

אישור לפי סעיף 15א(ב)(2) לחוק ניירות ערך, התשכ"ח-1968

מכוח סעיף 15א(ב)(2) לחוק ניירות ערך, התשכ"ח-1968 (להלן: "החוק"), הרינו לאשר כי בכפוף לתנאים כמפורט להלן, תאגיד שהתאגד מחוץ לישראל העונה על איזו מההגדרות המפורטות להלן, הינו משקיע לעניין סעיף 15א(ב)(2) לחוק, וזאת לעניין רישום ומסחר במערכת המסחר למשקיעים מוסדיים של הבורסה לניירות ערך בתל-אביב בע"מ (להלן: "רצף מוסדיים") בלבד:

1. משקיע העונה על הגדרת ("QIB") "qualified institutional buyer" ב-Rule 144A ל-Securities Act of 1933 בארה"ב, כנוסחה במועד מתן אישור זה. רשימת המשקיעים העונים על הגדרת "QIB" מפורטת בנספח א'.

2. משקיע העונה על סעיף משנה (1) לקטגוריה הראשונה (Section I) להגדרת Professional Clients שבנספח II לדירקטיבת MiFID¹, אשר אליה מפנה הגדרת Qualified Investor בסעיף 2 ל-Prospectus Directive האירופית,² כנוסחה של הגדרה זו במועד מתן אישור זה, ובלבד שלמשקיע ניתן רישיון או שהינו מפקח (בלשון הדירקטיבה – "authorised or regulated") על ידי מדינה החברה באיזור הכלכלי האירופאי (European Economic Area). רשימת המשקיעים העונים על ההגדרה האמורה מפורטת בנספח ב'.

(להלן: "משקיעים מוסדיים זרים").

ובלבד שיתקיימו התנאים הבאים:

1. לעניין הרישום הראשוני ברצף מוסדיים -

א. מסמכי ההצעה יכללו הוראה לפיה ניירות הערך המוצעים למשקיעים מחוץ לישראל מוצעים בהצעה מחוץ לישראל למשקיעים מוסדיים זרים בלבד, ושםכך הצעה זו אינה כפופה לדיני ניירות ערך הישראליים, בכל הנוגע להליך ההצעה וחובות הגילוי והדיווח במסמך ההצעה (וככל שמדובר בתאגיד שאינו מדווח גם בנוגע לדוחות העיתיים ולדיווח השוטף), ואינה מתבצעת תחת פיקוח רשות ניירות ערך בישראל; וכן הוראה לפיה יש בעצם היענות הניצעים להצעה כדי לאשר את היותם משקיעים מוסדיים זרים ואת מודעותם והסכמתם לאמור לעיל.

ב. המפיץ יאשר לחברה כי ינקוט באמצעים סבירים על מנת לוודא שניירות הערך שמופצים באמצעותו מחוץ לישראל, יופצו אך ורק למשקיעים מוסדיים זרים.

¹ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments. הקטגוריה הראשונה כאמור נושאת את הכותרת – "Categories of client who are considered to be professionals".

² EU Prospectus Directive (2003/71/EC) כפי שתוקנה בדירקטיבה 2010/73/EU.

2. לעניין המסחר ברצף מוסדיים - על חבר הבורסה לקבל הצהרה מהמשקיע³ או לנקוט באמצעים סבירים אחרים על מנת להבטיח שנותן הפקודה הוא משקיע הנמנה על קבוצת המשקיעים המוסדיים הזרים כמפורט לעיל.

נספח א' - הגדרת "qualified institutional buyer" לפי Rule 144A

(i) Any of the following entities, acting for its own account or the accounts of other qualified institutional buyers, that in the aggregate owns and invests on a discretionary basis at least \$ 100 million in securities of issuers that are not affiliated with the entity:

(A) Any insurance company as defined in section 2(a)(13) of the U.S Securities Act;

NOTE: A purchase by an insurance company for one or more of its separate accounts, as defined by section 2(a)(37) of the Investment Company Act of 1940 (the "Investment Company Act"), which are neither registered under section 8 of the Investment Company Act nor required to be so registered, shall be deemed to be a purchase for the account of such insurance company.

(B) Any investment company registered under the Investment Company Act or any business development company as defined in section 2(a)(48) of that Act;

(C) Any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958;

(D) Any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees;

(E) Any employee benefit plan within the meaning of title I of the Employee Retirement Income Security Act of 1974;

(F) Any trust fund whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in paragraph (a)(1)(i) (D) or (E) of this section, except trust funds that include as participants individual retirement accounts or H.R. 10 plans.

