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## Digital currency trading services in Israel – is there a new player in the game?

### Client Updates

On October 10, 2023, the Supreme Court (residing as the High Court of Justice) issued a [ruling](#)<sup>1</sup> in which it dismissed a petition filed against the Governor of the Bank of Israel, the Supervision of Banks, and Bank Leumi Le Israel Ltd. ("**Bank Leumi**"). The petition argued that Bank Leumi ought to be prohibited from providing digital currency trading services to its customers.

At the heart of the petition lies the question of whether the key legislation governing Israeli banks' operations – the Banking (Licensing) Law, 1981 (the "**Banking Law**"), authorizes them to conduct transactions involving the buying and selling of digital currencies.

The Supreme Court determined that the interpretation allowing banks to engage in activities related to digital currencies is consistent both linguistically and in line with the purpose of Section 10 of the Banking Law.

In her decision, Justice Dafna Barak-Erez, highlighted that the legislative framework concerning digital currencies is in stages of formation, both in Israel and globally. The pivotal question of how to classify digital currencies, as either a currency, a security, or an asset, for different purposes, is still under consideration. While the Supreme Court was not required to rule on the classification of digital currencies, the Supreme Court concluded that the interpretation of the term "other assets" in Section 10(7) of the Banking Law, is sufficiently broad and comprehensive to also encompass digital currencies.

As a side note, the Supreme Court also refers to the draft Proper Banking Procedure Directive 310 issued by the Supervisor of Banks, which pertains to the involvement of banking corporations in activities related to cryptographic assets.<sup>2</sup> The court expressed its position that it should be expected that the banking system will devote efforts to regulating the supervisory aspects accompanying the entry of digital currencies into the banking arena.

While the necessity of regulating the field of digital currencies in Israel is widely recognized (similar to various regulatory efforts being carried out globally), the approach of the Supreme Court, which provides a flexible interpretation of existing legislation to accommodate the accelerated pace of technological development and advanced financial tools - is a significant reinforcement and a call of encouragement for various players in the Israeli digital currency industry.

Please feel free to contact us and consult with our experts regarding any questions that you may have in relation to activities involving digital currencies within and beyond the banking system.

**\* This client update was prepared with the assistance of Melisa Poiron.**

1 Available in Hebrew.

2 For more information, see our [client update](#) on the subject.

## Key Contacts



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