



OVER 30 YEARS OF INNOVATION

9 April 2024

Amendment of the Israeli Companies Regulations (concessions to companies which shares are registered for trade in an exchange out of Israel), 5760-2000

Please note that recently the Israeli Companies Regulations (concessions to companies which shares are registered for trade in an exchange out of Israel), 5760-2000 (the "**Regulations**") were amended, with a view to resolve certain inconsistencies and/or conflicts between foreign laws which apply to Israeli companies whose shares were offered to the public out of Israel and/or who are traded in certain foreign exchanges (including the SGX-ST) and/or who are dually traded.

Generally speaking, the amended Regulations allow such companies to rely on the applicable foreign laws, rather than comply with the provisions of the Israeli Companies' law, in certain matters. Among others, the amended Regulations provide that:

1. The reference to "Foreign Law" (previously: the law of the state where the company's shares were offered to the public or are registered for trade, including the rules and instructions of the respective exchange where such shares are registered for trade") was amended, and a clarification was added, so that where such laws, rules or instructions include a "comply or explain" mechanism, the company in question may rely on such "Foreign Law" only if it is in compliance (and does not merely "explain").
2. The Israeli takeover rules (under the Israeli Companies Law, 1999 – the "**ICL**") no longer apply to a foreign company/ a company whose primary listing is out of Israel (each: an "**Exempted Company**"), provided that the applicable "Foreign Law" include takeover rules.
3. All arrangements regarding voting forms and position papers in connection with general meetings shall be governed by the "Foreign Law".
4. Shareholders may inform the Exempted Company, whether within the proxy form or otherwise, whether they have a personal interest in a resolution (where such criterion is applicable), and the Exempted Company may adopt the principle of "lack of personal interest by default" and inform the shareholders that unless they inform the company otherwise (whether in the proxy form or otherwise), they shall be deemed as having no such personal interest in the respective resolution/s.
5. External Directors' and Independent Directors' tenure is no longer limited to 9 years, provided that any extensions of tenure beyond 9 years shall be subject to approval by the company's audit committee, by the board of directors (the "**Board**") and by a special majority in the general meeting (the same mechanism applicable to the original appointment of such directors) and that the audit committee and the Board approved that such extension is

- required given the expertise and special contribution of such External and/or Independent Director/s.
6. The position of a director who is classified as having a financial and accounting expertise may be held by an "Independent Director" (under Foreign Law) and not necessarily by an External Director.
 7. An Exempted Company which does not have a controlling shareholder, and which complies with the Foreign Law's requirements re the appointment of Independent Directors and the structure of the audit committee and the remuneration committee, may decide to stop following the requirements of the ICL with regard to:
 - a. The need to appoint two "External Directors" (existing External Directors may remain in office until the earlier to occur of: (a) the end of their original tenure; and (b) the second annual general meeting held after the company resolved to stop following the requirement of the ICL in these matters).
 - b. The need to appoint an External Director in each committee of the Board.
 - c. The restrictions on engaging the External Directors or their relatives or conducting any transactions with them during their tenure and for a period of two years thereafter.
 - d. The appointment of a remuneration committee.
 - e. The requirements that all External Directors shall be members of the audit committee, that the majority of the members of the audit committee shall be Independent/External Directors, that the chairman of the Board shall not be a member of the audit committee, that the audit committee shall be chaired by an External Director and that the required quorum in such committee shall be a majority of the members, provided that the majority of the directors attending is independent and that at least one External Director is attending.
 8. The effective date for a general meeting may be set not earlier than 60 days and not later than 4 days before the general meeting's date.
 9. The threshold for a shareholder who wishes to propose a Board nominee or to move for removal of an existing Board member was increased from 1% of the voting rights in the company to 5%.
 10. The threshold for a shareholder who may demand that a general meeting be convened was increased from at least 5% of the share capital *and* 1% of the voting rights in the company, or 5% of the voting rights in the company to at least 10% of the share capital *and* 1% of the voting rights in the company, or 10% of the voting rights in the company (provided that where the Foreign Law sets a threshold which is lower than 10% the original threshold under the ICL shall apply).
 11. An Exempted Company may purchase its own shares even if it does not have the sufficient reserves required under the ICL for "distribution", without seeking the court's permission, provided that: (a) the Board is of the opinion that the Exempted Company is able to meet its outstanding financial obligations; (b) the Exempted Company informs the public and its secured and/or material creditors of its plan to purchase its shares at least 30 days in advance; and (c) if any creditor informs the company that it opposes such buy-back the Exempted Company will be required to turn to the court and seek its permission.

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