

Akin Gump Strauss Hauer & Feld

Restructuring team of the year



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Akin Gump's award-winning team has been at the heart of pivotal deals emanating from debt bail-outs in Europe. More than 95 per cent of the London-based team's work comes from direct instructions and its practice focuses on restructurings and debt or equity financings for troubled companies. The team has experience restructuring complex corporate debt and structured finance arrangements.

As a result of the Icelandic banking collapse, Glitnir, Landsbanki and Kaupthing were placed in winding-up proceedings. Under Icelandic law, the only ways to exit such proceedings and distribute value to unsecured creditors are by "composition" (effectively, a consensual reorganisation) or bankruptcy proceedings (a liquidation).

From the outset, Akin Gump's team was closely involved in the formation of the informal creditors' committees (ICCs) of the three banks and represented its clients on those committees. In that capacity, the firm analysed the impact of Iceland's 2008 emergency banking legislation, which created a "new bank" for each failed bank and, in each case, transferred domestic assets and liabilities in exchange for compensation. Akin Gump's team was closely involved in negotiating these complex compensation agreements.

After this initial phase, Akin Gump oversaw a complex claims filing and dispute process, and led challenges to the 2008 emergency banking legislation in Iceland. A key issue at that time was to determine the priority to be given to certain classes of creditors, including the UK government and a number of UK local authorities.

During the process, the team, led by London-based partner Barry Russell, designed and put in place a co-ordinated cross-border strategy to protect the interests of creditors in the event that the consensual discussions failed. Litigation partner Mark Dawkins devised the litigation strategy that was a hugely important factor in influencing the consensual outcome of the restructurings.

This multi-dimensional matter required the firm to develop a thorough understanding of the business landscape, culture and political situation in Iceland. "Everything was poured into it, years of understanding comparative legal systems and how restructurings are negotiated, as well as building relationships of trust with people and

making sure everything was followed through and not brought into doubt," says Russell. "It was also a massive project and case management exercise."

Innovation

This was a unique case. Never before had Iceland – a country with fewer than 350,000 inhabitants – experienced such a financial collapse. Its laws were not well suited to facilitate a consensual restructuring of the failed bank estates, its practitioners were not familiar with international restructurings of this magnitude, successive governments were impacted significantly by the collapse, and the economic issues presented by the proposed restructurings were unprecedented.

Icelandic law did not provide any means for creditors to interact meaningfully with the failed bank estates. Akin Gump advocated and helped create the ICCs, which were supported by representatives of the government after its lobbying. This facilitated an invaluable means of communication with creditors over the past seven years.

"This process required many trips to Iceland over the years and extensive interaction with representatives in the central bank, the government, old bank estates, local counsel, local political advisers and local economists," says Russell. "In some respects, although it wasn't a sovereign restructuring, you felt like you were effectively restructuring the economy, given the impact the banks' failures had on the local economy"

The firm developed a multi-jurisdictional litigation strategy to protect the interests of creditors in the event that the Icelandic government took hostile action targeting the assets of the failed bank estates. This strategy included devising novel legal arguments under EU/EEA law, Icelandic law and the laws of various other jurisdictions.

Akin Gump was at the forefront of structuring the composition agreements, which had unprecedented scope under Icelandic law. This required in-depth knowledge of Icelandic legislation and a fusion with international restructuring principles.

The firm's restructuring team advocated successfully to make three extensive sets of legislative changes to facilitate the compositions. This would have been impossible without the team's unique understanding of the relevant legislation (assisted by local counsel) and its extensive experience in

Number of partners in the UK practice

11

Total number of lawyers in the UK practice

25

Head of practice

Co-heads of financial restructuring in London, James Roome and Barry Russell

Client wins in the past six months

Confidential

international restructurings.

"Not only were you trying to craft these deals within international restructuring norms, you had to turn around and advocate changes to the legal system to allow the deals to happen," says Russell. "We got to a point in this deal where I lost count of how many trips I took out there."

Akin Gump lawyers were extensively involved in devising the framework for voluntary "stability contributions" – the negotiated alternative to the threatened stability tax. Russell adds: "It gives you a great feeling that what you have done has helped that economy turn around and come back."

Client relationships and key deals

The firm was first instructed in this matter in October 2008, just after the banks' collapse. Initially, its clients consisted of original institutional investors in the debt of the three failed banks, but the group quickly grew to include secondary investors who purchased claims in those banks.

Judges' comments

A number of this year's award entries featured Icelandic banks, but Akin Gump stood out.

"This was a hugely impressive restructuring of three Icelandic banks by Akin Gump's remarkable team in the face of uncertainty and Icelandic capital controls," a judge says. "Their role in setting up a structure and in successfully co-ordinating the diverse stakeholders is hugely impressive."

Another judge says: "They had to learn the law and then teach the law. That is very impressive."