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Israeli banks will be required to adopt more flexible policy on receiving funds deriving from cryptocurrency activities

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› **Background**

› **Amendment**

› **Comment**

On 10 March 2022, the Bank of Israel published a new draft of an amendment to the Proper Conduct of Banking Business Directive.⁽¹⁾

The amendment will prohibit Israeli banks from implementing a practice of complete refusal to receive into clients' bank accounts amounts of fiat funds (ie, money that is a legal tender) deriving from cryptocurrency activities, without a specific cause.

Background

In recent years, individual investors or traders, fintech companies and market makers, among others, have increasingly been seeking a way to transfer funds derived from legitimate activities in cryptocurrencies into the traditional, regulated financial system.

Israeli banks do not usually allow for funds derived from activities in cryptocurrencies to be transferred to accounts. This is mainly because of the banks' concerns relating to the potential money laundering and terrorism financing matters that might be associated with this type of activity, due to:

- the anonymity embedded in some cryptocurrencies;
- the fact that many digital wallets are opened with no "know-your-customer" process; and

- the ability to use blockchain to make cross-border wire transfers of significant amounts without any regulatory oversight.

However, activities in cryptocurrencies and blockchain-based systems may, of course, include legitimate and legal activities and have significant technological and business potential.

Amendment

In this environment of increasing volume of activity in cryptocurrencies on the one hand, and the restrictions imposed by the Israeli banks on the other hand, the Bank of Israel has published its draft amendment to the Proper Conduct of Banking Business Directive.

The draft amendment explicitly prohibits banks from refusing to accept funds into a client's bank account for the sole reason that such funds originated from a cryptocurrency activity, provided that the funds are being transferred from a licensed cryptocurrency service provider.

Israeli banks will be required to conduct a risk assessment and establish policies and procedures for remittances of funds originating or linked to cryptocurrencies, taking into account a risk-based approach and the identity of the cryptocurrency service provider.

If the amount that the bank is being asked to receive exceeds 100,000 new Israeli shekels, the bank is also required to find out the source of the funds used to purchase the cryptocurrency (or finance the mining thereof) and the path of the cryptocurrency, emphasising the identity of the transferors and transferees of the cryptocurrency until the exchange to fiat and its deposit in the client's bank account.

In addition, when a client transfers funds to a cryptocurrency service provider, the bank corporation will be required to disclose to the client its policy regarding the receipt of funds originating from activities in cryptocurrencies. The bank will be required to clarify to the client the implications of this policy, including whether the client will be allowed to return funds from this service provider to the bank account and under which conditions.

Smaller Israeli banks (ie, those that are not the five major banks) will be eligible for relief in relation to these provisions.

Comment

This amendment to the directive could be a milestone in terms of the readiness of Israeli banks to provide services to their clients who hold cryptocurrencies. To date, Israeli banks have effectively presented a uniform position, which almost completely ruled out the provision of such services, except in a few cases where the source of funds was significant or where they were required to do so according to court rulings.

In fact, as soon as the draft amendment to the directive is adopted, the Bank of Israel will oblige each bank to determine the conditions under which it will be willing to allow the receipt of funds arising from cryptocurrency activities into the client's account with the bank.

The proposed draft was circulated for comments to the Banking Advisory Committee and the public.

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Endnotes

(1) No. 411 (Prevention of Money Laundering and Financing of Terror, and Customer Identification).