SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

GLITNIR BANKI HF., by and through its Resolution Committee, Winding-up Board and Foreign Representative; and STEINUNN GUÐBJARTSDÓTTIR, solely in her capacity as the duly appointed Foreign Representative of Glitnir banki hf.

Plaintiffs,

– against –

JÓN ÁSGEIR JÓHANNESSON,
THORSTEINN JÓNSSON,
JÓN SIGURÐSSON,
LÁRUS WELDING,
PÁLMI HARALDSSON,
HANNES SMÁRASON,
INGIBJÖRG STEFANÍA PÁLMADÓTTIR,
and
PRICEWATERHOUSECOOPERS HF.,

Defendants.

Index No. 10/601217

COMPLAINT

JURY TRIAL REQUESTED

Plaintiffs Glitnir banki hf., by and through its Resolution Committee, Winding-up Board and Foreign Representative; and Steinunn Guðbjartsdóttir, solely in her capacity as the duly appointed Foreign Representative of Glitnir banki hf. (together, the "Plaintiffs"), through the undersigned attorneys, Steptoe & Johnson LLP, and as for its Complaint against Defendants Jón Ásgeir Jóhannesson ("Jóhannesson"), Thorsteinn Jónsson ("Jónsson"), Jón Sigurðsson ("Sigurðsson"), Lárus Welding ("Welding"), Pálmi Haraldsson ("Haraldsson"), Hannes Smárason ("Smárason"), Ingibjörg Stefanía Pálmadóttir ("Pálmadóttir"),[1] and PricewaterhouseCoopers hf. ("PWC") (collectively, "Defendants"), respectfully state and allege as follows:

[1] Jóhannesson, Jónsson, Sigurðsson, Welding, Haraldsson, Smárason, and Pálmadóttir are collectively the "Individual Defendants."

INTRODUCTION

1. Between April 2007 and February 2008, the Individual Defendants, a cabal of businessmen led by a convicted white collar criminal, Defendant Jón Ásgeir Jóhannesson ("Jóhannesson"), engaged in a sweeping conspiracy to wrest control of Iceland's Glitnir banki hf. ("Glitnir" or the "Bank") and fraudulently drain over USD $2 billion out of the Bank to fill their pockets and prop up their own failing companies. To finance these diversions, the Defendants relied heavily on funds which Glitnir raised through the sale of medium term notes ("MTNs") to investors located in New York and elsewhere in the United States. The Defendants have never repaid the sums they took from the Bank.

2. The Individual Defendants siphoned money out of Glitnir at the worst possible time for the Bank. Having depleted Glitnir's cash reserves after April 2007 by engaging in heavy and improper lending to entities that they controlled (the "Jóhannseson Loans"), the Individual Defendants left Glitnir heavily exposed to the global credit crunch which struck Iceland's markets during the summer of 2007. Prudent management dictated that Glitnir husband its remaining scarce cash, raise standards for lending, and heighten sensitivity to the Bank's exposure to counterparties. Instead, over the ensuing months, the Individual Defendants, acting at the direction of Defendant Jóhannesson, used their control over the Bank and funds raised in U.S. financial markets to issue massive "loans" to, and fund a series of equity transactions with, companies Defendant Jóhannesson controlled in an effort to stave off their eventual collapse and enhance the value of their publicly traded stock (the "Jóhannesson Transactions"). The Jóhannesson Transactions made no economic sense for Glitnir or its creditors and placed the Bank in extreme financial peril.

3. To further the objectives of their conspiracy, and as set forth in greater detail below, Defendant Jóhannesson and his cohorts engaged in various overt acts, including, but not limited to the following: the Defendants a) staffed the Board of Directors and executive offices of Glitnir with their willing accomplices, b) ignored Glitnir's committees designed to oversee and limit the Bank's exposure to risk, c) designed their self-dealing transactions to mask their actual purpose using a blizzard of controlled companies and a stock "parking" scheme, and d) structured the deals without regard for the risk they created for Glitnir. As a direct result, the Individual Defendants knowingly violated by a wide margin clear Icelandic law and Glitnir's stated internal policies regarding financial exposure to related and connected parties. These laws, rules and internal policies were designed to protect Icelandic banks from the very risk inherent in the Jóhannesson Transactions – heavy concentration of financial exposure to a group of interconnected counterparties.

4. As another act in furtherance of their corrupt agreement, the Defendants concealed the truth about the risk they had created for Glitnir when they turned to the United States markets to raise the funds they needed for the Jóhannesson Transactions. In September 2007, for example, the Defendants caused Glitnir to issue USD $1 billion in MTNs to U.S. investors ("September MTN Offering"). Without the proceeds of the September MTN Offering, Glitnir would have been in breach of its internal liquidity rules if the Individual Defendants had pushed forward with the Jóhannesson Transactions. Knowing that Glitnir could not hope to raise these funds if it honestly reported to potential investors its massive and growing exposure to companies controlled by the Defendants, the Defendants chose to hide the truth. The Offering Circular for the September MTN Offering understated Glitnir's exposure to related and connected parties by almost USD $800 million dollars. Not surprisingly, all of the Jóhannesson

Loans and Jóhannesson Transactions defaulted.

