

Crypto; FinTech; Regulation;

Banking services for cryptocurrencies - is the change in sight?



On November 9, 2022, the amendment to the Proper Conduct of Banking Business 411 Directive (which governs the obligations applied to Israeli banking corporations for anti-money laundering and financing of terrorism), adopted by the Supervisor of Banks in May 2022, came into force (the “Directive”).

The Directive regulates the conduct of banking corporations regarding payment services related to customer activity in virtual currencies. The Directive states that banking corporations are required to perform a specific risk assessment with respect to activity in virtual currencies. The risk assessment must take into account the unique characteristics of the said activity, such as the degree of anonymity of the clients. Additionally, prior to the entry into force of the Directive, banking corporations must adopt proper policies and procedures that reflect a risk-based approach. The Directive also states that Israeli banking corporations **will not be allowed to refuse to provide payment services solely due to the fact cryptocurrency is involved.**

Accordingly, the main Israeli banking corporations published their policy documents, specifying the conditions of each bank for the purpose of receiving funds deriving from cryptocurrency activity, and the list of entities approved for such activity by the bank (and in some cases even the list of approved currencies).

The banks’ policies¹, present a wide range of approaches. Several policies detail the approved list of currencies and the approved list of supervised foreign and Israeli entities, while others have taken a somewhat “vague” approach and have provided a general outline without going into detail. It is also important to note that all banks require a comprehensive examination of the activity and the pathway of the virtual currencies, including among others – a profound understanding of the customer’s activity, obtaining references regarding the source and pathway of the funds used for the activity or for purchases, sales or transfers of the assets, income tax reports and the identification of the parties involved in the activities.

¹ Please see for example: [Yahav Bank](#); [Discount Bank](#); [Ha’Poalim Bank](#); [Leumi Bank](#); [Mizrahi Tefahot Bank](#) (written in Hebrew).

In addition, banks may require an inspection report/an external expert opinion (by a field-specialized law or accounting firm), referring to the activity and references mentioned above, as well as a confirmation of conducting computerized system inspections of the "anonymous" movements of currencies.

Only time will tell if, as a result of the abovementioned policies, it will be easier to conduct activities in virtual currencies in Israel. However, it is advised for clients who intend to transact with virtual currencies or clients who already possess such currencies and wish to convert the currencies into FIAT, to take appropriate steps in advance to comply with the requested references, with the assistance of a proper consultant.

In that respect, on November 7, 2022, the Supervisor of Banks published, for public comments, [a draft letter and a draft update to Proper Banking Procedure Directive 310](#) regarding risk management, and in particular, critical risks related to activity in the field of cryptographic assets.

The position of the Supervisor of Banks is that a banking corporation must cautiously address the consideration of activity in the crypto field; among others, the corporation must examine whether the requested activity is part of the bank's legally permitted activities; demonstrate its ability to undertake the activity in a secure and sound manner, and to report in writing to the Supervisor of Banks prior to the start of the activity. The Supervisor may request the banking corporation for additional information necessary for the assessment of the impact of the activity on the stability of the banking corporation, as well as for the consumer protections that will be implemented.

The recent events in the cryptocurrency market will surely also affect the banks' risk assessments on these matters.

Please feel free to contact and consult our experts with any questions that you may have in relation to activities in virtual currencies and cryptographic assets within the banking system or elsewhere.



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