



YIGAL ARNON & Co.

L A W F I R M

Legal Update – Israel – December 2015

Israeli Regulator Requires Pension Funds and Insurance Companies to Document their Derivatives Transactions under ISDA Master Agreement.

The Israeli Director of Capital Markets, Insurance and Savings issued recently a Position Paper addressing transactions in derivatives entered into by "Institutional Entities" as this term is defined in the relevant legislation, namely insurance companies and companies managing pension funds.

The Position Paper states that Institutional Entities will now be required to establish an appropriate legal infrastructure for entering into and implementing transactions in derivatives, by way of executing an ISDA Master Agreement with the counterparty. An additional requirement is to adopt procedures that will regulate the activities of the Institutional Entity in this area, for the purpose of protecting the savers' funds managed by the Institutional Entity, reducing the counter-party's credit risk, increasing transparency and improving the operational infrastructure in this area.

In the framework of such procedures, an Institutional Entity is required to conduct independent weekly examinations of the value of the contracts and to implement appropriate monitoring measures with respect to the various contracts.

An Institutional Entity managing the investment of its savers' funds through another institutional entity must ensure that such other entity has entered into an ISDA Master Agreement prior to investing the funds in derivatives.

The Position Paper explains the background for the new requirements as follows: The increase in the volume and diversification of the portfolios managed by Institutional Entity is associated with an increase in the volume of transactions in OCT derivatives with counterparties. These transactions cover various financial instruments which serve both for investment purposes and as hedging tools. In such transactions there is an exposure to the credit risk of the counterparty, which may default under its obligations due to insolvency or any other reason. The ISDA Master Agreement serves to create standardization and certainty in transactions in derivatives, reduces the exposure of the parties and allows for Close-out and Netting in case that one of the parties breaches its obligations under the transaction or becomes insolvent.

Institutional Entities may submit comments to the Position Paper, and upon reviewing the comments the Director will publish a final version of the Position Paper.

This memo is intended to serve as a general overview and does not constitute a replacement for legal counsel on the matters discussed herein.

Follow us:



Adv. Shiri Shaham, Partner

shiri@arnon.co.il

Telephone: (+972) 3 608 7851

Yigal Arnon & Co.

www.arnon.co.il