5. A report recently issued by the Icelandic Parliament's Special Investigation Commission ("SIC" and "SIC Report") concluded that Glitnir, and Iceland's other two large banks, had been run for the benefit of the individuals who owned and controlled them at the expense of the rest of the banks' shareholders:

> Toward the end of 2007 and in 2008 the banks started to face constraints in their operations. It seems that the boundaries between the interests of the banks and the interests of their largest shareholders were often fuzzy and that the banks put more emphasis on backing up their owners, thus going way beyond normal practices. **The operations of the Icelandic banks were, in many ways, characterized by their maximizing the interests of the larger shareholders, who managed the banks, rather than running solid banks with the interests of all shareholders in mind, where due responsibility was demonstrated toward their creditors.**

(Emphasis added). The Individual Defendants ran Glitnir for their personal interest in just this fashion.

6. The Individual Defendants could not have succeeded in their conspiracy to loot Glitnir without the complicity of Glitnir's outside auditors at PricewaterhouseCoopers hf. ("PwC"). PwC was intimately familiar with Glitnir's related party exposure procedures, knew what Glitnir's true related party exposure was, reviewed and signed off on Glitnir financial statements, which grossly misrepresented Glitnir's related party exposure, and facilitated the Defendants' successful efforts to raise USD $1 billion in New York through the September MTN Offering without disclosing the truth.

7. Glitnir collapsed in 2008 in no small part due to the Jóhannesson Transactions. When it did, the Jóhannesson Transactions and Jóhannesson Loans had cost Glitnir and its creditors over USD $2 billion.

THE PARTIES

8. **Plaintiff Glitnir banki hf.** ("Glitnir") is a public limited company, incorporated in Iceland with its principal place of business at Soltun 26, IS-105, Reykjavík, Iceland. Until its collapse in 2008, Glitnir was a full-service bank, providing corporate banking, investment banking, capital markets, investment management, and retail banking services. From 2005 through its collapse, Glitnir issued more than USD $3.75 billion short and long term notes in the United States.

9. In October 2008, Iceland's Financial Supervisory Authority ("FME") took control of Glitnir and dismissed Glitnir's board in its entirety. The FME appointed a committee to oversee the reorganization of Glitnir (the "Resolution Committee"), the aim of which is to preserve the value of the assets of Glitnir. In November 2008, the Resolution Committee applied for and obtained an order placing Glitnir in an Icelandic insolvency proceeding (the "Moratorium").

10. In May 2009, the Icelandic District Court overseeing the Moratorium appointed a Winding-up Board to supervise the liquidation of the Bank's assets (the "Winding-up Board"). Steinunn Guðbjartsdóttir, Supreme Court attorney, is the "Assistant" appointed by the District Court charged with overseeing the Moratorium and the Resolution Committee's activities with respect to Glitnir and serves as the Chair of the Winding-up Board. To date, over 8,600 claims have been filed by creditors in Glitnir's Moratorium amounting to ISK 3,436,000,000,000 (approximately USD $26,183,165,735) in claims, based on exchange rates as quoted by the Central Bank of Iceland on April 22, 2009, *i.e.*, ISK 131.229 per USD $1.00.[2]

[2] Throughout this Complaint, currency amounts appearing in Icelandic kronor have been converted into U.S. dollars based on the exchange rate in effect as of September 30, 2007, *i.e.*, ISK 61.7255 per USD $1.00.

11. On November 26, 2008, Glitnir filed a voluntary petition for relief under Chapter 15 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York. On January 7, 2009, the Bankruptcy Court recognized the Moratorium as a Foreign Main Proceeding under Chapter 15 and appointed Steinunn Guðbjartsdóttir as the duly authorized Foreign Representative of Glitnir (the "Foreign Representative"). Pursuant to Chapter 15 of the Bankruptcy Code and the Bankruptcy Court's order recognizing the Moratorium, the Foreign Representative is the exclusive representative of Glitnir in the United States and has the authority to sue on behalf of Glitnir in United States courts. The Resolution Committee, Winding-up Board and Foreign Representative have all authorized this litigation.

12. **Defendant Jón Ásgeir Jóhannesson** ("Jóhannesson") is a citizen of Iceland, with an unspecified domicile in the United Kingdom and a residence in Manhattan at 50 Gramercy Park North, PH, New York, New York. His wife is Defendant Ingibjörg Stefanía Pálmadóttir ("Pálmadóttir"). Defendant Jóhannesson has engaged directly and indirectly in a variety of business activities in the United States and, in connection with this U.S.-based business, has been sued in civil courts located in Mississippi, Florida and New York.

