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Memorandum of Law

A. Name of the Proposed Law

The Law to Encourage Fintech Development in Israel 5780-2020

B. Aim of and Need for the Proposed Law, Main Regulations, and Effect on Existing Law

Recent years have seen the emergence of a large number of companies that use new technologies to provide financial products and services in diverse fields including credit, payments, settlement and means of payment, investment management, financial management, banking services, and insurance (“the fintech sector”). The Fintech sector is one of Israel’s fastest growing start-up sectors, with over 500 active companies that raised an estimated USD 1.8 billion in 2019. According to these estimates, Israel is one of the leading countries in this field.

The fintech sector offers many benefits to financial consumers and to the financial system. These new financial technologies have the potential to enhance the financial system, reduce the costs of financial services in Israel, and offer new solutions able to advance Israel’s economy. Israel therefore has a strong interest in promoting its fintech sector and the launch of new financial products for Israeli consumers, in order to increase competition among service providers, expand access to financial services and products, and elevate customer service quality.

Furthermore, making fintech companies accessible to the Israeli market will encourage them to operate in Israel, and maintain their core business in Israel, in contrast to the current situation. Today, the challenges of launching and testing products and services in Israel incentivize companies to leave Israel and relocate their operations. Therefore, promoting the fintech sector in Israel can contribute to economic growth and promote employment in high-productivity jobs.

In general, with the aim of maintaining financial systems’ credibility and stability, supervisory agencies have been established in countries across the world to monitor the operations of financial entities and to determine rules designed to reinforce the stability of the financial system, protect consumers, and maintain a competitive market. Traditionally, regulatory directives were determined with a view to the actors in the financial sector, yet are frequently unsuitable for the novel products and services that fintech companies offer. The absence of a suitable regulatory framework is the result of the rapid and fluctuating development of the Fintech industry, which makes it difficult for regulation to adapt at the required pace. As a result, fintech companies are

sometimes viewed as a potential threat to the financial system.

To achieve both the goals of cultivating financial innovation and regulatory aims, and to allow regulators to learn more about the developments in this field and adjust regulation accordingly, many countries across the globe, including Great Britain, Singapore, Hong Kong, Indonesia, Japan, and Australia, have introduced regulatory sandboxes – quasi-experimental settings in which existing regulation is adjusted to fintech companies. These sandboxes allow companies to apply their business model on a trial basis and monitor how their service or product impacts end customers. The most popular of all sandbox models combines restrictions on the companies' operations with regulatory oversight, in order to minimize the companies' risks of operating in the sandbox.

On January 11, 2018, in Government Resolution No. 3441 concerning the establishment of an experimental environment for fintech companies, the government decided to appoint a team to study the introduction of a relaxed regulatory environment, adjusted to companies using innovative technology to offer financial products and services ("the Team"). The Team included representatives of the ISA, the Ministry of Justice, the Budget Division of the Ministry of Finance, the Bank Supervision and the Payment and Settlement Systems Departments of the Bank of Israel, the Capital Market Insurance and Savings Authority ("the Capital Market Authority"), and the Anti-Money Laundering and Terror Financing Authority ("IMPA"). The Team was instructed to study existing models across the globe and the needs and features of the Israeli market, and recommend to the Minister of Finance an outline program for an experimental environment for fintech companies, which would facilitate the expansion of their operations in Israel and allow them launch their products to Israeli consumers.

The Team found that Israel's fintech sector is disproportionately large on a global scale, yet many fintech companies operating in Israel do not offer extensive services to Israeli consumers. While this fact has been explained by the small size of the Israeli market, which limits' companies economic incentive to launch new products or services, this argument also applies to all high-tech companies in all sectors, where evidence shows that the Israeli market is a rapid adopter of innovative technologies and features a disproportionately wide range of advanced products compared to other countries.

Based on its study of the challenges facing fintech companies in Israel, the Team found that Israel's regulatory requirements constitute the major obstacle and key inhibitor of financial innovation. The complexity of regulatory requirements for the financial sector is not unique to Israel, and is the result of the specific risks and market imperfections of the world of finance, specifically its unique compliance risks, and the need to ensure the

stability of the financial system and its financial entities. In the absence of a regulatory framework adjusted to the features of early-stage fintech companies, the existing regulatory regime poses wide-ranging, complex challenges for such companies, which may act as significant barriers, preventing them from establishing and developing their business in Israel, and impeding their ability to offer products and services on the Israeli market. The Team therefore advised the establishment of a sandbox platform that supports fintech companies' trial and error as they respond to the regulatory challenges typically facing of fintech companies, and fosters learning by both fintech companies and regulators. This Memorandum of Law proposes to adopt the Team's recommendations and establish an experimental environment (sandbox) for fintech companies.

It is proposed to establish a sandbox program for fintech companies in Israel, which will be operated by a committee to encourage financial technology in Israel, which will coordinate the activities of all program participants. The committee, which will include representatives of all the Financial Regulators in Israel, will act as the single governmental gateway to the program, without affecting the Financial Regulators' individual authority or discretionary powers. The committee will include one representative appointed by each of the Minister of Finance, the Supervisor of Banks at the Bank of Israel, the Commissioner of the Capital Market Authority (also in its capacity as Supervisor of Financial Service Providers), the Chair of the ISA, and an employee of the IMPA appointed by the Minister of Justice. The committee may also receive assistance from the Innovation Authority.

The committee's aim is to assist companies wishing to operate within the sandbox program, especially if their operations are not unequivocally classified as coming under the ambit of a specific Financial Regulator. The committee will also facilitate rapid and efficient responses to companies that encounter problems when operating in the Israeli financial system as a result of issues that are the responsibility of regulators in other field. An example is the case of a company supervised by the Capital Market Authority that finds it challenging to open a bank account in Israel. The committee will resolve the issue by coordinating between the company and the Capital Market Authority and the IMPA. The proposed program outline will enable cautious, careful experimental implementation of an internationally innovative regulatory approach. Moreover, such implementation will enable regulators' joint learning and consultations, expanding the cumulative experience of each Financial Regulator, which would otherwise be exposed on to the companies subject to its supervision. To guarantee that the committee operates efficiently, it is proposed to allow information about program participants to be shared by all committee members.

