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Regulators Aligning Positions on Providing Consumer Credit to Private Individuals – Bank of Israel and the Capital Markets Authority Co-Publish Draft Guidelines

On February 19, 2020 and on April 1, 2020, the Banking Supervision Department of the Bank of Israel, along with the Capital Market, Insurance and Savings Authority of the Ministry of Finance, co-published draft guidelines for the public's review **in order to establish and determine unified standards for the activity of banks, payment card companies and non-bank credit providers regarding the provision of consumer credit.**[1]

In brief, the guidelines, if implemented, will require consumer credit providers **to determine criteria for extending credit to households, maintain adequate behavior toward clients and prevent aggressive marketing practices for providing credit.** We have provided the highlights of the published drafts below.

The Board of Directors' and Management's Role

According to the draft guidelines, the Board of Directors is responsible for outlining a consumer credit management strategy and supervising its implementation. Based on this strategy, management will outline the credit policy and the appropriate procedures, and will track its compliance and implementation.

Consumer Credit Policies of Consumer Credit Providers

Pursuant to the draft guidelines, consumer credit providers will determine policies regarding the following topics, *inter alia*:

- **Determining binding criteria to extending consumer credit** in order to evaluate the borrower's solvency;
- **Policies on gathering financial information** about the borrower in order to extend credit. The financial information will be gathered from both internal and external sources (e.g. information from the Bank of Israel's Credit Data System and additional information the borrower will be asked to provide). The scope of necessary information will be adjusted according to the level of credit and degree of familiarity with the borrower;

- **Determining quantitative measurements and minimum requirements for evaluating the borrower's solvency capability**, for example: minimal available monthly income; maximum ratio between monthly returns and available income; maximum ratio between the total loan and annual income;
- **Clear definition of the target audience for initiated marketing** and defining clear characteristics of customer groups that will not be targeted for initiated marketing (inter alia, based on the customer's level of credit risk or age);
- **Mechanisms for determining goals, evaluation and remuneration for employees dealing with initiated credit marketing**, that will ensure fair conduct toward clients and will not encourage aggressive marketing of credit. Pursuant to the draft guidelines, mechanisms based on personal goals or unit-wide goals based on the scope of credit provided as a single parameter may lead to marketing that does not meet the necessary standards of fairness toward clients.

Marketing Consumer Credit

Pursuant to the draft guidelines, credit providers must adopt appropriate practices to market credit **and prevent aggressive marketing and pushing clients to make decisions regarding taking credit**. The draft guidelines determine that marketing calls should be conducted according to pre-prepared scripted calls, while providing full disclosure including disclosure, from the beginning of the call, regarding the purpose of the call, the identity of the marketing entity and additional material details. The draft guidelines also state that the client should be able to cancel their credit deal during the three business days following the granting of the loan, without commission, and to prevent initiated calls to clients who have already negatively responded to a similar credit offer in the past, for three months.

The draft guidelines also determine conditions related to the point of sale where credit is marketed (not apropos the purchase of a product, meaning – "marketing credit for any purpose"). It was determined, for example, **that marketing credit for any purpose must be conducted at a dedicated site** (which is not the cash registers), and this credit will be provided only upon explicit consent of the client via an additional means (e.g digital or telephone) **and not during the same instance.**

Credit Approval Procedures

Pursuant to the draft guidelines, **underwriting processes will generally be based on the borrower credit risk models, appropriate procedures and operating systems for analyzing data and making cautious credit decisions.** Credit providers must evaluate the borrower's solvency and the general burden of debt borne thereby as determined in the policy document, while adjusting the scope of credit to the quality level and up-to-datedness of the information it is about (provision solely of an affidavit by the borrower, for example, would be considered as a low level of quality). Additionally, the guidelines determine that a credit provider may not replace the need to evaluate borrower's financial strength with the creation of security interests over a collateral.

The bottom line is that it seems the regulatory strategy co-led by the Banking Supervision Department and the Capital Market, Insurance and Savings Authority, is meant to benefit clients while simultaneously expected to impose significant obligations on various credit services providers.

For further information please contact:

Elite Elkon, Partner
elkon@gornitzky.com

Alon Peled, Partner
alonp@gornitzky.com

Rafael Shafransky, Associate
rafaels@gornitzky.com

[1] Consumer credit is defined by the draft guidelines as credit that does not exceed NIS 1,197,707, and that the aggregate of such credit together with other credit provided to the client, does not exceed NIS 5 million; and in any case, other than credit provided for residential purposes