13. Defendant Jóhannesson was an officer and/or director of, *inter alia*, the following entities which owned shares of Glitnir and/or were involved in the Jóhannesson Transactions: Baugur Group hf. ("Baugur") (Executive Chairman of the Board of Directors); FL Group hf. ("FL Group") (Chairman of the Board of Directors); BG Capital (Director); Milton ehf. ("Milton") (Chairman of the Board of Directors); Highland Group Holdings Limited ("HGHL") (Director); Highland Group Acquisitions Limited ("HGAL") (Director); and F-Capital ehf. ("F-Capital") (Chairman of the Board of Directors). Defendant Jóhannesson and his wife, Defendant

Pálmadóttir, jointly own 101 Chalet ehf. ("101 Chalet"), which borrowed, and never repaid, approximately USD $30,781,444 from Glitnir.

14. Defendant Jóhannesson, the ring leader of the scheme at issue in this Complaint, has a criminal record in Iceland for corporate misconduct. On June 5, 2008, the Icelandic Supreme Court upheld a May 3, 2007 Icelandic District Court conviction of Defendant Jóhannesson for violating the second paragraph of Art. 262 of the General Penal Code. Defendant Jóhannesson, in his capacity as CEO of Baugur, had caused Baugur to record on its books a USD $589,890 credit note issued by Nordica Inc. to Baugur, which Defendant Jóhannesson knew was "false and ungrounded." The decision upholding his conviction noted that Defendant Jóhannesson:

> had the accounts of Baugur hf. falsified, participated in preparing documents which had no basis in real transactions with other parties, and arranged the accounts so as to give an incorrect picture of business and use of funds by having the company enter as an asset on a holding account ISK 61,915,000 and the same amount recognized as income in an accounting item for so-called group external income; this had been done on the basis of an incorrect and ungrounded credit note of 30 August 2001 from Nordica Inc., in Miami in the U.S., in the amount of USD 589,890.

On May 3, 2007, Defendant Jóhannesson was sentenced in this case to a conditional sentence of three months of incarceration, and, in June 2007, resigned as CEO of Baugur, but did not relinquish control over the company.

15. **Defendant Thorsteinn Jónsson** ("Jónsson") is a citizen of Iceland domiciled in Laufasvegur 73, Reykjavík, Iceland, and was, at all times relevant to this Complaint, Chairman of the Board of Directors of Glitnir. Defendant Jónsson also served as the Vice-Chairman of the Board of Directors of FL Group, Glitnir's largest shareholder. He also had a personal stake in the success of FL Group. He was a one-third owner and member of the Board of Directors of Materia Invest ehf. ("Materia"), which owned approximately 7.19 percent of the shares of FL

Group (as of November 2007) and 100 percent Sólmon ehf. Jónsson also owns 100 percent of Metúsalem ehf., which owns 33 percent of Materia.

16. **Defendant Jón Sigurðsson** ("Sigurðsson") is a citizen of Iceland domiciled in Unnarbraut 17, 170 Seltjarnarnesi, Iceland and was, at all times relevant to this Complaint, a member of the Board of Directors of Glitnir and Deputy Chief or Chief Executive Officer of FL Group. He was also a member of the Board of Directors of Tryggingamiðstöðin hf. ("TM"), which in 2007 was one of Iceland's largest insurance companies and was acquired by FL Group through the use of Glitnir funds in one of the Jóhannesson Transactions.

17. **Defendant Lárus Welding** ("Welding") is a citizen of Iceland and of unspecified domicile in the United Kingdom, and was, at all times relevant to this Complaint, Glitnir's Chief Executive Officer and Chairman of its Risk Committee.

18. **Defendant Hannes Smárason** ("Smárason") is a citizen of Iceland and of unspecified domicile in England. He served on the Board of Directors of Glitnir in March-April 2007. Defendant Smárason was Chairman of the Board of FL Group from 2004 to 2005. He was named its CEO in 2005 and served in that capacity until 2007. Defendant Smárason served again on FL Group's Board from December 2007 through June 2008 and controlled approximately 20 percent of its shares throughout 2007 through two entities he owned: Primus Investments ehf ("Primus") and Oddaflug BV ("Oddaflug"). According to a May 2008 report issued by the Icelandic Competition Authority ("Competition Authority Report"), Defendant Smárason and companies controlled by him "have had considerable economic relations" with Defendant Jóhannesson's Baugur "such that their economic welfare is interlaced."

19. **Defendant Ingibjörg Stefanía Pálmadóttir** ("Pálmadóttir") is a citizen of Iceland of unspecified domicile in the United Kingdom and with a residence at 50 Gramercy Park North,

PH, New York, New York. She is a graduate of the Parsons School of Design in New York City, and Defendant Jóhannesson's wife, business partner and alter ego.