It is proposed that the committee select participants for the regulatory sandbox program. The committee will determine the duration of each program, which will not exceed two years, with an option to extend each program by an additional two years, in order to allow regulators to gain an understanding of the fintech companies' regulatory challenges. The sandbox program will operate two tracks:

(a) A licensing track: It is proposed to establish a licensing track for companies whose operations require a permit from one or more Financial Regulators. This track will allow the relevant Financial Regulator/s to grant participants accommodations or regulatory relief for a limited period. The relevant Financial Regulator/s may stipulate conditions for such regulatory relief or adjustments, for example by imposing a limit to the number of clients that the company may approach. The regulatory relief or adjustments are designed to allow participating companies to test their products and services in Israel and study how they may meet local legal requirements at the program's conclusion.

(b) An oversight track: The Team also found that fintech companies that are not subject to permits or supervision by a Financial Regulator may nonetheless encounter significant challenges when operating in Israel. Of these, the companies' key challenge involves their interactions with the banking system: Because these companies are not subject to a regulatory AML/CTF regime, their operations are considered to be high risk for the banking system. It is therefore proposed to establish an oversight track in the program for companies whose operations are not subject to licensing requirements. This track will help resolve the challenges that these companies encounter by, among other things, introducing an AML/CFT regime within the program based on a specific AML/CFT order.

To promote specialization and efficiency, and to avoid threats to regulatory independence, it is proposed that each participant be associated with a lead Financial Regulator that will handle its program application. The identity of the lead Financial Regulator will be determined according to a company's areas of operation. For example, the ISA will act as the lead Financial Regulator for companies that offer products or services related to investment advising.

Note that the Ministry of Finance intends to integrate this Memorandum of Law within the Economic Program Law for the year 2020.

C. Memorandum of the Proposed Law and Explanatory Notes

Memorandum of Law to Encourage Fintech Development in Israel 5780-2020

Chapter One: Definition of Terms

Definition of Terms

1. In this Law -

“Permit” – a permit or license or approval issued by law;

“the Commissioner of Capital Market Insurance and Savings” – The Commissioner of Capital Market, Insurance, and Savings, appointed according to Section 2(a) of the Supervision of Insurance Law 5741-1981;¹

“the Supervisor of Banks” - The Supervisor of Banks appointed according to Section 5 of the Banking Ordinance 1941;²

“the Supervisor of Financial Services” – The Supervisor of Financial Services in its meaning in Section 2 of the Control of Financial Services Law (Regulated Financial Services) 5766-2016;³

“Fintech Company” - A company that uses innovative technology to provide financial products and services, during its participation in a program pursuant to Section 3;

“The Rating Law” – The Regulation of Credit Rating Company Operations Law 5764-2014;

“The Advice Law” – The Regulation of Investment Advice, Investment Marketing and Investment Portfolio Management Law, 5755-1995;⁴

¹ Book of Laws 5741, 208.

² Official Gazette no. 1941, 85.

³ Book of Laws, 5776, 1098.

⁴ Book of Laws 5755, 416.

“The Joint Investments in Trust Law” – The Joint Investments in Trust Law 5754-1994;⁵

“The Securities Law” - The Securities Law 5728-1968;⁶

“ISA Chair” – The Chairperson of the Israel Securities Authority appointed according to Section 3(b) of the Securities Law 5728-1968;⁷

“Applicant” – A company that submitted an application to participate in a program;

“Program Duration” - The duration of a program as determined by the committee pursuant to Section 3(g);

“The Governor” – The Governor of the Bank of Israel appointed according to Section 6 of the Bank of Israel Law 5770-2010;⁸

“the Company’s Operation” – In a company with several lines of activity, the activity of a Fintech Company in respect of which an application to join a program was submitted;

“The Innovation Authority” – The National Authority for Technological Innovation established under the Encouragement of Industrial Research and Development Law 1944-1984;⁹

“Lead Regulator” – For each Innovative Financial Company, the regulator determined according to the provisions of Section 7;

“Competent Regulator” – A Financial Regulator competent to issue a permit for the Applicant’s operations;

“Financial Regulator” – Any of the following:

(1) The Governor or the Supervisor of Banks;

⁵ Book of Laws 5754, 308.

⁶ Book of Laws 5728, 234.

⁷ Book of Laws 5728, 234

⁸ Book of Laws, 5770, 452.

⁹ Book of Laws 5744, 100; Book of Laws 5775, 256.

(2) The Commissioner of Capital Markets, also in its capacity as the Supervisor of Financial Service Providers;

(3) The ISA Chair;

“Advisory Authorities” – includes government ministries and their units and auxiliary units, the Competition Authority, the Innovation Authority, the Cyber Emergency and Security Division of the Ministry of Finance, the Tax Authority, the National Economic Council, and the Payment and Settlement Systems Department in the Bank of Israel, and government ministries;

“The Minister” – The Minister of Finance;

“A Program” - A program for encouragement of fintech development in Israel, according to Section 3(a).

Chapter B – Committee to Encourage Operations of Fintech Companies in Israel and its Functions

Committee to Encourage Fintech in Israel

2. The Minister will appoint a committee to encourage operations of fintech companies in Israel (“the Committee”), whose members will be:

- (1) A representative appointed by the Minister from among the Ministry’s employees and who is not an employee of the Capital Market Insurance and Savings Authority;
- (2) A representative appointed by the Governor from among the employees of the Bank of Israel;
- (3) A representative appointed by the Commissioner of Capital Market Insurance and Savings Authority also in its capacity as the Supervisor of Financial Service Providers, from among the employees of the Capital Market Insurance and Savings Authority;
- (4) A representative appointed by the Chair of the ISA from among ISA employees;

(5) A representative appointed by the Minister of Justice from among IMPA employees.

