



Israel Securities Authority

Proposed Securities Regulations (Structured Bonds), 5778 – 2018

Version for Comments by the Public

Comments and responses will be accepted until October 17, 2018

Contact persons: Attorney Yaakov Yudkovitch CPA, Attorney Vered Pilichovski-Sisik and Attorney Hagai ben Arza

Tel: 02-6556456 Fax: 02-6513646 email: seclaw@isa.gov.il

We wish to draw your attention to the procedure published by the Israel Securities Authority regarding the initiation of regulations – see: <http://www.isa.gov.il/Download/IsaFile7067.pdf>. In accordance with this procedure, the main comments from the public will be collected in a document that summarizes the text of the regulation, including the names of the respondents from among the public. See also Paragraph 7 of the procedure regarding special requests to avoid said publishing of names.

General

Structured bonds are investment products whose revenues are derived from changes in the value of specific tracked assets. The overall return on the product is therefore influenced by a number of parameters that are dependent on market conditions.

For about the last 10 years, no structured bonds have been issued in Israel, primarily due to the requirements for disclosure imposed by the Israel Securities Authority, which did not in practice facilitate the issue of such products. Currently, the Israel Securities Authority feels that the possibility should be considered of enabling the issuing of this type of bond, with the goal of opening up the market for the first time in a number of years, while at the same time minimizing risk and increasing transparency for investors.

Since this involves the opening of the market for the first time in a number of years, it is proposed that the process begin with the issue of structured bonds that meet criteria which ensure relatively low risk for investors and which will enable the investing public to price the bonds on a continuous basis. Thus, it is proposed that the bonds to be issued will be of a type that will ensure the return of the principal to the investor and in addition it is proposed that the obligation according to the bond will be non-complex and will facilitate the calculation of the obligation's value by the bond holders on any trading day.

The proposed arrangement

After Amendment 28 to the Joint Investments in Trust Law went into effect, bonds whose goal is joint investment and whose revenue is derived from a securities index, commodity prices or futures contract prices, or the exchange rate of currencies will be subject to the Joint Investments in Trust Law, apart from such bonds that the Minister decides will be subject to the Securities Law. Therefore, in order to facilitate the issue of structured bonds, it is proposed to delete Part 2 of the Joint Investments in Trust

(Tracking Funds), 5778 – 2018 regulations, which deal with currency structured bonds, and that a new set of regulations based on the Securities Law will be instituted, which will facilitate the issue of structured bonds, both those that track currencies and those that track a securities index or commodities.

In order to differentiate between most of the investment products, which will be subject to the Joint Investments in Trust Law and will operate in the format of a mutual fund, and the structured bonds that will operate under the Securities Law, the proposed regulations specify that only static structured products—which do not allow for the management of assets and investments decisions at the discretion of the issuer and which meet the other aforementioned criteria (including the safety of the principal and simplicity)—will be issued to the public under the Securities Law and accordingly will be subject to the supervision that applies to reporting corporations, which is characterized as supervision over disclosure that focuses primarily on the point in time prior to the initial issue. To this end, it is proposed that the regulations will include conditions that are to be met by the structured bonds and also bonds whose goal is static investment in currency deposits in order that the Joint Investments in Trust Law no longer will apply and that the Securities Law will begin to apply.

The main rules that will apply to structured bonds issued to the public will ensure that—in order to guarantee the principal—amounts from the issue’s revenues will be deposited only in deposits at banks that are reporting corporations or with insurers that are reporting corporation or are controlled by reporting corporations whose main activity is insurance and the rest of the obligation will be guaranteed on the day of issue using the underlying assets. After the investment of the issue revenue in the underlying assets, neither the management of the assets nor any investment decision will be subject to the discretion of the issuer. In addition, in order that there be no concern regarding the effectiveness of the guarantee of the principal will diminish during the life of the product, in a way that will transform the structured bonds into products that are similar to currently existing ETFs, and also that the derived component of the instrument (which according to the proposed regulations is likely to be backed by assets that are not deposits) will not become a significant component of the product, it is proposed that for bonds that track indexes, commodities or futures contracts there will be a time limitation of three years. Furthermore, since the choice of the underlying assets will be made at the time of the issue according to the market conditions at that time, it will not be permitted to extend the series of the bonds. These restrictions are not required for currency-tracking bonds, for which it is proposed that the regulations will specify characteristics that ensure their simplicity. Additional limitations whose goal is to reduce the complexity of bonds that track indexes and commodities are expected to be included, in parallel, within the Stock Exchange bylaws.

Following is the text of the proposed legislative amendments.



