

Icesave: Iceland obliged to pay minimum compensation to British and Dutch depositors

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Iceland is obliged to ensure payment of the minimum compensation to Icesave depositors in the United Kingdom and the Netherlands, according to the Deposit Guarantee Directive.[1] This is the conclusion in a reasoned opinion the Authority sent to Iceland today.

The EFTA Surveillance Authority has the task to ensure that Iceland, Norway and Liechtenstein comply with the terms of the EEA Agreement. The Deposit Guarantee Directive forms part of that agreement. According to the Directive, Iceland was obliged to guarantee for EUR 20.000 per depositor after Landsbanki and its Dutch and British branches, called Icesave, collapsed in October 2008.

While the Dutch and British authorities stepped in to compensate most deposit holders in Icesave's Dutch and UK branches, the Directive designates Iceland as being under the obligation to provide the minimum compensation of EUR 20.000 per depositor. By leaving the depositors in Icesave's Dutch and UK branches without that minimum guarantee, Iceland acted in breach of the Directive.

In May 2010, the Authority issued a letter of formal notice to Iceland, where it formally expressed this position. Iceland replied to that letter on 2 May 2011 and denies that the depositors in the Dutch and British branches of Icesave are entitled to any compensation under the Directive.

The Authority has now very carefully considered that reply. But it disagrees with Iceland and can only maintain its position.

"Iceland must comply with the obligations it has subscribed to under the EEA Agreement. It must ensure compensation of all depositors under the conditions prescribed by the Deposit Guarantee Directive and without discrimination," says Mr Per Sanderud, president of the EFTA Surveillance Authority.

In its emergency response to the banking crisis in October 2008, the Icelandic Government made a distinction between domestic depositors and depositors in foreign branches. Domestic deposits continued to be available after they were taken over by New Landsbanki, whereas the foreign depositors lost access to their deposits and did not enjoy the minimum guarantee. It is not possible to differentiate between depositors to the extent they are protected under the Directive. By acting as it did Iceland failed to ensure that the depositors received the compensation to which they are entitled under the Directive.

The Icelandic Government is now requested to take the measures necessary to comply with this reasoned opinion within three months. Should Iceland not comply, the Authority will need to consider taking the case to the EFTA Court.

[Read the Authority's reasoned opinion in full here.](#)

[Read the letter of 2 May 2011 from Iceland to the Authority here](#)

[Read the Authority's letter of formal notice of 26 May 2010 here](#)

Read the Authority's Q & A here

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[1] Directive 94/19/EC