**The Committee's
Functions and
Method of
Operations**

3. (a) The Committee will operate one or more Programs to encourage fintech development in Israel.
- (b) The Committee will determine the maximum number of participants in each Program.
- (c) The Committee will determine the manner of submitting applications to the Program, including the evidence required to prove compliance with the criteria stated in Section 5.
- (d) The Committee will determine the assessment methods of the Program applications, pursuant to the provisions of Chapter C.
- (e) The Committee will select program participants in an equitable, public proceeding.
- (f) The Committee will select an Applicant only if it is endorsed by a representative of the Competent Financial Regulator.
- (g) The Committee will determine the Program Duration, provided that the duration does not exceed two years; The Committee may extend the Program Duration for an additional period of no more than two years if it believes that such extension is necessary to complete the Program activities or for any other cause, which is required to be recorded.
- (h) The Committee will publish its decisions on Applicants' acceptance and the Lead Regulator's decisions on the relief and adjustments granted to Program participants, as stated in Chapter D.
- (i) The Committee will determine the procedures of its work and its meetings.

**Assistance from
the Innovation
Authority**

4. (a) The Committee may receive assistance from the Innovation Authority in assessing the aspects of the applications related to Applicants' R&D activities, pursuant to the powers of the Innovation Authority regulated in the Innovation Law.
- (b) For the purpose of subsection (a), the Committee and its members may furnish to the Innovation Authority information in their possession about an Innovative Financial Company, as such information is required by the Innovation Authority to assess the Applicant according to this Law. The Innovation Authority and its employees may use said information only for the purpose of assessing applications.

**Invitation to
Advisory
Authorities**

5. The Committee may invite Advisory Authorities to attend its meetings, and must do so at the request of any Committee member.

Chapter C – Conditions and Criteria for Program Participation

**Criteria for
Program
Participation**

6. (a) The Committee will take the following factors into consideration in assessing an Applicant's suitability for a Program:
 - (1) The extent of innovativeness of the financial service or product offered by the Applicant;
 - (2) The anticipated benefit for consumers in Israel; For this purpose service improvements or savings, promotion of competition, resolution of an existing problem or satisfaction of an existing need will be taken into consideration. In special circumstances in which the Applicant's service or product cannot be offered in Israel – whether it may be presumed that the Applicant will otherwise contribute to Israel;
 - (3) The Applicant's need for adjustments to the existing regulatory framework in order for it to operate;

- (4) The Applicant's technological, legal, and operational maturity for operating in a Program, and for marketing the product or service that it is offering, at least in the pilot stage;
- (5) The risks entailed in the Applicant's operations and the means that are appropriate for controlling these risks, including damages to injured customers;
- (6) The effect of accepting the Applicant into a program on competition in the capital market, the financial system, and in the Applicant's specific product or service sector.
- (7) Compliance with the reliability requirements, to be defined by the Committee.

Chapter D – Lead Regulator

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|-----------------------------|----|--|
| Lead Regulator | 7. | (a) If the operations of a Fintech Company are subject to a permit issued by a Financial Regulator, the Competent Authority will be the Lead Regulator. If the operations of a Fintech Company are subject to permits issued by several Financial Regulators, the Committee may determine one or more Lead Regulators. |
| | | (b) If the operations of a Fintech Company are not subject to a permit, the Committee will determine a Lead Regulator for each such Innovative Financial Company, taking into account the link between the company's operations and the areas under the responsibility of the Financial Regulator; |
| Participation Period | 8. | For each Fintech Company, the Lead Regulator will determine the program participation period, and notify the Committee, provided that the participation period does not exceed the Program Duration determined by the Committee. |

Chapter E – Program to Encourage Fintech Development in Israel

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| Program Participation | 9. | (a) A Program to Encourage Fintech Development in Israel will be operated in the following two tracks: |
|------------------------------|----|--|

- (1) A licensing track, in which the Lead Regulator may impose on a Fintech Company whose operations are subject to a permit conditions, including adjustments or regulatory relief, according to the powers of the Competent Regulator under the provisions of Chapter E of this Law or by any law (“Adjusted License Conditions”);
 - (2) An oversight track, in which the Lead Regulator may impose on a Fintech Company whose operation are not subject to a permit conditions, including conditions related to the scope of its operation, the type or number of its customers or investors, reporting to the Lead Regulator, modes of operation, protection of the interests of its customers or investors, and other matters as the Lead Regulator deems fit to determine, all taking into account the conditions related to the protection of customers’ interests, customers’ features, the nature of their operation and the risks entailed that apply to companies whose operations are subject to a permit issued by said Regulator (“Oversight Conditions”).
- (b) If the operations of a company in the oversight track are under the responsibility of a Financial Regulator that is not the Lead Regulator, as stated in subsection (a)(2), the conditions for the company’s operations in said area will be determined with the consent of said Financial Regulator.
 - (c) Innovative Financial Companies will operate according to the conditions determined in subsections (a) and (b).

Termination of Program Participation

10. If a Fintech Company in the licensing track violates any of the Adjusted License Conditions determined for it pursuant to Section 9(a)(1), or if a Fintech Company in the oversight track violates any of the Oversight Conditions determined for it pursuant to Section 9(a)(2), the Lead Regulator may terminate its participation in a program after it is given an opportunity to express its arguments.

Chapter F – Regulatory Relief and Adjustments for Innovative Financial Companies in the Licensing Track

Powers of the Supervisor of Financial Services to Grant Relief and Adjustments

11. Using their powers under section 9(a)(1), the Supervisor of Financial Services may determine that the provisions according to the sections listed in the First Addendum do not apply, either in entirety or in part, or apply with modifications, and may stipulate conditions for said exemption from or modifications to conditions, if the Supervisor of Financial Services deems said exemption or modification to be necessary to remove barriers to an Innovative Financial Company's operations, its business development, or its ability to offer its products or services in Israel. Such determination will apply for a period that does not exceed the Program Duration determined by the Committee as stated in Section 3(g), and will take into consideration, among other things, protection of the customers' interests, the company's scope and nature of its operations, the risks entailed in its operations, and the types of its customers.

