



September 13, 2017

Circular no. C-06-2538

Attn:

The banking corporations

Re: Mortgage consultants

(Proper Conduct of Banking Business Directive no. 329A)

Introduction

1. The mortgage consulting sector has grown markedly in recent years, and is connected to the rise in mortgage loan volume alongside the increase in the number of options and the complexity of loan tracks offered to customers by banking corporations. For customers who opt for it, mortgage consultants assist customers when making a significant decision. The consultants also contribute to enhanced competition among banks by virtue of the comparison they conduct for customers of the loan terms at several banks and by assisting them in taking out the loan that is appropriate for their needs.
2. Mortgage consultants are not required to have a license and their activity is not supervised, and thus nearly anyone can be a mortgage consultant (in contrast to investment advisors). However, a banking corporation needs to take into account that the consultant represents the customer only and therefore has a fiduciary obligation to the customer which is based in law and the consultant must act in accordance with its provisions. Thus, it should not be expected or required that the consultant promotes the interests of the banking corporation.
3. In the past year, the Banking Supervision Department has received findings on fraud carried out by entities presenting themselves as mortgage consultants. As a result, some banks acted to change the generally accepted policy, and the procedures derived from it, regarding their activity vis-à-vis mortgage consultants, and the change raised concern of an adverse impact on the consultants' activity, and as a result, on the customers who ask that the consultants represent them.
4. In view of this, the Banking Supervision Department decide to publish this Directive presenting the principles for working with mortgage consultants as a related Directive to no. 329—"Limitations on extending housing loans". The publication of a designated Directive on the issue of mortgage consultants emphasizes the importance that the Banking Supervision Department places on the activity of consultants who assist customers to take a loan that is appropriate for their needs and who contribute to enhancing competition among banks by virtue of the comparison they carry out for customers. The principles were formulated in collaboration with the Israel Antitrust Authority in view of the examinations it conducted on competition in the mortgage

industry, the activity of mortgage consultants in the interface with banks, and the banks' considerations in working with them.

5. After consulting with the Advisory Committee on Banking Matters and with the approval of the Governor, I have established the following Proper Conduct of Banking Business Directive, as detailed below.

Main points of the Directive

Application (Section 5)

6. The Directive applies to banking corporations excluding joint services companies.

Definitions (Section 6)

7. The Directive defines "representative" as a delegate of a customer with regard to taking out a housing loan. The definition of a housing loan is taken from Directive 329—"Limitations on issuing housing loans".

Corporate governance (Sections 7 and 8)

8. The sections detail the functions of the board of directors and of management regarding the banking corporation's activities with customer representatives in extending housing loans.
9. The board of directors is required to establish policy and work processes for activities with customer representatives, which will relate to the following issues:
 - a) Criteria by which the bank will not work with certain representatives, provided that the criteria don't include business considerations;
 - b) The obligation to receive explicit authorization from the customer for the representative's activity and the types of activity that the representative is permitted to carry out for the customer;
 - c) The banking corporation's responsibility to manage risks and to comply with the Directives of the Supervisor of Banks, including customer protection, notwithstanding the customer's decision to act via a representative;
 - d) Establishing the situations during the process of taking out the loan in which the customer's presence is required ;
 - e) Establishing procedures for sending documents to the customer through the representative
10. The policy is to be submitted to the Banking Supervision Department so that it will be able to examine if the banking corporation's activity vis-à-vis customers' representatives allows the banking corporation to manage its risks in an appropriate manner while at the same time allowing the customer to be represented by a representative in the process in which important economic decisions have to be made.

Relationship with mortgage consultants (Section 9)

11. A general principle was set under which a banking corporation is not to act vis-à-vis representative in any stage of the process of taking out a housing loan,

except when the banking corporation establishes that it will not work with a certain representative, in accordance with the criteria set in the policy.

12. In establishing the criteria as noted above, the banking corporation shall not include business considerations, as detailed in the Directive, except those referring to a reasonable concern of negative impact to the bank or customer, and in particular, a concern of fraud or impropriety of the actions carried out by the representative.
13. If the banking corporation decides not to work with a specific representative, it should document the decision and send it to the representative, to the extent possible, in writing and as close as possible to the date of the decision, detailing the considerations that led to the decision.
14. A banking corporation is permitted to establish in its procedures when the presence of the customer is required during the process of taking out the loan, and in such cases the representative will not be able to act on his own vis-à-vis the banking corporation.
15. A banking corporation shall not pay representatives and shall not provide them with benefits directly or indirectly and shall clarify to the customer that the representative does not work on the bank's behalf.

Start

16. This Directive shall go into effect on October 31, 2017.

Revised file

17. Update pages for the Proper Conduct of Banking Business Directive file are attached. Following are the provisions of the update:

Insert page	Remove page
(9/17) [1] 329A	

Respectfully,

Dr. Hedva Ber

Supervisor of Banks