The Proposed Text – Accessed Table of Content

Proposed Securities Regulations (Structured Bonds), 5778 – 2018.....1

- 1. Application of the Law to index-tracking arrangements.....4
- 2. Application of the Law to currency-tracking arrangements.....5
- 3. Application.....6

Joint Investments in Trust Regulations (Tracking Funds)(Amendment), 5778 – 2018.....7

Securities Regulations (Structured Bonds), 5778 – 2018

Based on my authority according to Paragraph 35a1 of the Securities Law, 5728 – 1968¹ (herein – the Law) and according to Paragraph 2(a) of the Joint Investments in Trust Law, 5754 – 1994² (herein – the Joint Investments Law), according to the proposal of the Israel Securities Authority and with the approval of the Knesset Finance Committee, I hereby institute the following regulations:

Application of the Law to index-tracking arrangements	<p>1. The instructions of the Law will apply to bonds whose goal is joint investment or the joint generation of profits and which provide the bond holder with the right to receive revenue derived from a securities index, commodity prices or futures contract prices (in these regulations – the Tracked Asset) if it fulfills all of the following:</p> <ol style="list-style-type: none">(1) It provides the holder, on the final day of redemption, with the right to receive a payment that will not be less than its price on the day of its issue in shekels or its price on the day of issue when it is indexed to the exchange rate of the currency in which the value of the tracked asset is denominated;(2) The issuer will deposit amounts from the issue's revenues in deposits at banks that are reporting corporations or insurers that are reporting corporations or are controlled by a reporting corporation whose main activity is the holding of the insurer where the revenue that will be received for them according to their terms will allow him to meet his obligations to the holders as mentioned in sub-regulation (1);(3) The revenue that the issuer will received from the assets that back up the bond according to its terms will enable him to meet all his obligations to the bond holders in a timely manner;(4) After investment of the issue's revenue in the underlying assets, the activity of the issuer will not include asset management or investment decisions that involve the exercise of discretion;(5) The value of the issuer's obligation according to the terms of the bond will not be overly complex to calculate, such that it will be possible for the bond holders to calculate it on any trading day;(6) Up until the final day of redemption of the bonds, there will be no extension of the issued bond series;(7) The final date of redemption of the bonds will be no later than three years from the date of issue;
---	---

¹ Book of Laws 541, 5728, p. 234.

² Book of Laws 5754, p. 308; 5777, p. 1064.

		(8) The terms specified in clauses (1) to (7) will be specified in the prospectus.
The application of the Law to currency-tracking arrangements	2.	<p>The instructions of the Joint Investments Law will apply to bonds that are an arrangement for a joint investment whose goal is investment in currencies and the receipt of revenues derived from their exchange rates and which grant its holder the right to receive revenue derived from the exchange rate of the currencies, unless all of the following are fulfilled:</p> <ul style="list-style-type: none"> (1) It provides the holder, on the final day of redemption, with the right to receive revenue that will not be less than its price on the day of its issue or that price when it is indexed to a currency's exchange rate or the Consumer Price Index; (2) The issuer will deposit amounts from the issue's revenues in deposits at banks that are reporting corporations or insurers that are reporting corporations or are controlled by a reporting corporation whose main activity is the holding of the insurer where the revenue that will be received for them according to their terms will allow him to meet his obligations to the holders as mentioned in clause (1); (3) The revenue that the issuer will receive from the assets that back up the bonds according to their terms will enable him to meet all his obligations to the bond holders in a timely manner; (4) After investment of the issue's revenue in the underlying assets, the activity of the issuer will not include asset management or investment decisions that involve discretion, investment of assets that will be added due to an extension of the series will be carried out according to the rules specified in the prospectus and the replacement of the underlying assets will be on the dates specified in the prospectus and according to said rules; (5) If the amount of the revenue granted by the bond to its holder exceeds the amount mentioned in clause (1), whether the added amount is the result of full or partial indexation to a currency exchange rate, interest or the Consumer Price Index, it can be decided that the additional amount will not be less or more than a particular amount or than a rate that will be derived from the amount of the principal; in this regulation – "partial indexation" is the product of the rate of change in the Tracked Asset or the interest which is a positive number less than 1.

Application	3.	The application of these regulations _____
-------------	----	--

_____ on 5778 (_____ on _____ 2018)

Moshe Kachlon

Minister of Finance

Joint Investments in Trust Regulations (Tracking Funds)(Amendment), 5778 – 2018

Deletion of Regulation 3	1.	Regulation 3 of the Joint Investments in Trust Law (Tracking Funds), 5778 – 2018 ³ will be deleted.
--------------------------	----	--

³ Compendium of Appendixes 5778, p. 2394