslan og peningagreiðslan vegna þeirrar kröfu renna aftur til félagsins,*

(b) *verða breytanlegu skuldabréfin vegna kröfunnar ógilt, og*

(c) *verða engir hlutir gefnir út vegna kröfunnar.*

9. *Meðferð krafna vegna riftunar*

Í samræmi við skilmála nauðasamningsfrumvarps þessa mun almennur kröfuhafi sem á kröfu sem raknar við á grundvelli riftunar, , sbr. 6. tölulið 118. gr., sbr. 143. gr. laga um gjaldþrotaskipti, sem verður viðurkennd krafa, rétt til lágmarksgreiðslunnar skv. 3. gr., og ef slíkur almennur kröfuhafi er nauðasamningskröfuhafi, skal hann eiga rétt til nauðasamningsgreiðslunnar í samræmi við 4. gr., og skal félagið þá gera þær ráðstafanir sem nauðsynlegar eru til þess að gefa út breytanlegu skuldabréfin og hlutina til viðkomandi nauðasamningskröfuhafa.

10. *Áætlun um sölu eigna*

Í samræmi við 3. málslið 3. mgr. 103. gr. a laga um fjármálafyrirtæki fylgir í viðauka 2 (Uppgjör eigna) við nauðasamningsfrumvarp þetta lýsing á áætlun um sölu eigna félagsins. Slík áætlun um sölu og endanlegar endurheimtur á eignum félagsins kann, eins og skýrt er nánar í viðauka 2, að verða fyrir áhrifum af ýmsum veigamiklum innri og ytri óvissuþáttum, þ.m.t. lagalegri, pólitískri og efnahagslegri áhættu.

11. *Ýmis ákvæði*

11.1 *Á gildistökudegi, í samræmi við skilmála nauðsamningsfrumvarps þessa, skulu öll fyrri undirliggjandi skuldaskjöl félagins (þ.m.t. öll útistandandi skuldabréf) sem almennar kröfur byggja á, falla úr gildi samkvæmt nauðasamningsfrumvarpinu.*

11.2 *Engin trygging verður veitt af hálfu félagsins í tengslum við efndir nauðasamningsins.*

11.3 *Í samræmi við 103. gr. a laga um fjármálafyrirtæki og 4. mgr. 30. gr. laga um gjaldþrotaskipti mun félagið ákvarða áhrif framsals krafna miðað við 30. desember 2009.*

11.4 *Félaginu er heimilt að aðlaga og/eða lækka úthlutun réttinda samkvæmt nauðasamningsfrumvarpi þessu eða framtíðargreiðslur samkvæmt breytanlegu skuldabréfunum og/eða hlutunum, ef lágmarksgreiðslukröfuhafi eða samningskröfuhafi eignast eða mun eignast eignir eða réttindi frá félaginu á grundvelli málareksturs erlendis.*

11.5 *Félagið og sérhver stjórnarmaður í slitastjórninni er tilnefndur sem erlendur fulltrúi (e. Foreign Representative) félagsins.*

11.6 *Meðlimir slitastjórnar, saman og/eða hver fyrir sig, skulu, eins og við á og eins fljótt og verða má, sjá um efndir nauðasamningsins í samræmi við greinar 3, 4, 7, 8.1, 11.4 og 11.5 og skulu , sbr. ákvæði 3. mgr. 103. gr. a laga um fjármálafyrirtæki, fara með völd stjórnar og hluthafafundar félagsins þar til ný stjórn hefur verið kjörin, og skulu meðal annars annast greiðslur og úthlutanir samkvæmt nauðasamningsfrumvarpinu, annast breytingu félagsins í einkahlutafélag, setja félaginu samþykktir, lækka og hækka hlutafé félagsins og gefa út nýju hlutina til nýrra hluthafa í félaginu í samræmi við nauðasamningsfrumvarpið og skulu, eins fljótt sem verða má eftir gildistökudag, boða til upphaflegs hluthafafundar þar sem nýir stjórnarmenn verða kosnir í stjórn félagsins líkt og greint er frá í skýringarritinu með nauðasamningsfrumvarpinu.*

Í nauðasamningsfrumvarpinu kemur fram að sérhver samningskröfuhafi og lágmarksgreiðslukröfuhafi eigi rétt til lágmarksgreiðslu í reiðufé frá félaginu. Nemi almennar kröfur viðkomandi kröfuhafa samanlagt 4.600.000 krónum eða lægri fjárhæð skuli þær greiðast að fullu. Nemi almennar kröfur viðkomandi kröfuhafa samanlagt hærri fjárhæð en 4.600.000 krónum en lægri en eða jafngild nauðasamningsviðmiðinu, sem er 15.333.332 krónur samkvæmt skilgreiningu í Viðauka I við frumvarpið, skuli greiða honum 4.600.000 krónur. Nemi almennar kröfur viðkomandi kröfuhafa samanlagt hærri fjárhæð en 15.333.332 krónum skuli greiða honum 4.600.000 krónur, auk greiðslna í formi peningagreiðslu, útgáfu og

afhendingar breytanlegra skuldabréfa og hluta í félaginu, eins og nánar er lýst í grein 4.1, og nefnast þær greiðslur nauðasamningsgreiðslur.

