



Israel Securities Authority

OPENING AN ACCOUNT REMOTELY DURING THE CORONA VIRUS CRISIS

CONDENSED GUIDE TO PORTFOLIO MANAGERS, INVESTMENT ADVISERS AND INVESTMENT MARKETERS¹

Background

The ISA Staff has received numerous enquiries from licensees with respect to the problems of complying with the instructions of the Regulation of Advice Law and the money laundering prohibition Order that applies to portfolio managers, as a result of the Corona crisis and the directives of the government of Israel which restrict activity and presence in the public domain.

Licensees can communicate remotely with a new customer even without a frontal meeting, following a series of recently granted reliefs. In light of the Corona crisis, (in a way of a temporary provision), reliefs were also granted regarding the execution of an initial needs clarification procedure and its updating. Recently (even before the crisis), relief has been granted regarding the identification of a new customer by a portfolio manager according to the prohibition on money laundering and terrorist financing obligations, which allows a remote communication and which removes an obstacle in the portfolio management service, whether it is provided online or in the usual way, such as a direct contact with the portfolio manager.

In view of the above, the ISA staff has written a guide to assist in the continuity of business activity of license holders who provide service in the “traditional” manner, based on personal and direct contact with the customer, which is the framework in which new customers are being handled during the current period.

For your convenience, the following summarizes the relevant instructions of the law according to which a license holder can sign up new customers and provide service remotely as well.

¹ This guide includes the main points and does not detract from the validity of any instructions of the law and in particular the instructions of the Regulation of Investment Counselors, Investment Marketers and Portfolio Managers (hereafter: the Law or the Advice Law), 5755 – 1995, and the Order Prohibiting Money Laundering (obligations for identification, reporting and recordkeeping by portfolio managers in order to prevent money laundering and financing of terror), 5771 – 2010 (hereafter: the Order or the Portfolio Manager Order).

Signing up a new client without a face-to-face meeting – how is it done?

Signature on an agreement with the customer

As mentioned in the Remote Signature Bulletin,² the customer's agreement to what is stated in the Service Provision Agreement can be provided in any way that will provide evidence of his agreement and therefore his physical signature is not necessary. Thus, for example, a confirmation by the customer that is conveyed by email and which clearly refers to the agreement can serve as proof of his consent. It is important to mention that reasonable steps should be taken in order to verify that the individual with whom the clarification of needs was carried out is indeed a side in the agreement and that it is the individual who has agreed to it and signed the agreement.

? Is it necessary to use special technology in order to obtain a signature from the customer remotely?

No. A telephone and computer with an Internet connection are also sufficient. There is no obligation to use a secure or confirmed electronic signature.

? Does the signature have to appear on the agreement itself?

No. There is no obligation that the physical signature of the customer appears on the agreement and his confirmation of the agreement by a return email or any other method that expresses the customer's consent to what is stated in the agreement is sufficient. If the customer is required to approve a specific paragraph in the agreement (for example, the use of derivatives), even in that case he can do so on the agreement or separately from it by means of a response by email to the license holder, in which there is specific mention of the consent required from him.

? After the agreement is signed can changes be made in the agreement remotely?

If one or more of the conditions specified at the time of the customer's signing of the agreement—even if it was signed in a face-to-face meeting—the customer's approval of the condition consented to remotely is acceptable using the methods described above with respect to signing an agreement with a new customer without the need for a face-to-face meeting. The confirmation of the customer is required for a change only and there is no need to sign on a new agreement.

Clarification of a customer's needs

? What means can be used to carry out a clarification of a customer's needs remotely?

A clarification of customer's needs that is carried out for the first time with a new customer (at the stage of signing an agreement) and is being done remotely can be carried out by means of a telephone conversation, video call, email correspondence or chat (on the internet, using an sms app, etc.).

? How is the conversation to be documented?

- 👉 In the case of a telephone conversation – the conversation can be recorded or documented in writing during its occurrence;
- 👉 In the case of a video conversation – the conversation should be recorded;

² For the bulletin regarding an agreement with a customer for service provided in the traditional manner, click [here](#).

- 👉 In the case of email correspondence or chat – the correspondence constitutes the documentation.

In each of these possibilities, the documentation should be stored in a way that allows for retrieval according to the instructions of the law.

In view of the Corona crisis, the ISA has recently issued a time-limited directive³ which is in effect until June 30th 2020 and which states that all of these possibilities are permitted and all of them are defined in the directive as a “recorded conversation”. For each of these possibilities, all of the requirements that appear in the Directive for Clarification of a Customer's Needs regarding a recorded conversation should be fulfilled.