(G) Any business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;

(H) Any organization described in *section 501(c)(3) of the Internal Revenue Code*, corporation (other than a bank as defined in section 3(a)(2) of the Act or a

³ בהתאם לנדרש לפי התוספת הראשונה לחוק לגבי משקיע המנוי בפרטים (6) או (9) עד (12) לתוספת בשינויים המחויבים, כמפורט להלן: ההצהרה תינתן מראש, בטרם הגשת פקודה בפעם הראשונה וכן תכלול התחייבות מראש לכך שעד יום העסקים האחרון בחודש השלישי בכל שנה תינתן ההצהרה מחדש ושם יחדל אותו גוף להיות משקיע מוסדי זר יודיע על כך לחבר הבורסה באופן מיידי ויחדל ממתן פקודות.

savings and loan association or other institution referenced in section 3(a)(5)(A) of the Act or a foreign bank or savings and loan association or equivalent institution), partnership, or Massachusetts or similar business trust; and

(I) Any investment adviser registered under the Investment Advisers Act.

(ii) Any dealer registered pursuant to section 15 of the Exchange Act, acting for its own account or the accounts of other qualified institutional buyers, that in the aggregate owns and invests on a discretionary basis at least \$ 10 million of securities of issuers that are not affiliated with the dealer, Provided, That securities constituting the whole or a part of an unsold allotment to or subscription by a dealer as a participant in a public offering shall not be deemed to be owned by such dealer;

(iii) Any dealer registered pursuant to section 15 of the Exchange Act acting in a riskless principal transaction on behalf of a qualified institutional buyer;

NOTE: A registered dealer may act as agent, on a non-discretionary basis, in a transaction with a qualified institutional buyer without itself having to be a qualified institutional buyer.

(iv) Any investment company registered under the Investment Company Act, acting for its own account or for the accounts of other qualified institutional buyers, that is part of a family of investment companies which own in the aggregate at least \$ 100 million in securities of issuers, other than issuers that are affiliated with the investment company or are part of such family of investment companies. Family of investment companies means any two or more investment companies registered under the Investment Company Act, except for a unit investment trust whose assets consist solely of shares of one or more registered investment companies, that have the same investment adviser (or, in the case of unit investment trusts, the same depositor), Provided That, for purposes of this section:

(A) Each series of a series company (as defined in Rule 18f-2 under the Investment Company Act [*17 CFR 270.18f-2*]) shall be deemed to be a separate investment company; and

(B) Investment companies shall be deemed to have the same adviser (or depositor) if their advisers (or depositors) are majority-owned subsidiaries of the same parent, or if one investment company's adviser (or depositor) is a majority-owned subsidiary of the other investment company's adviser (or depositor);

(v) Any entity, all of the equity owners of which are qualified institutional buyers, acting for its own account or the accounts of other qualified institutional buyers; and

(vi) Any bank as defined in section 3(a)(2) of the Act, any savings and loan association or other institution as referenced in section 3(a)(5)(A) of the Act, or any foreign bank or savings and loan association or equivalent institution, acting for its own account or the accounts of other qualified institutional buyers, that in the aggregate owns and invests on a discretionary basis at least \$ 100 million in securities of issuers that are not affiliated with it and that has an audited net worth of at least \$ 25 million as demonstrated in its latest annual financial statements, as of a date not

more than 16 months preceding the date of sale under the Rule in the case of a U.S. bank or savings and loan association, and not more than 18 months preceding such date of sale for a foreign bank or savings and loan association or equivalent institution.

נספח ב' - סעיף משנה (1) לקטגוריה הראשונה (Section I) להגדרת Professional Clients
שבנספח II לדירקטיבת MiFID

ANNEX II

PROFESSIONAL CLIENTS FOR THE PURPOSE OF THIS DIRECTIVE

Professional client is a client who possesses the experience, knowledge and expertise to make its own investment decisions and properly assess the risks that it incurs. In order to be considered a professional client, the client must comply with the following criteria:

I. Categories of client who are considered to be professionals

The following should all be regarded as professionals in all investment services and activities and financial instruments for the purposes of the Directive.

(1) Entities which are required to be authorised or regulated to operate in the financial markets. The list below should be understood as including all authorised entities carrying out the characteristic activities of the entities mentioned: entities authorised by a Member State under a Directive, entities authorised or regulated by a Member State without reference to a Directive, and entities authorised or regulated by a non-Member State:

- (a) Credit institutions
- (b) Investment firms
- (c) Other authorised or regulated financial institutions
- (d) Insurance companies
- (e) Collective investment schemes and management companies of such schemes
- (f) Pension funds and management companies of such funds
- (g) Commodity and commodity derivatives dealers
- (h) Locals
- (i) Other institutional investors

The entities mentioned above are considered to be professionals. They must however be allowed to request non-professional treatment and investment firms may agree to provide a higher level of protection. Where the client of an investment firm is an undertaking referred to above, the investment firm must inform it prior to any provision of services that, on the basis of the information available to the firm, the client is deemed to be a professional client, and will be treated as such unless the firm and the client agree otherwise. The firm must also inform the customer that he can request a variation of the terms of the agreement in order to secure a higher degree of protection.

It is the responsibility of the client, considered to be a professional client, to ask for a higher level of protection when it deems it is unable to properly assess or manage the risks involved.

This higher level of protection will be provided when a client who is considered to be a professional enters into a written agreement with the investment firm to the effect that it shall not be treated as a professional for the purposes of the applicable conduct of business regime. Such agreement should specify whether this applies to one or more particular services or transactions, or to one or more types of product or transaction.