20. According to the Competition Authority Report, Defendant Pálmadóttir is "financially connected to [Defendant Jóhannesson] in the understanding of securities legislation." She served, at all times relevant to this Complaint, on the Boards of Directors of the following companies used by Defendant Jóhannesson to control Glitnir or which were involved in the Jóhannesson Transactions: Baugur, Landic Property hf. ("Landic"), and Thyrping hf. ("Thyrping"). Defendant Pálmadóttir is also the owner of 101 Capital ehf. ("101 Capital"), which was also involved in the Jóhannesson Transactions. Defendants Pálmadóttir and Jóhannesson jointly own 101 Chalet, which borrowed approximately USD $30,781,444 from Glitnir, which it never repaid.

21. **Defendant Pálmi Haraldsson** ("Haraldsson"), is a citizen of Iceland of unspecified domicile in the United Kingdom. Defendant Haraldsson served as Vice-Chairman of FL Group's Board of Directors beginning in December 2007 through 2008. He also owned and served as Chairman of the Board of Directors of Fons Eignarhaldsfélagi ehf., *a/k/a* Fons hf. ("Fons"), and was a Director of FS38 ehf. ("FS38"), a wholly owned subsidiary of Fons. Fons, a major shareholder of FL Group, and FS38 were both involved in the Jóhannesson Transactions.

22. Defendant Haraldsson's history of close coordination with Defendant Jóhannesson is supported by the Competition Authority Report, which found that "Pálmi Haraldsson, the owner of Fons, and companies connected to him have been involved through the years in various investments with Baugur and both companies have holdings in various companies." The Competition Authority Report also concluded that Fons, Baugur and FL Group "have close and common economic interests."

23. **Defendant PricewaterhouseCoopers hf.** ("PwC") is a member of PricewaterhouseCoopers International Limited, part of the largest international audit, financial, tax, and law advisory network in the world. PwC's principal place of business is in Iceland at Skógarhlíð 12, 105 Reykjavík, Iceland. PwC served as Glitnir's external auditor from 2006 through 2008, and performed reviews and issued letters upon which investors specifically relied in connection with the September MTN Offering.

OTHER PARTIES

24. **Baugur hf.** ("Baugur") was an investment company with a focus on retail sales and property ownership and one of the entities through which Defendant Jóhannesson controlled Glitnir and the entities which profited from the Jóhannesson Transactions.

25. Baugur was a Jóhannesson family business. It was founded and principally owned by Defendant Jóhannesson, his father (Jóhannes Jónsson) and sister (Kristín Jóhannesdóttir) through a holding company which they personally owned: Fjárfestingafélagið Gaumur ehf. ("Gaumur"). As of March 2007, Gaumur and its subsidiary, Gaumur Holding SA ("Gaumur SA"), owned 72.3 percent of Baugur, and other Baugur shareholders included Kevin Stanford (8.3 percent) and ISP Holding ehf. (8 percent), which is 100 percent owned by Defendant Jóhannesson's wife and co-defendant, Pálmadóttir.

26. In addition to owning the stock of Baugur, Defendant Jóhannesson controlled its operations and policies, serving as Baugur's Chief Executive Officer from 1998 until June 2007, and as its Executive Chairman of the Board of Directors thereafter. After Defendant Jóhannesson's criminal conviction in May 2007, he stepped down as CEO of Baugur and was replaced by Gunnar Sigurðsson, a loyal ally. Defendant Jóhannesson continued to exercise control over Baugur as the Executive Chairman of the Board of Directors.

27. Defendant Jóhannesson's control over Baugur contributed to his control over Glitnir, because, *inter alia*, Baugur owned controlling interests in FL Group, where Defendant Jóhannesson was Chairman of the Board of Directors, and Jötunn Holding ehf. ("Jötunn"), which, in turn, held substantial interests in Glitnir. Specifically, Baugur owned 100 percent of BG Capital ehf. (now Styrkur Invest ehf.), which, at various times relevant to this Complaint, owned between 18% and 39.7% of FL Group. As of December 2007, Baugur itself owned another 9.54% stake in FL Group. Baugur's control over FL Group included close coordination with other FL Group shareholders. According to the Competition Authority Report: "Baugur, [Defendant] Hannes Smárason, Materia Invest., Sund and Fons control FL Group ... because of the close relations between these companies." Baugur used this control over FL Group to control Glitnir. Indeed, FL Group and Jötunn owned and controlled almost 40% of the stock of Glitnir from April through December 2007. In addition, Baugur owned 30% of Jötunn, which itself owned an additional 5% of Glitnir.

28. Baugur is also key to understanding Defendant Jóhannesson's control in 2007 over the entities which benefited from the Jóhannesson Transactions. As noted, Defendant Jóhannesson and his family owned Gaumur, which controlled Baugur, which, in turn, directly and indirectly owned controlling interests in FL Group and Landic, both of which benefited from the Jóhannesson Transactions.

