

**SUMMARY OF ADVICE TO ICELANDIC GOVERNMENT
REGARDING THE LANDSBANKI FREEZING ORDER**

The Icelandic Government has taken advice from Lovells LLP and its own legal advisors as to potential means of challenging the Freezing Order made by the UK Government in respect of Landsbanki. This document is provided upon request as a publicly available summary of the key points of that advice. Lovells' detailed advice is privileged and confidential and the publication of this document does not amount to any waiver.

1. There are significant flaws in the rationale put forward by the UK Government in support of the making of the Landsbanki Freezing Order, and a disconnect between the concerns expressed by the UK Government and the effect of the Freezing Order.
2. However, the broad discretion afforded in English law means that it would be extremely difficult to persuade the UK courts to intervene in the UK Government's decision to make the Freezing Order (irrespective of by whom such a claim were brought). Even if it did, it is highly unlikely that substantive damages would be awarded.
3. The Freezing Order raises issues of European and human rights law, which require a detailed scrutiny of the proportionality of the UK Government's actions. Those issues may be raised in the UK courts by the private parties directly affected by the Freezing Order, such as Landsbanki.
4. There is also the possibility of their being raised in an inter-state claim by the Icelandic Government before the European Court of Human Rights. The Icelandic Government does not have standing to raise those issues in the UK courts, so cannot be required to exhaust domestic remedies first, provided that it can show that it is appropriate for it to bring the claim directly to the ECHR on a representative basis.
5. If the UK Government refuses now, following renewed requests by the Government and Landsbanki, to lift the Freezing Order, that refusal will be a separately challengeable decision. That decision could be challenged in the UK courts on the basis (*inter alia*) that, irrespective of whether the Freezing Order was originally lawfully made, its continuation in force cannot now be justified. In light of developments since the making of the Freezing Order, such a challenge may be materially stronger than a challenge to the original making of the Freezing Order.
6. That is a claim that could be brought by the Government directly and/or by Landsbanki or any other affected person. A claim by Landsbanki could raise the human rights (property rights) issues that arise from the continuation of the Freezing Order.
7. The separate actions by the UK Government/authorities in respect of Kaupthing Singer and Friedlander and Heritable may also be challenged by way of judicial review in the UK courts by the parties affected. Similar legal issues and time constraints would be likely to apply to any such claims.

The Icelandic Government is committed to supporting fully all appropriate action seeking redress against the UK in respect of these actions, and will be working closely with Landsbanki, Kaupthing and others in this regard.

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