

Customer Service against the Background of Sanctions Regimes

Introduction

1. The Banking (Service to the Customer) Law, 5741-1981, requires a banking corporation to allow any customer to open and manage a current account with a credit balance provided there is no reasonable cause to withhold said service.
2. In recent years, there has been growing use by states and international organizations of various types of financial sanctions, as a judicial enforcement tool used for various objectives and that serve as a means of pressure and deterrence in the international arena.
3. Circumventing foreign sanction regimes through the Israeli banking system exposes the banking corporations to various risks that they are required to manage. These include compliance risks, AML/CFT risks, legal risks, and reputation risks. Managing these risks impacts on the relations between the banking corporation and its customers.
4. Given the impact of various sanction regimes on customers of the Israeli banking system and as the Banking Supervision Department wants to ensure the provision of appropriate banking service, I found it correct to promulgate this Directive in respect of the requirements imposed on the banking corporations in all that relates to the risk management and the providing of banking services to customers.
5. Nothing in this Directive shall derogate from any lawful obligation of a banking corporation, including obligations pertaining to risk management and provision of customer service.

Incidence

6. This Directive shall apply to a banking corporation as defined in the Banking (Service to the Customer) Law, 5741-1981.

Definitions

7. In this Directive—

“The Banking (Service to the Customer) Law”	The Banking (Service to the Customer) Law, 5741-1981
“The Payment Services Law”	The Payment Services Law, 5779-2019
“Customer”	As defined in the Banking (Service to the Customer) Law, 5741-1981
“Sanction lists”	Lists of international sanctions, including sanction lists of intergovernmental organizations (IGOs) and lists of national sanctions of foreign countries.

Risk-management policy and provision of service to customers

8. (a) A banking corporation must have in place a policy and procedures pertaining to way various sanction lists may be used, and shall assess the risks of breaching the sanctions or misuse of the banking corporation in order to circumvent these sanctions, including

compliance risks, money laundering and terror financing risks, legal risks, and reputational risks. Said assessment of risks shall be carried out as part of the risk-management processes specified in Proper Conduct of Banking Business 310, “Risk Management.”

- (b) When formulating the policy and procedures referenced in Subsection (a), banking corporations shall also relate to aspects of providing service to customers, including customers associated with entities appearing on the lists. Within this generality, such policy of the banking corporation shall include reference to the contents of Sections 10 and 11 of this Directive.
 - (c) The contents of this Section shall not derogate from the bank’s obligation to establish policy and procedures concerning the manner of use of lists as set forth in Proper Conduct of Banking Business 411, “Management of Anti-Money Laundering and Countering Financing of Terrorism Risks.”
9. When establishing such policy, banking corporations shall ensure that they have the requisite expertise to assess the risks that flow from sanction lists, including by using outside experts on sanction lists and foreign law, as required.

Obligations relating to customer service

10. In view of the contents of Section 2 of the Banking (Service to Customer) Law, a banking corporation shall not manage risks by sweeping avoidance, from the outset, of providing the services to the customers generally and to customers who appear on relevant sanction lists particularly.
11. If a banking corporation decides to restrict a customer’s financial activity or refuse to honor a customer’s request to carry out a given transaction as part of the implementation of a risk-management policy determined in accordance with this Directive (in this section: “the Decision”), it shall:
- (a) share the Decision with the customer in writing as expeditiously as possible and shall explain it in detail, subject to any law;
 - (b) If the banking corporation conditioned the providing of the service or the carrying out of the action on documents being presented by the customer or on clarifications being provided, it shall take care that these are in fact necessary, and shall detail them in the framework of the decision;
 - (c) Within the framework of the Decision, the banking corporation shall notify the customer of the types of transactions they may carry out and explain to them the channels of service on which such transactions may be taken.

Reasonable refusal

12. Refusal to give service to a customer, including refusal to enter into a contract or termination of a contract, due to the application of a risk-management policy relating to the use of sanction lists as set forth in accordance with this Directive, shall not be considered unreasonable refusal to provide service for the purposes of the Banking (Service to Customer) Law.

Updates

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Details
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