29. Baugur was once Iceland's largest private company, but by 2007 it was failing. Despite the efforts of Defendant Jóhannesson and the other Individual Defendants to enhance the value of Baugur and its investments using funds diverted from Glitnir, Baugur filed for bankruptcy protection in May 2009, after Glitnir's collapse, and is now being liquidated.

30. **FL Group hf.** ("FL Group"), now known as Stoðir, was founded in 1973 as a diversified Icelandic limited public company which, at various times, owned airline properties including Icelandair and an interest in AMR Corp., the parent of American Airlines.

31. FL Group played a central role in permitting Defendant Jóhannesson to control Glitnir. As noted, throughout 2007, when the Jóhannesson Transactions were being pushed through the Bank, Defendant Jóhannesson was Chairman of the Board of Directors of FL Group, which owned and controlled almost 40% of the Bank's shares.

32. Defendant Jóhannesson and several of the other Individual Defendants had a vested interest in Glitnir supporting FL Group through the Jóhannesson Transactions, to the detriment of Glitnir and its creditors. As noted, Defendant Jóhannesson's Baugur owned a large block of FL Group stock; when Glitnir propped up FL Group and its share price, this directly benefited Baugur and Defendant Jóhannesson. These practices also benefited Defendant Smárason, who owned approximately 20% of the shares of FL Group through Primus and Oddaflug, and Defendant Jónsson, who owned 10.7% of FL Group through his investment in Materia.

33. FL Group was placed into a Moratorium in Iceland in September 2008 and completed its financial restructuring in November 2009.

34. **Fons Eignarhaldsfélagi ehf.**, also known as **Fons hf.** ("Fons") is an Icelandic company owned indirectly by Defendant Haraldsson through a Luxembourg shell corporation, Matthews Holding SA ("Matthews"). At all times relevant to this Complaint, Defendant Haraldsson was the Chairman of the Board of Fons, and used Fons to facilitate the Jóhannesson Transactions. On April 30, 2009, Fons was placed into bankruptcy, and is now in the process of being liquidated.

35. **Jóhannesson Related Parties**, as this term is used in the Complaint, are the companies over which Defendant Jóhannesson exercised direct and indirect control, including, but not limited to Baugur and its subsidiaries, FL Group and its subsidiaries, and Fons and its subsidiaries.

36. **Jóhannesson Borrowing Related Parties**, as this term is used in the Complaint, are the Jóhannesson Related Parties which received Jóhannesson loans during 2007 and 2008.

JURISDICTION

37. This Court has personal jurisdiction over each of the Defendants pursuant to, *inter alia*, CPLR § 302(a) (1)-(3).

38. In addition, this Court has jurisdiction over Defendants Jóhannesson and Pálmadóttir because they maintain a residence in New York County.

VENUE

39. Venue is proper in New York County pursuant to, *inter alia*, CPLR §§ 501, 503, and 509.

STATEMENT OF FACTS

I. Summary of Claims

40. Prior to its collapse in 2008, Glitnir was a full-service Bank headquartered in Reykjavík, Iceland, with offices in ten countries including the United States, providing corporate banking, investment banking, capital markets, investment management, and retail banking to a broad range of customers.

41. At all times relevant to this Complaint, Glitnir had a substantial presence in the United States, in general, and in New York City, in particular. Glitnir has been in North America since 2000. By September 2007, Glitnir had USD $600 million invested in the United States, and planned to increase its investments to USD $1 billion by the end of 2007, and

formalized its presence with the opening of a New York-based subsidiary, Glitnir Capital Corporation. According to a PowerPoint presentation used by Defendants Welding and Jónsson during meetings with Glitnir shareholders, investors and analysts held in Manhattan on September 4-5, 2007, Glitnir had four "main objectives" for its role in the North American market in 2007: a) "establish knowledge of Glitnir and its management in targeted circles [such] as key trade associations and investors," b) "help broaden Glitnir's investor and analyst base," c) "strengthen the Bank's network in the funding environment," and d) "attract international investors and equity to Glitnir."

42. The Individual Defendants, lead by Defendant Jóhannesson, and in furtherance of their conspiracy, intentionally abused Glitnir's ties to the United States markets and its community of investors, to use USD $2.75 billion which Glitnir had raised through its MTN Program and fund the improper "loans" and equity transactions which made up the Jóhannesson Loans and the Jóhannesson Transactions – and ultimately cost Glitnir USD $2.2 billion.

II. Defendant Jóhannesson Gains Control Over Glitnir Bank

43. At all times relevant to this Complaint, Defendant Jóhannesson controlled Glitnir's publicly traded stock, the personnel on its Board of Directors and its senior management.

A. Defendant Jóhannesson Gains Control of Glitnir's Stock

44. Defendant Jóhannesson's efforts to gain control over Glitnir's stock began in 2006 when he caused FL Group, for which he served as Chairman of the Board of Directors, to seek approval from the FME to control a "qualifying holding" of up to 33% of Glitnir's shares. A "qualifying holding," according to the FME, means a "direct or indirect holding of an undertaking which represents 10% or more of its share capital ... or voting rights, or other holding which enables the exercise of a significant influence on the management of the company concerned."