**Powers of the
ISA Chair to
Grant Relief and
Adjustments**

- 12 (a) Using their powers under section 9(a)(1), the Chair of the ISA may determine that the provisions according to sections listed in the Second Addendum do not apply, either in entirety or in part, or apply with modifications, to a Fintech Company in the licensing track, and may stipulate conditions for said exemption from or modifications to conditions, if the Chair of the ISA deems said exemption or modification to be necessary to remove barriers to an Innovative Financial Company's operations, its business development, or its ability to offer its products or services in Israel. Such determination will apply for a period that does not exceed the Program Duration determined by the Committee as stated in Section 3(g), and will take into consideration, among other things, protection of the interests of its customers or investors, the company's scope and nature of its operations, the risks entailed in its operations, and the types of customers or investors.
- (b) The provisions and conditions stated in subsection (a) may include but are not limited to provisions on the following matters:
- (1) Provisions related to modes of operation;
 - (2) Equity and insurance;
 - (3) Permitted areas of activity;
 - (4) Filings to the ISA and the public, including the details that will appear in the reports, their preparation, the modes and dates of submission;
 - (5) Corporate governance;
 - (6) Prevention of conflicts of interest;
 - (7) Additional provisions required to protect investors or customers, such as restrictions on scope of operations, number of customers, or type of customers.

Chapter G – Administrative Enforcement Measures

Enforcement Powers over Innovative Financial Companies in the Licensing Track

13. An Innovative Financial Company's participation in a Program does not detract from the supervisory and enforcement powers by law on any matter that is not explicitly regulated by this Law.

Monetary Sanctions in the Licensing Track

14. If a Fintech Company in the licensing track violates any Adjusted License Condition determined for it according to Section 9(a)(1), the Lead Regulator may impose a monetary sanction on it pursuant to the following provisions:

- (1) In the matter of imposing a monetary sanction on a Fintech Company whose Lead Regulator is the ISA, the provisions of Chapters Eight "C" and "D" of the Securities Law, Chapters Ten and Ten "A" of the Joint Investments in Trust Law, Chapters 7A and 7B of the Advice Law, and Chapters G and H of the Rating Law will apply to the matter of enforcement of the violation, as relevant and according to the type of condition violated, with the necessary changes.
- (2) In the matter of imposing a monetary sanction on a Fintech Company whose Lead Regulator is the Bank of Israel, the provisions of Sections 14i through 14o of the Banking Ordinance,¹⁰ and Chapter N of the Credit Data Law 5776-2016,¹¹ will apply to the matter of enforcement of the violation, as relevant and according to the type of condition violated, with the necessary changes.

¹⁰ Official Gazette no. 1134 (A) 69(a) 35.

¹¹ Book of Laws 5776, 838

- (3) In the matter of imposing a monetary sanction on a Fintech Company whose Lead Regulator is the Capital Market Authority, the provisions of Chapter L of the Control of Financial Services (Regulated Financial Services) Law 5776-2016, Chapter Nine “A” of the Control of Financial Services (Insurance) Law 5741-1981, Chapter E of the Control of Financial Services (Provident Funds) Law 5765-2005, and Chapter F of the Control of Financial Services (Advice, Marketing, and Pension Settlement System) Law 5765-2005, will apply to the matter of enforcement of the violation, as relevant and according to the type of condition violated, with the necessary changes.

**Monetary
Sanctions in the
Oversight Track**

15. (a) Within the Oversight Conditions, the Lead Regulator will determine that a violation of the conditions in the following areas constitutes grounds for the imposition of a monetary sanction by the Lead Regulator (“Conditions the Violation of which are Grounds for a Monetary Sanction”).
- (b) The Lead Regulator may determine conditions in the following areas, the violation of which constitutes grounds for monetary sanctions: capital and insurance, disclaimers and disclosures that must be made to customers or investors or to the authorities, and provisions concerning restrictions on operations and prevention of conflicts of interests in operations.
- (c) If a Fintech Company in the oversight track violates a Condition the Violation of Which is Grounds for a Monetary Sanction, the Lead Regulator may impose a monetary sanction on it in the base amount, pursuant to the following provisions:
 - (1) In the matter of imposing a monetary sanction on a Fintech Company whose Lead Regulator is the ISA, pursuant to Sections 52P through 52CC of the Securities Law, with the necessary changes, and as relevant.

- (2) In the matter of imposing a monetary sanction on a Fintech Company whose Lead Regulator is the Bank of Israel, the provisions of Sections 141 through 140 of the Banking Ordinance 1941, and Chapter N of the Credit Data Law 5776-2016, with the necessary changes, and as relevant.
- (3) In the matter of imposing a monetary sanction on a Fintech Company whose Lead Regulator is the Capital Market Authority, the Oversight Conditions issued according to Section 9(a)(2) of the Law will be deemed as directives issued under Section 2(b) of the Control of Insurance Law, Section 39(c) of the Control of Provident Funds Law, or Section 4(a) of the Control of Regulated Financial Services Law, including in the matter of monetary sanctions according to Chapter Nine “A” of the Control of Financial Services (Insurance) Law 5741-1981, Chapter L of the Control of Financial Services (Regulated Financial Services Law) 5776-2016, Chapter E of the Control of Financial Services (Provident Funds) Law 5765-2005, and Chapter F of the Control of Financial Services (Advice, Marketing, and Pension Settlement System) Law 5765-2005, with the necessary changes.

For the purpose of this section – the “Base Fine” is:

- (1) For a Fintech Company in the oversight track, whose Lead Regulator is the ISA – NIS 50,000;
- (2) For a Fintech Company in the oversight track, whose Lead Regulator is the Capital Market Authority – NIS 50,000;
- (3) For a Fintech Company in the oversight track, whose Lead Regulator is the Supervisor of Banks – NIS 50,000;

(d) The Base Fine will be updated on January 1 of each year (in this subsection – “the Update Date”), according to the rate of change in the CPI known on the Update Date relative to the CPI known on January 1 of the preceding year; Said amount is then rounded to the closest multiple of NIS 10. For this purpose, CPI is the Consumer Price Index published by the Central Bureau of Statistics; The Lead Regulator will publish a notice of said update in Reshumot [Official Government Gazette].

Collection

16. Monetary sanctions will be collected and paid to the state treasury, and the Central Law for Collection of Fines, Levies, and Expenses 5755-1995¹² will apply to the collection thereof.

