

AN (ICE)LAND-MARK TRANSACTION

(LBI RESOLUTION PROCEEDINGS)

AFTER THE 2008 GLOBAL FINANCIAL CRISIS SPREAD TO ICELAND, we advised one of the country's largest financial institutions, Landsbanki, on resolution proceedings, including the creation of a new entity (LBI) to hold its foreign assets.

Fast forward to 2015, the Icelandic entity was nearing the conclusion of its bankruptcy proceedings. As is customary in these situations, it looked to compensate creditors with securities that are conveyed pursuant to an exemption from the registration requirements under U.S. securities law.

To do so, history suggested defaulting to the most familiar exemption and using Section 4(a)(2). Circumstances, however, led us to investigate a different path, allowing our client to deliver value to investors in a way that had never before been accomplished. We uncovered an alternative route in the form of the exemption under Section 3(a)(10) of the Securities Act, which turned out to be a better option.

This path offered two advantages. As the creditor arrangements would be approved in court, the exchange offer would bind LBI's creditors and stop any further claims. Second, unlike Section 4(a)(2), securities issued pursuant to the Section 3(a)(10) exemption are unrestricted securities, enabling the holder to sell them more easily, and likely, achieve superior execution. Our recommendation benefited both LBI and its creditors. Testament to its success was the fact that, although a substantial number of composition creditors were involved, not a single one objected to LBI's composition plan and use of Section 3(a)(10).

The use of Section 3(a)(10) in this way is likely to have lasting implications. It demonstrates how U.S. securities laws can be used in a coordinated way to help international enterprises wind down in an orderly manner, and without concern about trailing liabilities.

A win-win situation for issuer and creditor, and an overall great result for our client.