45. The FME requires prior approval of the purchase of a qualifying holding to "prevent large shareholders from exercising the influence that may result from their holding for the purpose of gaining advantage for themselves at the cost of the financial undertaking and of other company shareholders or other customers of the company." The FME has also:

> strongly emphasizes that qualifying holdings in financial undertakings do not give their owners or related parties a different position or benefits other than those enjoyed by general shareholders from the healthy and secure operations of the company in question. In this way, neither the qualifying holding, nor its owners, related parties or elected board members should enjoy any position in the company that exceeds the above, i.e., special business terms, participation in business decisions that concern themselves, related companies or competitors or information about existing business or potential competitors.

46. On January 29, 2007, the FME granted FL Group's application based on FL Group's promise that it would "not exert pressure such that [FL Group would] enjoy on the basis of its holding a more preferential position in Glitnir banki hf. than it would enjoy from its rights in the company as a shareholder."

47. After receiving FME approval for FL Group's "qualifying holding," Defendant Jóhannesson engineered a scheme to further increase the size of his holding in Glitnir without complying with Icelandic law or Glitnir's internal policies. Between March 7 and April 5, 2007, Jötunn and other entities controlled by Defendant Jóhannesson accumulated shares of Glitnir, in furtherance of their scheme to gain control over the Bank.

48. By April 5, 2007, Defendant Jóhannesson's web of companies owned almost 39% of Glitnir's stock – well over the 33% holding authorized by the FME. According to the FME, this scheme to take over the Bank, which the Individual Defendants called "Project Tornado," was designed by its architects to "circumvent the laws and rules that apply to obligations of takeover and also to circumvent the [Glitnir] articles of association." The FME required FL

Group and Jötunn to seek new approval from the FME for this increased qualified holding. In December 2007, the FME denied their joint application after concluding that FL Group and Jötunn were acting in concert to increase their combined control over Glitnir, had attempted to conceal their collaboration from regulators and the public, had tried to circumvent the Icelandic law governing takeovers, and then had lied about it during the FME's investigation.

49. Notwithstanding the ultimate failure of Project Tornado as a covert hostile takeover, at all times relevant to the Complaint, Defendant Jóhannesson controlled almost 39% of the shares of Glitnir and 33% of the voting rights of Glitnir's shareholders and, in fact, did control the Bank.

B. Defendant Jóhannesson Gains Control of Glitnir Board and Senior Management

50. In addition to using FL Group and other companies acting at his direction to gain control over Glitnir's publicly traded stock, Defendant Jóhannesson stacked Glitnir's Board of Directors with individuals who had connections to the companies he controlled and had his inexperienced hand-selected candidate for chief executive officer ("CEO") replace Glitnir's 10-year veteran CEO.

51. The takeover of the Board occurred first. In April 2006, as Defendant Jóhannesson began to build FL Group's investment in Glitnir, Defendant Sigurðsson was appointed to the Board of Directors of Glitnir. Defendant Sigurðsson was also the Deputy Chief Executive Officer of FL Group. One year later, Defendant Jóhannesson completed his takeover of the Board.

52. On April 30, 2007, Glitnir convened an "emergency shareholders meeting" at which the then current Board of Directors, having been elected for a one-year term only two months earlier, was deposed. At the emergency shareholders meeting, five of the seven recently elected

directors, including the Chairman of the Board, were all replaced. The new Board consisted of the following seven individuals, almost all of whom were affiliated with companies controlled by Defendant Jóhannesson:

- Defendant Jónsson – Chairman of the Glitnir Board of Directors and Vice Chairman of the Board of Directors of FL Group;
- Defendant Sigurðsson – Member of the Glitnir Board and Deputy Chief Executive Officer of FL Group;
- Skarpedinn Berg Steinarsson – Member of the Glitnir Board, and, at various times: Member of the Boards of Directors of Baugur, FL Group (past Chairman) and Landic, and CEO of Landic;
- Pétur Guðmundarson – Member of the Glitnir Board and outside attorney from LOGOS for both Glitnir and FL Group;
- Björn Sveinsson – Member of the Glitnir Board and CEO of Saxbygg, a shareholder of Glitnir;
- Haukur Gudjonsson – Member of the Glitnir Board; and
- Katrin Petursdóttir – Member of the Glitnir Board, Member of the Board of Directors of TM, and, later, Member of the Board of FL Group.

53. Having secured control of the Glitnir Board of Directors, Defendant Jóhannesson arranged for his candidate for CEO to replace Glitnir's veteran CEO. On April 30, 2007, at a meeting of the Board of Directors immediately following the "emergency shareholders meeting," the Board of Directors appointed Defendant Welding as Glitnir's new CEO and Chairman of Glitnir's Risk Committee. In these two positions, Defendant Welding was able to control the daily operations of Glitnir and the Risk Committee loan approval process. He used this control to usher through each of the Jóhannesson Transactions.