Chapter H - Miscellaneous

**Information
Sharing**

17. Notwithstanding any other law, the authorities whose representatives are members of the Committee, and the Advisory Authorities whose representatives participate in Committee meetings, may furnish to the Committee information related to Innovative Financial Companies that is in their possession and required by the Committee to fulfill its duties under this Law. In this Chapter, “Information” excludes information received by IMPA under Sections 7(a)(2), 7(b), 8A(a)(2), 9(b), 11L1(a), 30(b), 30(b1), 30 (b2), 30 (b3), 30(c), 30 (c1), 30(c2), 30(f) and 31 of the Prohibition of Money Laundering Law 5760-2000.¹³

Confidentiality

18. (a) No person who obtained Information under their duties contained in this Law will disclose it to others or make any use thereof, unless for the purpose of performing said duties.

¹² Book of Laws 5755, 170.

¹³ Book of Laws 5760, 293.

- (b) Without detracting from the provisions of subsection (a) and notwithstanding any other law, authorities whose representatives are members of the Committee, and the Advisory Authorities whose representatives are invited to participate in Committee meetings, may receive information received by the Committee under this Law from other authorities and may use it only for the purpose of performing their functions and for the purpose of the Committee's functions. Authorities whose representatives are members of the Committee, and the Advisory Authorities whose representatives participate in Committee meetings, may, for that purpose, disclose the Information to their employees who are not members of the Committee or are not invited to participate in its meetings.

Execution

19. The Minister is responsible for the execution of this Law.

**Amendment to
Prohibition on
Money
Laundering Law**

20. In the Prohibition of Money Laundering Law 5760-2000¹⁴ —

- (1) In Section 1, the following will be inserted after the definition “Company with a trading platform license”:
“Innovative Financial Company” – A company, as defined in the Law to Encourage Fintech Development in Israel 5780-2020, that participates in the oversight track of a Program to Encourage Fintech Development.”
- (2) The following will be inserted in Section 11M(a) after paragraph (9):

¹⁴ Book of Laws 5760, 293

“(10) In the matter of a Fintech Company that is not an entity listed in this Section – the Commissioner of the Lead Regulator determined according to Section 6(b) of the Law to Encourage Fintech Development in Israel 5780-2020.”;

- (3) The following will be inserted in the Third Addendum, after item 7:

“8. An Innovative Financial Companies that is not an entity listed in this Addendum and is not a banking corporation.”

First Addendum

(Section 11)

Sections 15(a)(1) in the matter of the requirements of a linkage to Israel stated therein, and 15(a)(2), 16(a)(1)-(3), 20, 22(b), 25U(a)(1) in the matter of the requirements of a linkage to Israel stated therein, and 25U(a)(2), 25V(1)-(4), 30, 31(4) and (5), 32, 33, 37(a), 38E, 39, 40, 44, 44A, 44B, 47(b) in the matter of the regulations promulgated under it, 50, 50B(b)-(c) and (e) and (f), and 50D to the Control of Financial Services (Regulated Financial Services) Law 5776-2016.

Second Addendum

(Section 12)

(1) Sections 15, 36, 37, 44B, 44I, 44J, 44M(b)-(d), 44P, 44CC, 55A, 55B and 56(a) in the matter of regulations promulgated under it and under another section stated in this Addendum, and 56(c) of the Securities Law; Sections 3(b), 5, 9, 13, 16(a), (a1) and (b)-(e), 16A, 17, 18(5)-(10), 19-22, 23F, 25, 42-46, 49-54A, 56, 57, 58A-67, 68 in the matter of holdings of a fund manager, 69-73, 77-80, 81-82, 86, 95A, 95B(b) and (c), 95C, 99-102, 104A-106, 109-112-112B, 113B-113D, 129, 129B and 131 of the Joint Investments in Trust Law; Sections 2(b2) and (c), 4, 7(b)(3), (b1)(3) and (4), and (c)(3) and (4), 8(b)(4) and (5), 10B-10G, 13 excluding (d1), 15 in the matter of the manner and mode of notification, 16(b) and (d), 16A, 17, 17A, 18 in the matter of the manner of notification and customer's confirmation, 20A, 20C, 20D, 22(3) and (5), 24, 24B, 24C-24I, 25-27A, 27C, 41, and 42 of the Advice Law; and Sections 3, 4, 8-11, 14-19, 45-48, 51, and 52 of the Law to Regulate the Operations of Credit Rating Companies 5774-2014.

(2) With respect to a company that applies to act as a trustee for debenture holders or to issue debentures to the public – the provisions of Chapter Five “A” of the Securities Law, either in entirety or in part, provided that the debentures issued using said exemption will not be listed for trading on the Tel Aviv Stock Exchange, and that it is possible to distinguish between trading in debentures that were issued on the basis of said exemption and trading in debentures to whose issue said exemption was not applied, as the ISA approves.

(3) With respect to a company that applies for a stock exchange or clearing house license – The provisions under Chapter Eight, either in entirety or in part, provided that it is possible to distinguish between trading in which said exemption was used and trading to which said exemption was not applied, as the ISA approves.

Explanatory Notes

Note to Section 2

It is proposed to authorize the Minister of Finance to appoint a Committee to Encourage Operations of Fintech Companies in Israel, whose members will be one representative appointed by the Minister of Finance from among the employees of their ministry who are not employees of the Capital Market Insurance and Savings Authority; one representative appointed by the Supervisor of Banks from among its employees; a representative appointed by the Commissioner of Capital Market Insurance and Savings also in its capacity as Supervisor of Financial Service Providers, from among the employees of the Capital Market Insurance and Savings Authority; a representative appointed by the Chair of the ISA from among ISA employees; and a representative appointed by the Minister of Justice from among IMPA employees.

Note to Section 3

It is proposed to determine that the Committee will operate one or more programs to encourage fintech development in Israel, and determine the maximum number of participants in each round of the program. The Committee will select program participants in an equitable and public proceeding. To this end, the Committee will determine the application submission and assessment processes, pursuant to the provisions of Chapter C.

To maintain the independence of all Financial Regulators, it is proposed to determine that the Committee will select a Fintech Company to the program only if it is endorsed by a representative of the Financial Supervisory Authority that is competent to regulate its operations.

It is further proposed to determine that the duration of a program determined by the Committee will not exceed two years, but if necessary the Committee may extend a program by another period that will not exceed two years.

To ensure that the transparency of the program's operations, it is proposed to determine that the Committee will publish its decisions on the selection of program applicants, and the decisions of the Lead Regulator on relief and adjustments granted to program participants.