- 💡 **Note** – If you have held a telephone conversation that is not recorded but rather is documented in writing, you are required to send the documentation to the customer and to obtain his approval in writing of the content of the conversation in explicit wording. In addition, the signature of the customer is necessary and it can be a physical signature or by any other means (such as confirmation by email).

? **Does a "conversation auditor" have to audit the “recorded conversation”?**

No. This requirement has been temporarily suspended (until June 30th, 2020) and the license holder has discretion with regard to the necessary audits.

? **How should a clarification of needs conversation carried out remotely be prepared for?**

- 👉 The agreement and clarification of needs questionnaire should be in the hands of the customer prior to the conversation in order for him to read the questionnaire before the conversation. The questionnaire can be sent to the customer by email, by fax or by any other channel and on the condition that the customer will have a reasonable possibility of looking at it ahead of time. After that, the clarification of needs can be carried out using any one of the methods mentioned above.
- 👉 It should be verified with the customer that the conversation is taking place at a time that is convenient for him and that he is available for the conversation, given the time that is required for it.
- 👉 Note that you have the option of directing the customer’s attention to the core of the service and to the relevant paragraphs in the agreement, just as you normally do in a face-to-face conversation.
- 👉 Filling out the questionnaire and the details in the agreement can be done by the license holder during the conversation or the customer can fill out the questionnaire himself together with the license holder during the conversation. At the end of the conversation, the license holder needs to send the agreement and the clarification of needs questionnaire to the customer for him to approve what is written in it.

³ To see the Directive to License Holders with Respect to the Clarification of the Customer’s Needs and Instructions – Combined Version (time-limited directive) which is in effect until June 30th 2020, click [here](#).

Identification and verification of the customer's identity – Obligations with regard to the Prohibition of Money Laundering and Financing of Terror that apply to portfolio management companies

The portfolio manager must get to know the customer also in the context of the Prohibition of Money Laundering and then to categorize the customer's level of risk in this context. To the extent that the account is considered to be low-risk in the context of money laundering, use can be made of numerous leniencies in the Portfolio Manager Order which allow for the opening of an account even without a frontal meeting with the customer (in other words, there is an exemption from the obligation of face-to-face identification).⁴

? How should the customer be identified remotely?

1. Verify the customer's details using a copy of his identity card – there is no need to verify using an original identity card;
2. Obtain the customer's signature on the Beneficiary and Controlling Shareholder Declaration; but there no need to obtain an original signature and it is sufficient to obtain the customer's signature on the form submitted by fax, email or even by way of an app for conveying messages;
3. An additional means of identification should be used which will be one of the following three:
 - 👇 Verification of customer details against a copy of an additional document (such as a passport or driving license);
 - 👇 Verification of the customer's details against the Population Registry;
 - 👇 Face-to-face identification by way of a video conversation.

? How can a "Get to Know the Customer" conversation be carried out remotely?

By means of a telephone conversation, a technology that facilitates visual identification (such as a video conversation) or email.

In each of the aforementioned possibilities, the identification documents should be stored and the documentation should be retrievable for a period of at least five years from the closing of the account.

It is important to emphasize that these leniencies can be used only if the customer's account is with a bank in Israel or with a member of the Stock Exchange in Israel and if the account has been categorized by the portfolio manager as low risk in the context of money laundering.

Documentation, information security and records keeping

The customer has understood the essence of the service, has successfully completed the clarification of needs process together with the license holder, has passed the identification and verification stage, has provided his confirmation of the framework of service and has signed the agreement – congratulations, you have a new customer!

All that remains to do is to store all of the verification and identification documents (according to the obligations of the Prohibition of Money Laundering) and the agreement in a secure location and without

⁴ To see paragraph 6a of the Portfolio Managers Order, click [here](#).

the possibility of making any changes in what was agreed upon between the license holder and the customer without his approval, as required in the Remote Signature Bulletin.

And one more thing before the end:

- 💡 It is important to mention that it should be verified that all of the processes comply with the instructions of the law with respect to information security issues.
- 💡 It should be mentioned that this guide does not include all of the possibilities by which the license holder can conclude an agreement with a new customer remotely. There are diverse possibilities as long as they fulfil the requirements and the intent of the law. Thus, for example, the customer can be provided with explanations of the agreement and services can be provided by way of a clear instruction to him to focus on specific paragraphs in the agreement for which a checkbox is to be marked or by means of an interactive questionnaire and on the condition that the customer's responses will confirm that he has understood the details of the agreement and that he has consented to them.

Direct any further questions and clarifications to the following contact persons:

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