54. Defendant Jóhannesson recruited Defendant Welding to join Glitnir. Defendant Jóhannesson also played an integral role in negotiating the terms of Welding's compensation and the terms of the departure of Glitnir's outgoing CEO, Bjarni Armannsson ("Armannsson").

Defendant Jóhannesson's role in discussions with Armannsson were so involved that testimony offered before an Icelandic court, reviewing the propriety of the terms of the separation agreement, demonstrated that Defendant Jóhannesson had functioned as a "Shadow" or *de facto* Member of the Board of Directors of the Bank.

55. Defendant Jóhannesson selected Defendant Welding despite the fact that his most recent professional experience involved responsibilities which paled in comparison to those required to run a bank of Glitnir's size. In April 2007, Glitnir was one of Iceland's three largest banks with 1,900 employees in ten countries, a market capitalization of approximately USD $7 billion and total assets of approximately USD $40 billion. Defendant Welding's most recent prior employment was as the London branch manager of another Icelandic bank where he supervised approximately 75 employees.

56. Despite a professional career that left him underqualified, at best, for the positions he assumed at Glitnir, Defendant Welding was paid extraordinarily well. Between his signing bonus, annual salary, so-called "special payments," guaranteed annual bonus, and stock option deal, Defendant Welding was promised a compensation package for his first year of work worth more than USD $10 million. By comparison, in 2006, the outgoing CEO, Armannsson, who had run Glitnir for ten years, was paid a total of USD $3.3 million.

57. Defendant Jóhannesson, having put his man in the CEO's chair, then controlled his activities until the Bank collapsed in 2008, closely collaborating with Defendant Welding on the management of Glitnir bank – often simply sending Welding emails with instructions on how to run the Bank – and the conceptualization and implementation of the Jóhannesson Transactions in total disregard of FME requirements. In a June 20, 2007 email to Defendant Jóhannesson, Defendant Welding acknowledged the reality of their relationship when he responded to detailed

instructions from Defendant Jóhannesson by complaining that Defendant Jóhannesson was treating him "more like a branch manager than the CEO."

58. Thus, within only a few short months after obtaining approval from the FME to control a "qualifying holding" of up to 33% of the shares of Glitnir, Defendant Jóhannesson and the Individual Defendants in reality had secured virtually complete control over the affairs of the Bank.

III. Glitnir Lending to Jóhannesson Related Parties

59. Having secured control over Glitnir, the Individual Defendants immediately abandoned any pretense that their control over the Bank would not be used to their advantage and at the expense of Glitnir, its other shareholders and the creditors of the Bank.

60. The SIC Report's recent conclusions offer stark proof that Defendant Jóhannesson, having completed his campaign to control Glitnir and acting in concert with the other Individual Defendants, abused this control to divert billions of dollars of Bank assets to benefit the Jóhannesson Related Parties, which were never repaid to the Bank:

> At Glitnir Bank hf. the largest borrowers were Baugur Group hf and companies affiliated with Baugur. The accelerated pace of Glitnir's growth in lending to this group just after mid-year 2007 is of particular interest. At that time, a new Board of Directors had been elected for Glitnir since parties affiliated with Baugur and FL Group had significantly increased their stake in the bank. When the bank collapsed, its outstanding loans to Baugur and affiliated companies amounted to over ISK 250 billion (a little less than EUR 2 billion). This amount was equal to 70% of the bank's equity basis.

A. Lending to Jóhannesson Related Parties - Generally

61. From May 1, 2007 through the end of the year, the Individual Defendants engineered the Jóhannesson Loans and Jóhannesson Transactions which were designed solely to support the Jóhannesson Related Parties without regard for the impact of these transactions on Glitnir.

62. The Jóhannesson Loans extended by Glitnir to the Jóhannesson Borrowing Related Parties, provide some sense for the magnitude of the redirection of Glitnir's resources to support the ventures of the Individual Defendants. Between April 1 and December 31, 2007, Glitnir "loaned" USD $2.2 billion to the Jóhannesson Borrowing Related Parties. During this nine month period, the total amount of the Jóhannesson Loans equaled approximately 26 percent of the total amount that Glitnir loaned to corporate customers of the Bank, and the Jóhannesson Borrowing Related Parties accounted for eight of the top 13 of Glitnir's largest borrowers.

63. The Jóhannesson Loans were made possible by, *inter alia*, the Individual Defendants circumventing Glitnir's internal lending procedures, which were designed to limit Glitnir's exposure to counterparty risk. The lending also was made possible by the Defendants' failure to comply with Icelandic law, and Glitnir's internal policies, governing the limits on financial exposure of a financial institution to a group of connected parties.