Note to Sections 4 and 5

In view of the program's importance to the Israeli economy, and the importance of the selection process of program participants, and in order to optimize the Committee's decisions, it is proposed to determine that the Committee may request the assistance of the Innovation Authority in assessing applicants' applications, and in performing tests related to applicants' innovative operations. It is proposed to determine that for this purpose, the

Committee and its members may share with the Innovation Authority any information in their possession that is related to applicants and is required by the Innovation Authority to assess applications according to this Law.

It is also proposed to determine that in its meetings, the Committee may consult with additional authorities that are not represented in the Committee, including government ministries and their units and auxiliary units, the Clearing and Payment Systems Department of the Bank of Israel, the Cyber Emergency and Security Division of the Ministry of Finance, and the Tax Authority. The Committee must invite such Advisory Authorities to its meetings at the request of a Committee member, and the regulations proposed in Sections 25 and 26 in the matter of information sharing shall apply to the Advisory Authorities.

Section 6

It is proposed to determine the following factors that the Committee will consider in assessing an Applicant's suitability for the program:

1. The innovativeness of the applicants' financial service or product. The Committee will consider whether the product or service includes the use of new technology, or a novel use of existing technology, or represents a new approach to implementing its underlying technology, or offers a significant extension to an existing product or service.
2. The expected benefits for consumers in Israel, taking into account factors such as, but not limited to, improvements in a service or increased cost savings, positive impact on competition, solution to an existing problem or satisfaction of an existing need. In the exceptional case in which the service or product cannot be offered in Israel, the Committee will consider whether it may assume that the Applicant will contribute to Israel in other ways, for example, by increasing Israel's export potential.
3. The Applicant's need for regulatory adjustments for the sake of its operations, the cost of adapting the service or product to existing regulation, whether another available alternative would lead to the same results, and whether a full licensing procedure would impose a disproportionate burden on the Applicant considering the short period required for a study of the product or service's feasibility. The Committee will also study the Applicant's need to test its service or product on real customers.
4. The Applicant's technological, operational, and legal maturity and readiness to operate in the program and market its product or service to its target market, at least during the pilot phase. The Committee may also review, for example, whether the Applicant

presented an organized plan that includes clear and well-defined goals, assessment criteria, and success criteria for the program participation period.

5. The risks entailed in the Applicant's operations and the appropriate means to address these risks, including compensation to injured customers. The Committee may, for example, study the means of control that the Applicant adopted to protect its customers, the Applicant's ability to compensate customers for damages in the appropriate circumstances, and the Applicant's AML/GTF assessments.
6. The Committee will also review competition-related aspects and ensure that the Applicant meets the reliability criteria that the Committee determines.

For Section 7

It is proposed to designate a Lead Regulator for each participating Innovative Financial Company. It is proposed to determine that if an Innovative Financial Company's operations are subject to a permit from a Financial Regulator, the Lead Regulator will be the Competent Regulator; If an Innovative Financial Company's operations are subject to a permit by several Financial Regulators, the Committee may determine more than one Lead Regulator. It is proposed to determine that if an Innovative Financial Company's operations are not subject to any permit, the Committee will determine the Lead Regulator for that Innovative Financial Company, taking into consideration the company's activities and the areas under the responsibility of the Financial Regulators. Furthermore, it is proposed to determine that the Committee's decision on a company's participation in a program is subject to the consent of its Lead Regulator. To increase the efficiency of the committee, it is proposed that the Lead Regulator determine the most appropriate format for an Applicant's participation in the program.

Section 8

It is proposed to determine that the Lead Regulator will be the authority that determines the program participation duration for each Fintech Company under its supervision, provided that the participation period does not exceed the period determined by the Committee as stated in Section 13(g) of the Law.

Section 9

It is proposed to determine that programs under this Law will operate two tracks: a licensing track that is designated for companies whose operations are subject to a permit

or to the supervision of a Financial Regulator, and that is designed to determine adjusted licensing conditions for these companies; and an oversight track, designated for companies whose operations are not subject to a permit or to such supervision.

It is proposed to determine with respect to licensing track participants that the Supervisor of Financial Services or the Chair of the ISA, if they are defined as the Lead Regulator for a specific company, may determine that the provisions according to the sections of Law listed in the First Addendum or the Second Addendum do not apply to that company, either in entirety or in part, or apply with modifications. The Supervisor of Financial Services or the Chair of the ISA may stipulate conditions for such exemption or modification if they deem that such exemptions or modifications are necessary to eliminate barriers to the company's operations, its business development, or its ability to offer its products or services in Israel.

It is proposed to clarify that the option of determining such relief as described above will only apply to a period that does not exceed the Program Duration determined by the Committee as stated in Section 3(g). It is further proposed to determine that a decision to grant an exemption or modification to conditions will take into account the protection of customers' interests, the company's scope of operations, the nature of its operations and the risks entailed, and the type of customers.

In the oversight track, the Lead Regulator may impose various conditions on a company's operations, including conditions related to the scope of its operations, the type of its clients or investors or their number, filings to the Lead Regulator, operating procedures, protection of the interests of its customers or investors, and other matters as the Lead Regulator deems fit to determine, all taking into account the conditions that apply to companies whose operations are subject to a permit issued by said regulator, protection of customers' interests and customers' features, the nature of the company's operations and the risks entailed.

The operating conditions of companies in the oversight track will be determined by the Lead Regulator in an approval to be issued to the company before it commences its participation in a program. This approval will regulate the oversight, the period of the oversight, the filings to the Lead Regulator, to the extent necessary, the determination of the regulator's representative who will act as the company's contact person, and additional terms as the Lead Regulator deems fit to determine, such as ensuring due disclosure to customers, protecting customers' money, maintaining privacy, and other matters. It is proposed to determine that a Fintech Company in the oversight track be required to operate according to the conditions determined for it in the oversight approval.

Section 10

It is proposed that the Lead Regulator may terminate the participation of a program participant that violates the conditions of its adjusted license determined pursuant to Section 9(a)(1), or in the event that a Fintech Company in the oversight track violates its Oversight Conditions determined pursuant to Section 9(a)(2), after having been given an opportunity to express its arguments.