Í frumvarpinu kemur jafnframt fram að lágmarksgreiðslan og nauðasamningsgreiðslan feli samanlagt í sér boð um greiðslu á 30% af samningskröfum. Endanlegar endurheimtur samkvæmt breytanlegu skuldabréfunum og hlutunum velti á framtíðarsölu og virði undirliggjandi eigna félagsins, svo sem er nánar lýst í grein 10 og viðauka II við frumvarpið.

Í yfirlýsingu slitastjórnar, dags. 25. nóvember, er fylgdi beiðni um staðfestingu nauðsamningsins, kemur m.a. fram að kröfur sem hafi verið samþykktar samkvæmt 109., 110. og 112. gr. laga nr. 21/1991 hafi verið greiddar að fullu og leyst hafi verið úr öllum ágreiningsmálum er varði forgangskröfur sem hafi verið lýst fyrir lok kröfulýsingarfrests. Enn sé ágreiningur um fjórar forgangskröfur sem hafi verið lýst eftir lok kröfulýsingarfrests en áður en boðað var til fundar til greiðslu atkvæða um nauðasamningsfrumvarp félagsins. Slitastjórn félagsins hafi þegar tekið frá fé sem nægi til að gera upp við þá kröfuhafa, komi til þess að þær verði síðar samþykktar af dómstólum. Tvö dómsmál hafi verið höfðuð gegn félaginu í London og séu þau enn rekin fyrir dómi. Engum kröfum hafi þó verið lýst af hálfu stefnenda málanna þótt þeim hafi sannanlega verið kunnugt um lokafrest til að lýsa tilteknum kröfum, sem hafi runnið út 15. ágúst sl., sbr. 3. gr. laga nr. 59/2015. Þar sem kröfum hafi ekki verið lýst hafi fé ekki verið lagt til hliðar vegna þessara mála. Þá hafi einni kröfu verið lýst 12. nóvember sl., eftir að boðað var til fundar til greiðslu atkvæða um nauðasamningsfrumvarp félagsins. Slitastjórn telji að krafan komist ekki að gagnvart búi félagsins þar sem henni hafi ekki verið lýst fyrir 15. ágúst sl., né án ástæðulauss dráttar eða fyrir boðun á síðasta fund kröfuhafa búsins, sbr. 5. tl. 118. gr. laga nr. 21/1991, og hafi fé því ekki verið lagt til hliðar til að greiða kröfuna. Viðkomandi hafi verið tilkynnt um þessa niðurstöðu slitastjórnar með bréfi, dags. 17. nóvember sl. Slitastjórn tekur loks fram að henni sé ekki kunnugt um nein þau atvik sem getið sé í 57. eða 58. gr. laga nr. 21/1991 og staðið gætu í vegi fyrir staðfestingu nauðasamningsins.

Þar sem ekki eru höfð uppi andmæli við staðfestingu ofangreinds nauðasamnings og skuldari hefur sótt þing fer ákvörðun um staðfestingu hans eftir 2. mgr. 153. gr. laga nr. 21/1991 um gjaldþrotaskipti o.fl., sbr. 57. gr. og 2. mgr. 56. gr. sömu laga, svo og ákvæðum 103. gr. a laga nr. 161/2002 um fjármálafyrirtæki, með síðari breytingum en ljóst er að Kaupþing hf. fellur undir gildissvið þeirra laga, sbr. 1. mgr. 1. gr. og 10. tölulið 1. gr. a þeirra laga.

Samkvæmt 5. mgr. 103. gr. a laga nr. 161/2002, sbr. 2. mgr. 153. gr. laga nr. 21/1991, má í nauðasamningi ákveða að kröfur samkvæmt 109. til 112. gr. laga nr. 21/1991 verði fyrst greiddar af eignum fjármálafyrirtækis áður en til greiðslu

samningskrafna kemur, án þess að fullnægjandi trygging sé sett fyrir greiðslu þeirra eða að hlutaðeigandi samþykki skriflega að nauðasamningur verði staðfestur án þess. Fram kemur í framlögðum gögnum að kröfur sem falla undir þessi ákvæði hafi annað hvort verið greiddar eða trygging sett fyrir greiðslu þeirra.

