

Foreign funds – Q & A

- Regulation 2(f1) of the Annual Fee Regulations provide that for the purpose of payment of the annual fee, foreign funds are rated as Level C funds in the Second Addendum to the Regulations. However, a foreign fund for whom the value of its units purchased in Israel does not exceed the amount established for Level A in the Second Addendum will pay only the fee established for a fund that is classified as Level A. What proof must be attached to support the data reported by the fund manager for the purpose of determining the level of an exchange traded foreign fund and for a non-exchange traded foreign fund?

Answer: With respect to an exchange-traded foreign fund, the fund manager must, in the reporting of the data for the purpose of determining the fund's level – refer to the NAV of the units held in the clearing house account and attach to the report of the data documentary evidence from the stock exchange that relates only to the number of units held in the clearance account. The final data will be calculated on the basis of the NAV as it appears on the fund manager's books. Regarding a foreign fund which is not exchange-traded, the fund manager must report on the holdings of Israelis through bank accounts and the value thereof, and must do so by producing hard copies of the statements of the holdings in Israeli banks, and a confirmation from a law firm indicating that these are original copies. With regard to the holdings of Israelis other than through bank accounts – the fund manager must attach a signed confirmation from the company's auditor or of the party charged with recording the holders of the fund units or the manager of their register. (For example, a confirmation from the company's transfer agent.)

- There is no reference in the Joint Investment Trust (Calculation of Rates of Return) Regulations to the presentation of the yields in terms of the foreign currency in which the fund operates. May the foreign fund manager present the yields on this basis (i.e, in terms of the fund's own non-Israeli currency)?

Answer: In accordance with the Calculation of Rates of Return Regulations, the foreign fund manager is required to present the yield in Israeli currency terms. However, since the fund is a foreign fund, whose units are denominated in a foreign currency, it is clear that the fund may present the yield in the foreign currency in which the units are denominated, alongside the Israeli currency yield. This must be done by using the formula established in Regulation 4(A) of the Calculation of Yield Regulations, with necessary changes, such that the price and redemption values that are used in the formula are values in the currency in which the fund units are denominated.

December 18, 2019.

- Regulation 2(a) of the Joint Investment Trust Regulations (Offering of Units in a Foreign Fund), 5776-2016 (hereafter: "the Regulation") provides that the Israel Securities Authority may allow a foreign fund manager to offer units of a foreign fund to the Israeli

public if it is satisfied that the value of the foreign fund's assets as of the date of the application for permission is at least fifty million United States dollars or an amount equal to that value, and that its units have been offered for sale in any of the European Union or the United States, for a period of time not less than 12 months, preceding the start of the offering of such units to the Israeli public.

Is the satisfaction of the Regulation's requirements regarding the minimal value of the fund's assets and the duration of time that its units have been offered for sale determined with regard to all the share classes of the fund whose units are being offered (hereafter: "the Mother Fund"), or only with regard to the type of unit/specific class being offered to the Israeli public?

Answer: A class of units that does not itself actually satisfy the requirement regarding the duration of time that it has been offered for sale may not be offered for sale in Israel – unless the only difference between the classes is the cost of the fund's management fee. In such a situation, and for the purpose of determining the relevant asset value amount, the determination is made with regard to all the fund's unit classes, and without regard to the specific class being offered. Nevertheless, the Israel Securities Authority reserves the right not to allow the offering of units of such a class.

- Regulation 2(a)(4) of the Joint Investment Trust Regulations (Offering of Foreign Fund Units), 5776-2016) provides that a foreign fund manager who wishes to offer its fund's units for sale in Israel must leave a financial deposit or a securities deposit in an Israeli bank, in the value of the amount listed in the First Addendum, such deposit to be for the benefit of the Israeli unit-holders (hereafter: "the Deposit").

Can the Deposit funds be encumbered, or can any right derived from the Deposit be encumbered – in favor of a third party?

Answer: No. The foreign fund manager may not encumber all or part of the Deposit funds, in favor of any third party whatsoever or for any other purpose. If a lien is placed on the Deposit account on the basis of a cause that arises from the holding of the fund's units in Israel, the amount which is subject to the lien will not be deemed to be a part of the Deposit which is required by the Regulations and it will be necessary to supplement the existing Deposit with sufficient funds to compensate for the amount on which a lien has been placed.

January 2, 2018

- Regulations 3(a)(1) and (4) of the Joint Investment Trust Regulations (Offering of Foreign Fund Units), 5776-2016) provide that a foreign fund manager who wishes to offer its foreign fund units in Israel must submit an application for permission to do so to the Israel Securities Authority that will include, or which will have attached to it, among other items, an affidavit from a corporate officer of the foreign fund manager, and a valid approval from

the regulator in the fund's country of origin regarding the offering of the foreign fund's units.

May the fund manager submit an affidavit of a corporate officer in the foreign fund manager, and a valid approval from the regulator in the fund's country of origin – which are written in English?

Answer: Yes. The said documents may be submitted in the English language

July 4, 2017

- Regulation 4(a)(9) of the Joint Investment Trust Regulations (Offering of Foreign Fund Units), 5776-2016 (hereafter: "the Regulations") provides, *inter alia*, that the fund must, in an appendix attached to the foreign fund's prospectus, provide information regarding the fund's results, and regarding changes in its benchmark index in the years preceding the submission of the fund's application for a permit, in accordance with the points in time at which an Israeli fund manager is required to indicate the manager's Israeli fund's yields in the fund's annual report, according to Regulation 18 of the Joint Investment Trust Regulations (Fund's Annual Report), 5676-2016 (hereafter: "the Annual Report Regulations"). All this information is to be provided as required in Regulation 18, but with the necessary changes, given the fund's foreign status.

Regulation 18(b)(2) of the Annual Report Regulations refer to the points in time which a fund manager must refer, in a table entitled "Yields, Standard Deviations and Comparative Data – At Specified Points of Time", which are derived from, *inter alia*, the date on which the data are prepared.

What is the "date on which the data were prepared", with respect to the presentation of the yields of a foreign fund and the yields of the benchmark.

Answer: The "date on which the data were prepared", which is to be taken into consideration for the purpose of calculating the yields of a foreign fund, and for the purpose of calculating the yield on the index is the date which is the "eve of the application" as that term is defined in the Regulation. The term thus refers to the last day of trading in the month preceding the month in which the application for permission to offer units in Israel was submitted. And if this date was not at least two weeks before the date on which the application was submitted, the term refers to the last day of trading in the preceding month (i.e., the last day of trading in the month before the month preceding the application for a permit).

July 4, 2017