Section 11 and First Addendum

It is proposed to determine that the Supervisor of Financial Services may determine in the conditions of the adjusted license with respect to participants in the licensing track, that the provisions stated in the First Addendum will not apply, either in entirety or in part, or will apply with modifications. The Supervisor of Financial Services may also stipulate conditions for said exemption or modification, if it deems that such exemption or modification is required to eliminate barriers to the company's operations, its business development, or its ability to offer its products or services in Israel.

The authority of the Supervisor of Financial Services to issue such orders in the Adjusted License Conditions, applies with respect to the list of sections stated in the First Addendum. Among other things, the Supervisor's authority will apply in the matter of conditions for issuing a basic financial service provider license; capital and Israeli capital requirements; conditions and considerations in issuing an extended license; the license period; various filings to the Supervisor; filings to the Supervisor on holding means of control; capacity to service as an officer in a financial service provider; board of directors; financial management by a party licensed to operate a credit intermediation system; prohibition on making the provision of one service conditional upon another; and early repayment.

It is proposed to clarify that the authority's option to determine relief for said company will apply only during the Program Duration, and the relief will be in effect for a period that does not exceed the Program Duration determined by the Committee as stated in Section 3(g). It is further proposed to determine that a decision to grant an exemption from or modification to conditions will take into consideration the protection of the customers' interests, the scope of the company's operations, the nature of its operation and the risks entailed therein, and the company's type of clients.

For Section 12 and the Second Addendum

It is proposed to determine that, with respect to program participants in the licensing

track, the Chair of the ISA may determine in the conditions of their adjusted license that provisions stated in the Second Addendum will not apply, either in entirety or in part, or will apply with modifications. The ISA Chair may also stipulate conditions for said exemption or modification, if they deem that such exemption or modification is required to eliminate barriers to the company's operations, its business development, or its ability to offer its products or services in Israel.

The authority of the ISA Chair to issue such orders applies with respect to the list of sections stated in the Second Addendum. Among other things, the ISA Chair's authority will apply in the matter of the following issues: In the Securities Law – threshold conditions for a trading platform license, prospectus requirement, corporations' ongoing reporting requirement, requirement to give notice of interested parties and officers, requirement to submit filings on the MAGNA system. In the Joint Investments in Trust Law – joint investments in trust agreements and their details; fund trustees; restrictions on fund managers' directors, employees and investment committee members, board of directors, and investment committee. In the Advice Law – corporate governance provisions, uniqueness of occupation, provisions related to modes of operation such as drafting written agreements, prohibition on additional occupations, etc.; filing via electronic system. In the Rating Law – corporate governance provisions, the board and its duties, sole occupation, provisions related to operating modes such as publication of procedures, independence of rating companies and prevention of conflicts of interest, confidentiality and use of information; filing via electronic systems.

It is proposed to clarify that the authority of the ISA Chair to determine relief for said company will be in effect for a period that does not exceed the Program Duration determined by the Committee as stated in Section 3(g). It is further proposed to determine that a decision to grant an exemption from or modification to conditions will take into consideration the protection of the interests of customers or investors, as relevant, the scope of the company's operations, the nature of its operations and the risks entailed therein, and the company's type of clients or investors.

The licensing track is designated for companies whose operations are subject to a license yet have a significant problem in meeting all the licensing requirements or for which compliance with all the licensing requirements in its initial stage of operations would impose a disproportionate burden on them relative to the operations they wish to perform and their scale, and relative to the purpose of the Law. It is therefore proposed to determine that a Lead Regulator has the authority to relieve the licensing requirements according to the Law, stated in the First Addendum and in the Second Addendum, subject to the imposition of various restrictions on the company's operations. For example, relief regarding the company's capital requirements or restrictions that are imposed on the scope

of its operations, on the book of customers that it may contact, or on the maximum exposure per customer.

For Section 13

It is proposed to clarify that participation in a program under Section 8 does not detract from supervisory and enforcement powers by law in matters that are not explicitly regulated by this Law, including the supervisory and enforcement powers of Financial Regulators or powers under general laws such as the Consumer Protection Law. This Section is designed to clarify that participation in a program does not detract from any supervisory or enforcement powers by law with respect to the participating companies on issues in respect of which no conditions or relief was determined by a Financial Regulator under this Law.

For Section 14

It is proposed to determine that the provisions in the laws of the Financial Regulators will apply to monetary sanctions in the licensing track, in order to allow the Financial Regulators to enforce these provisions notwithstanding the regulatory relief granted to program participants. It is further proposed to determine that a violation of the Adjusted License Conditions will cancel the regulatory relief granted to the Fintech Company with respect to the relevant legal requirement, and consequently the Lead Regulator may impose monetary sanctions on it, pursuant to existing legislation, as if the company violated the relevant legal requirement itself. In the event of several Lead Regulators, each Lead Regulator may impose sanctions pursuant to the adjusted license that is under its supervision and powers.

It is proposed to determine that in the matter of imposing monetary sanctions on a Fintech Company whose Lead Regulator is the ISA, the provisions of Chapters Eight "C" and Eight "D" of the Securities Law, Chapters Ten and Ten "A" of the Joint Investments in Trust Law, Chapters 7A and 7B of the Advice Law, and Chapters G and H of the Rating Law, as defined in the adjusted license, will apply in the matter of enforcement of the violation, with the necessary changes, as relevant and according to the type of condition violated.

It is further proposed to determine that in the matter of imposing monetary sanctions on a Fintech Company whose Lead Regulator is the Bank of Israel, the provisions of Sections 14i through 14o of the Banking Ordinance 1941 and Chapter N of the Credit Data Law 5776-2016, as defined in the adjusted license shall apply in the matter of enforcement of the violation, with the necessary changes, as relevant and according to the type of condition

violated.

It is further proposed to determine that in the matter of imposing monetary sanctions on a Fintech Company whose Lead Regulator is the Capital Market Authority, the provisions of Chapter L of the Control of Financial Services (Regulated Financial Services Law) 5776-2016, Chapter I1 of the Control of Financial Services (Insurance 5741-1981; Chapter E of the Control of Financial Services (Provident Funds) Law 5755-2005, and Chapter F of the Control of Financial Services (Advice, Marketing, and Pension Settlement System) Law 5755-2005, as defined in the adjusted license shall apply in the matter of enforcement of the violation, with the necessary changes, as relevant and according to the type of condition violated.

