

# Amendment Agreement

**relating to a Settlement Agreement dated 5 June 2009**

*between*

**Financial Services Compensation Scheme**

*and*

**The Depositors' and Investors' Guarantee Fund of Iceland**

*Dated: 19 October 2009*

**THIS AMENDMENT AGREEMENT IS DATED 19 OCTOBER 2009 AND HAS BEEN ENTERED INTO BY:**

1. **FINANCIAL SERVICES COMPENSATION SCHEME LIMITED** (CRN: 3943048), whose registered office is at 7<sup>th</sup> Floor, Lloyds Chambers, 1 Portsoken Street, London E1 8BN, United Kingdom ("**FSCS**"); and
2. **THE DEPOSITORS' AND INVESTORS' GUARANTEE FUND OF ICELAND** (*Tryggingarsjóður Innstæðueigenda og Fjárfesta*) a private foundation incorporated under Icelandic law, whose registered office is at Kalkfnsvegur 1, 150 Reykjavik, Iceland ("**TIF**").

FSCS and TIF are each referred to in this agreement as a "party" and, collectively, as the "parties".

**WHEREAS:**

- A. The Parties are party to the Settlement Agreement dated 5 June 2009. The assignment provided for in clause 4 of the Settlement Agreement is to be conditional upon the Loan Agreement coming into effect. It is now clear that the Loan Agreement will not come into effect unless a change is made to the terms of the assignment.
- B. The Parties therefore now wish to amend the terms of the Settlement Agreement as set out in this Amendment Agreement.

**IT IS AGREED AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Amendment Agreement:

"**Settlement Agreement**" means the settlement agreement between the parties dated 5 June 2009.

"**Change of Icelandic Law**" means the coming into force of any law, regulation or governmental order, or any change to any law, regulation or governmental order, in each case of Iceland, excluding any such law, regulation or governmental order, or any change thereto, to the extent required to be made or introduced under any regulation or directive of the European Community (whether directly or as a result of the Agreement on European Economic Area).

**1.2 Incorporation of Defined Terms**

Unless a contrary indication appears, terms defined in the Settlement Agreement have the same meaning in this Agreement.

## **2. AMENDMENTS**

**2.1** The following amendments shall be made to the Settlement Agreement:

- a) The words "unless paragraph 4.2(c) below applies" shall be inserted after the words "as soon as practicable" in paragraph 4.2(b).
- b) The words "the Guarantee Fund's" in paragraph 4.2(b) shall be replaced with the word "TIF's".
- c) The word "and" at the end of paragraph 4.2(b) shall be deleted.
- d) The following words shall be added at the end of paragraph 4.3(b): "or if paragraph 4.2(c) applies, allocated to TIF in priority to any allocation to FSCS to the extent required to reflect the terms of the judgment referred to in paragraph 4.2(c)".
- e) After paragraph 4.2(b) of the Settlement Agreement, a new subparagraph 4.2(c) will be added (with the existing subparagraph 4.2(c) being redesignated 4.2(d)) the text of which shall be:

"4.2(c) If an Icelandic court gives a final and non-appealable judgment which (1) determines that all or part of any claim assigned to TIF, or the rights retained by FSCS, as the case may be, will be entitled to receive distributions in the Landsbanki estate on a preferential basis relative to other claims originating from the same deposits, and (2) is not in conflict with an advisory opinion obtained from the Court of the European Free Trade Area on that preferential status; or

the Winding-up Board of Landsbanki determines that all or part of any claim assigned to TIF or the rights retained by FSCS, as the case may be, will be entitled to receive distributions in the Landsbanki estate on a preferential basis relative to the other claims originating from the same deposits but such ruling is not challenged in an Icelandic court by any depositor or creditor and such failure to challenge is not the result of a Change of Icelandic Law made after 5 June 2009 which renders such a challenge more difficult or impossible;

then, unless that preferential status results from any Change of Icelandic Law made after 5 June 2009, the obligation described in subparagraph (b) above for the TIF or FSCS, as the case may be, to make balancing payments will not apply; and"

## **3. INCORPORATION OF TERMS**

**3.1** Paragraphs 5 (*Confidentiality*), 6.2 - 6.5 inclusive (*Miscellaneous Provisions*), 7 (*Liability and Indemnity*), 8 (*Representations and Warranties*), 9 (*Entire Agreement*), 12 (*Notices*), 13 (*Governing law and jurisdiction*) and 14 (*Waiver of sovereign immunity*) apply to this Amendment Agreement as if set out in it and for this purpose all references in those paragraphs to "this agreement" shall be deemed to be refer to this Amendment Agreement.

**THIS AMENDMENT AGREEMENT HAS BEEN MADE ON THE DATE STATED AT THE  
BEGINNING OF THIS AGREEMENT BY:**

Financial Services Compensation Scheme Limited .....

*Name:* Loretta Minghela

*Title:*

The Depositors' and Investors' Guarantee .....

Fund of Iceland (*Tryggingarsjóður*

*Innstæðueigenda og Fjárfesta*)

*Name:* Áslaug Árnadóttir

*Title:* Chairman of the Board