

Notice to companies with activity in recreational cannabis abroad

During the past year, a number of public companies have reported their intention to enter the business of recreational cannabis in foreign countries where this activity is legal and under license. Similar activity is illegal in Israel and so in contrast to the medical cannabis sector, a license cannot be obtained for such activity in Israel. A number of foreign private companies with this kind of activity have looked at the possibility of an initial public offering on the Tel Aviv Stock Exchange (hereafter: **Stock Exchange**).

In this context, the following question arises: **Under which conditions the shares of a corporate engaged in the recreational cannabis sector outside of Israel can be issued in Israel?**

The question arises in view of Section 38 of the Dangerous Drugs Ordinance (New Version), 5733 – 1973 (hereafter: **Dangerous Drugs Ordinance**), according to which:

- (a) A citizen or resident of Israel who carries out an act abroad that would be an offense according to this ordinance if it were carried out in Israel – he is to be viewed as if he committed an offense in Israel.
- (b) Someone who is not a citizen or a resident of Israel who carries out an act abroad that would be an offense under Section 6 or Article B of Chapter C or an offense of possession of a dangerous drug under Section 7 – he is to be viewed as if he committed an offense in Israel.
- (c) A person will not be prosecuted under the provisions of subsection (b) if the act was carried out in a place under the jurisdiction of a foreign country unless the act is also prohibited according to the law of the country in which it was carried out.

In view of Section 38 of the Dangerous Drugs Ordinance, and **without expressing an opinion on the other legal aspects of the Dangerous Drugs Ordinance, the following are features that if they are fulfilled a foreign corporate with activities outside Israel in the recreational cannabis sector can ask permission from the Israel Securities Authority (hereafter: the Authority) to publish a prospectus:**

- a. The corporate is incorporated and registered outside Israel;
- b. The corporate's activity in the recreational cannabis sector are conducted in a country in which this activity is regulated by law and the corporate has an appropriate valid license (or other equivalent permission) granted legally to the corporate under the laws of the relevant country and/or territory;
- c. The controlling shareholder in the corporate is not a citizen or resident of Israel. If there is no controlling shareholder in the corporate, there will be no citizens or residents of Israel in the corporate who are interested parties by virtue of holdings of 5% or more in the

corporate's equity and/or voting rights, excluding institutional investors. For this purpose, "**institutional investor**" – an investor listed among those in Sections 1 to 4 of the First Schedule to the Securities Law, 5728-1968;

- d. The corporate's CEO and CFO are not citizens or residents of Israel;
- e. The majority of the senior officers in the corporate are not citizens or residents of Israel;
- f. The majority of the members in the corporate board of directors are not citizens or residents of Israel.

Concerning the possibility of a corporate **incorporated in Israel** being able to engage in the recreational cannabis sector through a foreign corporate, while fulfilling all the aforementioned features with regard to a foreign corporate, according to the Ministry of Justice opinion sent to the Authority in May 2020, in view of Section 38(a) of the Dangerous Drugs Ordinance, the shares of the corporate incorporated in Israel cannot be listed on the Stock Exchange if it is directly or indirectly engaged in activities in the recreational cannabis sector.

It should be emphasized that the above does not detract from or express an opinion on any additional requirements that may arise with respect to such corporates or guarantee that these corporates are eligible to receive a permit from the Authority to publish a prospectus or that it will be possible to list their securities on the Stock Exchange.