Section 15

It is proposed to determine that within the Oversight Conditions granted to a Fintech Company in the oversight track, the Lead Regulator will determine that a violation of conditions in the following areas constitutes grounds for imposing a monetary sanction by the Lead Regulator (“Violations That Constitute Grounds for a Monetary Sanction”): capital and insurance, disclaimers and disclosures that must be made to customers or investors or to the authority, and provisions concerning restrictions on operations and prevention of conflicts of interest in operation.

The Lead Regulator will be granted authority to impose monetary sanctions on a Fintech Company that violates conditions defined in the oversight approval, the violation of which constitute grounds for a monetary sanction. In order to avoid creating a special mechanism for monetary sanctions for the oversight track that departs from the ordinary monetary sanction mechanism of each Financial Regulator, it is proposed to determine that the section on monetary sanctions concerning the oversight track will refer to the monetary sanction mechanism of each Financial Regulator. If a Lead Regulator imposes monetary sanctions on a company in the oversight track that committed Violations that Constitute Grounds for a Monetary Sanction, it will do so according to the mechanism to which the Law refers. For example, in the matter of imposing a monetary sanction on a Fintech Company whose Lead Regulator is the ISA, the mechanism defined in Section 52P through 52CC in the Securities Law will apply, with the necessary changes and as relevant.

It is clarified that since the Program is designed for innovative companies, which may be small companies, the amount of the monetary sanction that a Lead Regulator may impose in the oversight track will not be a function of the laws to which the Law refers. The base amount in the oversight track is defined for each regulator in this section. For companies whose Lead Regulator is the ISA, it is proposed to determine a base amount of NIS 50,000. For companies whose Lead Regulator is the Bank of Israel, it is proposed to determine a

base amount of NIS 50,000. For companies whose Lead Regulator is the Capital Market Authority, it is proposed to determine a base amount of NIS 50,000. If a Lead Regulator imposes monetary sanctions on a company in the oversight track, it will apply the mechanism to which the Law refers, and will impose the base amount as defined in this section.

It is proposed to define a mechanism for updating amounts, according to which the base amount defined in this section will be updated on January 1 of each year, based on the change in the known CPI compared to the known CPI on January 1 of the preceding year; This amount will be rounded to the closest multiple of 10 shekels. It is proposed to determine that Lead Regulators will publish notices of the updated amounts of the monetary sanctions in Reshumot [the Official Gazette].

Section 16

It is proposed to clarify that monetary sanctions imposed in the oversight track or the license track will be collected into the state treasury, and the collection process will be subject to the Central Law of Collecting Fines, Levies, and Expenses 5755-1995.

Section 17

To allow the representatives of the regulators who are members of the committee and the representatives of the Advisory Authorities to share information concerning the Program, it is proposed to determine that notwithstanding any other law, the regulators that are represented on the committee and the Advisory Authorities whose representatives participate in committee meetings may furnish to the committee information concerning Innovative Financial Companies that is in their possession and that is required by the committee to fulfill its duties according to this Law.

It is proposed to determine that this section will not apply to information obtained by the IMPA under Sections 7(a)(2), 7(b), 8A(a)(2), 9(b), 11L1(a), 30(b), 30(b1), 30 (b2), 30 (b3), 30(c), 30 (c1), 30(c2), 30(f) and 31 of the Prohibition of Money Laundering Law 5760-2000.

Section 18

In order to protect the information obtained by the regulators' representatives who are committee members and by the representatives of the Advisory Authorities who participate in committee meetings, it is proposed to determine that any person who obtains information in the capacity of his duties under this Law will not disclose it to another and will not make any use of it other than to perform said duties.

To regulate the use of the information obtained by the regulators' representatives who are committee members and by the representatives of the Advisory Authorities who participate in committee meetings, it is proposed to determine, without detracting from the provisions of subsection (a) and notwithstanding any law, that regulators whose representatives are committee members and Advisory Authorities that are invited to participate in committee meetings may receive information that was received by the committee under this Law from other authorities, and may make use thereof only for the purpose of their duties and the functions of the committee.

Section 19

It is proposed that the Minister of Finance be responsible for the execution of this Law.

Section 20

The Team's report indicated that fintech companies whose operations are not subject to licensing requirements or oversight by any Financial Regulator encounter serious challenges when operating in Israel. Among other things, these difficulties stem from interfacing with the banking system in Israel, especially due to the absence of an applicable AML/CTF regime, as this fact significantly increases the risks of these companies' operations from the banking system's perspective. In other cases, the operations of certain fintech companies do not fall under any regulatory regime because of their incompatibility with local definitions, as these lack reference to such innovative activities. To respond to the difficulties encountered by Innovative Financial Companies that are not subject to a licensing or regulatory regime, it is proposed that Innovative Financial Companies accepted into the oversight track become subject to an effective AML/CTF regime based on a specific AML/CTF order.

Applying IMPA reporting requirements to such companies will reduce the risks of their operations and will allow the Bank of Israel to define guidelines and instruct the banking corporations interfacing with Program participants on how to create the access to the Israeli financial system that is critical for the companies' operations.

It is therefore proposed issues a specific order, based on general AML/CTF principles, which imposes on fintech companies that participate in the oversight track an obligation to meet these AML/CTF requirements as long as they operate under the Program.

To this end, it is proposed to amend the Money Laundering Prohibition Law 5760-2000 ("the AML Law") and to insert the definition of a Fintech Company into section 1 – A company as defined in the Law to Encourage Fintech Development in Israel 5780-2020, which participants in the oversight track of a Program to Encourage Fintech Development.

It is further proposed to amend Section 11(M)(a) of the AML Law and determine that the regulator with respect to a Fintech Company that is not one of the entities listed in Section 11(M)(a) will be the Supervisor of the Lead Regulator determined according to Section 6(b) of the Proposed Law.

It is furthermore proposed to amend the Third Addendum to the AML Law and to add Innovative Financial Companies that do not appear in the list and are not banking corporations, to the list of additional entities subject to identification, filing, and record keeping requirements according to Chapter C.