B. The Defendants Abandoned Glitnir's Internal Lending Procedures

64. Glitnir had a well established system of committees, procedures and deal flow designed to minimize Glitnir's exposure to credit counterparties – most of which were ignored or circumvented by the Individual Defendants to facilitate lending to the Jóhannesson Related Parties.

1. Glitnir Risk and Credit Committees

65. In 2007, Glitnir's Risk Committee was responsible for supervising and monitoring Glitnir's credit, market and counterparty risk, and governed Glitnir's credit policies and procedures. At all times relevant to the Complaint, the Chairman of the Risk Committee was Defendant Welding.

66. The Risk Committee, which met once a month, had authority to approve all lending over the limits of the Regional credit committees and was required to approve any lending over 10% of the Bank's "CAD equity" – a gauge of the Bank's available cash – and all lending by Glitnir to "Related Parties." All Risk Committee decisions were required to be documented.

67. Historically, the Glitnir Risk Committee was widely considered within the Bank to be independent and respected. An individual member's objection to a proposed transaction was generally sufficient to block a transaction, if he/she considered it to be inconsistent with Glitnir's interests.

68. Pursuant to Glitnir's Credit Manual, "if the nature of the matter is such that the decision cannot wait until the next regular Risk Committee meeting," approval of credit proposals could take place outside of the Risk Committee's scheduled meetings. Such proposals had to be approved by at least two Risk Committee members, of whom one had to be either its Chairman or Vice-Chairman.

2. Glitnir Procedures for Counterparty Credit Risk Assessment

69. Glitnir's decisions to lend were supposed to be based on a formal risk assessment of each potential borrower, its financial standing, creditworthiness, credit history and other relevant information. Under Glitnir's Credit Risk Policy, new loans were not to be made to customers that were in default, which included customers that had missed payments, broken loan covenants, violated terms of any of their existing agreements with Glitnir, missed a margin call or were the subject of any other event that indicated that the customer's repayment ability was impaired.

70. According to Glitnir's Credit Rating Manual, Glitnir assigned credit risk ratings from 1 to 10 for its customers – 1 being the lowest possible risk and 10 being the highest. Long term exposures, according to Glitnir's Credit Risk Policy, were to be strictly limited to parties in

risk classes 1 to 5, based on Glitnir's risk assessment model. Entities in default were to be put in risk category 9 and then 10, when it became clear that they would be uncollectible.

71. The risk classes were defined in detail. Class 8, for instance, included "Entities with acceptable financial standing and unstable market position, short or unstable history, *e.g.* high gearing and low equity, increased probability of default." Class 10 was defined as a default class which included the following sorts of parties: "Default class, weak financial standing, negative equity position, insufficient cash flow, unacceptable market position, probability of default high and/or specific impairment."

72. In the Credit Rating Manual, "default" was specifically defined. A payment default of 90 days or longer resulted in classification in Class 10. Parties who had not been rated were to be placed in Class 9.

73. Glitnir's Credit Manual also specifically states that Glitnir was to always seek to minimize its credit risk by acquiring satisfactory collateral to ensure repayment of loans and collateral was to be assessed at the lower of the following two values: the purchase price of the collateral or the market value of the collateral. Moreover, it states that as a general rule, Glitnir was to obtain an independent assessment of collateral, and that caution was to be exercised in assessing guarantors and their financial situation, with regard for the amounts and maturity of claims.

74. Finally, Glitnir's Credit Manual dictated that Glitnir was supposed to follow the "one-name one-limit" credit policy; meaning that the customer's "consolidated exposure within Glitnir as well as the customer's financially related parties" were all to be considered as one in terms of ensuring that the customer stayed within its lending limits.

3. Glitnir Loan Processing Enhanced Credit Risk Evaluations

75. According to Glitnir's Credit Manual, lending decisions were supposed to be supported by a step-by-step process beginning with the local branch managers and, to the extent the loan request exceeded the local credit limit authority, then moving to the appropriate credit committee.

76. The Credit Manual describes the role of individual credit committees and gives an overview of the lending process and risk analysis, as well as the role of the credit manager. It states, for instance, that credit managers were experts in financial and risk analysis, who were responsible for the risk analysis and overall exposure of the Glitnir clients assigned to them.

77. The Credit Manual further states that the credit manager was to make every effort to ensure that a client was capable of fulfilling its contractual obligations to the Bank. The following duties of the credit manager were listed specifically:

- assess the creditworthiness and financial data in connection with risk assessment of credit applications;
- prepare and draft credit proposals to be dealt with by the Credit Committee, including risk classification of borrowers, data gathering, valuation of collateral and proposing credit limits; and
- monitor loans and reassess credit risk in accordance with the guidelines of the Risk Committee.

78. Moreover, according to Glitnir's internal rules, a credit manager was to review information on clients who were placed in the classification process and ensure that all the information was correct. It was also the task of the credit manager to ensure that the premises for classification were correct in the Bank's systems and to present them to the Credit Committee concerned.