Af ákvæðum 57. gr. laga nr. 21/1991 leiðir að hafna ber kröfu skuldara um staðfestingu nauðasamnings ef 1) synja hefði átt um heimild til að leita nauðasamnings í öndverðu samkvæmt 1. mgr. 38. gr. eða hún hefur þegar fallið niður samkvæmt 41. gr., 2) fyrir liggur að skuldarinn hafi boðið atkvæðismanni ívilnun til að fá ráðið atkvæði hans eða staðið að öðru misferli í því skyni, 3) staðið hefur verið svo ranglega að innköllun eða tilkynningum til lánardrottna, meðferð krafna þeirra, fundi um frumvarp að nauðasamningi eða atkvæðagreiðslu um það að það kunni að hafa skipt sköpum um niðurstöður atkvæðagreiðslunnar. Samkvæmt 2. mgr. 57. gr. er héraðsdómara og rétt að hafna kröfu skuldarans ef verulegir gallar eru á málatilbúnaði hans varðandi kröfuna sem ekki hefur verið sinnt að bæta úr.

Ekki verður ráðið af gögnum þessa máls að einstakir atkvæðismenn hafi notið neinnar ívilnunar við atkvæðagreiðslu um þann nauðasamning sem nú liggur fyrir. Þá verður enn fremur ekki séð að neinir ágallar hafi verið á innköllun, meðferð krafna og atkvæðagreiðslu um frumvarpið til nauðasamnings. Þá liggur ljóst fyrir að frumvarpið var samþykkt með tilskildum meirihluta atkvæðismanna samkvæmt 3. mgr. 103. gr. a laga nr. 161/2002, um fjármálafyrirtæki, með síðari breytingum. Enn fremur liggur fyrir í málinu vottorð Seðlabanka Íslands um að frumvarp Kaupþings hf. til nauðasamnings félagsins muni hvorki valda óstöðugleika í gengis- og peningamálum né raska fjármálastöðugleika, sbr. 4. mgr. 103. gr. a laga nr. 161/2002, um fjármálafyrirtæki.

Í ljósi þessa verður frumvarp Kaupþings hf. til nauðasamnings staðfest.

Hólmfríður Grímsdóttir héraðsdómari kveður upp þennan úrskurð.

ÚRSKURÐARORÐ:

Frumvarp að nauðasamningi fyrir Kaupþing hf., kt. 560882-0419, Borgartúni 26, Reykjavík, sem samþykkt var á fundi með atkvæðismönnum 24. nóvember 2015, er staðfest sem nauðasamningur félagsins.

Hólmfríður Grímsdóttir (sign.)

Rétt endurrit staðfestir,
Héraðsdómi Reykjavíkur, 16. desember 2015
Gjald: 3.000 krónur
Greitt:

FJÁRMÁLA- OG EFNAHAGSRÁÐUNEYTIÐ

Arnarhvoli 101 Reykjavík
sími: 545 9200 postur@fjr.is
fjr.is

Seðlabanki Íslands
b.t. Más Guðmundssonar, seðlabankastjóra
Kalkofnsvegi 1
150 Reykjavík

Reykjavík 15. janúar 2016
Tilv.: FJR15100090/5.2

Vísað er til bréfs yðar, dags. 14. janúar sl., sem varðar Kaupþing ehf. og sent er fjármála- og efnahagsráðherra í samræmi við ákvæði laga nr. 87/1992, um gjaldeyrismál sbr. nánar 2. mgr. 13. gr. o. laganna sem kveður á um að Seðlabanki Íslands skuli hafa samráð við ráðherra við veitingu undanþága á grundvelli laganna.

Fjármála- og efnahagsráðherra hefur á fyrri stigum þessa máls kynnt efnahags- og viðskiptanefnd Alþingis efnahagsleg áhrif fyrirhugaðrar undanþágu eins og áskilið er í 2. mgr. 13. gr. o. laga um gjaldeyrismál. Í kjölfar þeirrar kynningar staðfesti ráðherra með bréfi til Seðlabankans, sem dagsett var 4. nóvember sl., að hann væri efnislega samþykkur þeim áformum Seðlabankans að veita Kaupþingi vilyrði fyrir undanþágu frá lögum um gjaldeyrismál að ákveðnum sérstaklega tilgreindum skilyrðum uppfylltum.

Af þeim gögnum sem bárust með bréfi Seðlabankans, dags. 14. janúar sl., verður ráðið að þær forsendur sem lágu til grundvallar því mati ráðherra sem fram fór í tilefni af áðurnefndri kynningu fyrir efnahags- og viðskiptanefnd Alþingis eru óbreyttar.

Með hliðsjón af framangreindu er fjármála- og efnahagsráðherra samþykkur því að Kaupþingi ehf. verði veitt umrædd undanþága.

Fyrir hönd ráðherra

Þórhallur Arason

Guðrún Þorleifsdóttir