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Ministry of Justice publishes draft amendment to Israeli Banking Law aimed at expanding funding sources for non-bank credit corporations

The Ministry of Finance recently published a memorandum proposing amendments to the Banking (Licensing) Law 1981 (the "Banking Law"), which goal is to expand the optional funding sources for non-bank credit corporations. The memorandum is open for comments from the public until October 23, 2020.

One of the main sources of funding for banks is public deposits. While banks benefit from the low cost of using deposits from the public as a source of credit, non-bank credit corporations are not allowed to do so and they are forced to locate more expensive sources of financing. Consequently, banks enjoy a built-in competitive advantage.

Therefore, in order to enable non-bank credit corporations to raise inexpensive sources of finance so as to increase the supply of credit to households and small businesses in Israel, several amendments to the Banking Law have been made during the years. These amendments aimed to allow non-bank credit corporations to finance themselves by raising debt from the public subject to certain restrictions.

For instance, the Banking Law stipulates that a non-bank credit corporation may raise debt from the public (by way of issuing Certificates of Indebtedness) in an amount not to exceed NIS 5 billion. Examples of other restrictions are the prohibition prescribed by the Banking Law on a non-bank credit corporation which raises debt from the public to provide credit to corporations whose annual income in the year prior to the date of the provision of the credit does not exceed NIS 400 million. In addition, the Law restricts a non-bank credit corporation from providing credit for the purposes of housing that is collateralized by residential property. Furthermore, Certificates of Indebtedness issued by a non-bank credit corporation to the public are required to comply with certain minimum credit rating requirements.

The purpose of the memorandum recently published by the Ministry of Finance is to continue and increase sources of finance available to non-bank credit corporations so as to improve the supply of credit to the public and thus improve the ability of non-bank credit corporations to compete with the banks.

The published memorandum proposes to remove the above-mentioned restrictions to provide credit to corporations whose annual income exceeded NIS 400 million, the provision of housing credit collateralized by residential property, and the requirement for Certificates of indebtedness issued by a non-bank credit corporation to have a minimum credit rating. The repeal of these restrictions will apply to all non-bank credit corporations.

Another proposed relief is to expand the amount of debt that a non-bank credit corporation may raise through Certificates of Indebtedness up to NIS 15 billion (instead of NIS 5 billion cap currently existing). Such a corporation will also be able to raise debt through "Commercial Papers" (as such term is defined in Israeli Securities Law) that allow to raise debt from the public for short-term periods of up to a year (provided that payment date is no earlier than two hundred and seventy days from the date of the offer) and which enjoy more convenient terms for issuance.

However, relief regarding the expansion of the volume of credit raised from the public and the option of raising debt through Commercial Paper are applied by the memorandum only to non-bank credit corporations who are regulated with respect to their capital adequacy and liquidity. In light of this limitation, and noting that the Capital Market Authority has not imposed liquidity and capital adequacy requirements on non-bank credit corporations which it supervises (although it has the power to do so) it appears that only payment card companies (which are supervised by the Bank of Israel and subject to such requirements) are expected to benefit from the said relief.

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