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20 Adar 5780

March 16, 2020

To: Eli Bavli, Chairman of the Association of Mutual Fund Managers

Via e-mail

Shalom,

RE: **Refraining from taking enforcement proceedings due to matched trading in tracker fund units between a market maker and someone who is not a manager of other people's money**

As part of the ongoing current dialogue between the Association of Mutual Fund Managers ("the Association") and the staff of the Israel Securities Authority ("ISA"), we have been requested to refrain from taking enforcement measures due to matched trading carried out in units of tracker funds with an individual who is not defined as a "manager of other people's money", contrary to Article 3 of the Joint Investments Trust Regulation (tracker funds), 5778 – 2018 (hereafter: "Tracker Fund Regulations").

The background to the request

The world is currently experiencing an event with macroeconomic implications due to the spread of the Corona virus in many countries. The State of Israel is taking significant and unprecedented steps as a result of this event in an attempt to stop the spread of the virus, as in other countries.

Recent weeks have been characterized by sharp declines in the prices of securities in many of the leading stock exchanges around the world, including the Tel Aviv Stock Exchange, accompanied by an increase in volatility in the prices of commodities and various risk assets. The mutual funds industry is experiencing exceptionally large volumes of redemptions, on a scale that has not been seen in the past, even in previous crises.

Reasons for the request

The Tracker Fund Regulations permit matched trading only with a “manager of other people's money”, a definition that includes only a small number of entities. During the current period, when the industry is suffering from a surplus of redemptions, it is highly important to provide flexibility to the demand side in the case of various entities that are interested in carrying out trades of more than NIS 500,000, the threshold specified in the Regulations. The volatility that characterizes the prices of securities in Israel and worldwide is also making it difficult for effective market making in units of tracker fund and therefore a solution is needed for making large trades with certainty regarding the price of the purchase and the quantity.

The position of the ISA staff

We are currently in the midst of an exceptional crisis that is affecting the normal course of business and a flexible solution is needed. Despite what is stated in the Tracker Fund Regulations, namely that matched trading will be carried out only with managers of other people's money, whose activity is meant to provide a service to the public, and in view of the arguments presented by the Association and the fact that a matched trade is recorded and documented in a book of orders (unlike over the counter trading), which provides an opportunity for the public to respond to it, and in view of the obligation of the market maker to quote prices in a book of orders in a way that serves the interest of the public and to refrain from carrying out a matched trade at a price that causes it a loss, as stated in the directive to fund managers and trustees regarding separation between the activity of a fund manager and a market maker in fund units – we have decided to grant the request of the Association during this exceptional period.

This position will be in effect until May 31, 2020 and its extension will be considered from time to time according to the circumstances.

This position is based on the facts and evidence presented in your request and on the assumption that your request includes all of the details and data required to respond to the question you submitted. Any change in the facts or circumstances submitted to us may lead to a different conclusion with respect to the question submitted.

Yours sincerely,

Maya Gerti Gilboa
Legal Counsel
Unit for Supervision of Mutual Funds