

Unedited response from the Association of Banks in Israel

“The Israeli Banks act in accordance with, and subject to, Israeli laws that regulate their activity, including general civil laws, and the laws regulating the banks' specific activity, such as the Banking Law (Licensing), the Banking Ordinance and the Proper Conduct of Banking Business Regulations. The Israeli Banks are not guided by political considerations in the provision of services to the citizens and residents of the State of Israel.”

FOLLOW UP QUESTIONS

1. Israeli law differs from international law in a number of ways, especially when it comes to settlements. How does Israeli banks deal with this dilemma?

“To be fair, we are unsure if we accept the general assumption underlying the question. As we understand it, the unstated assumption in your question is that economic activity by Israeli and other companies in settlements in the West Bank, while in full compliance with applicable Israeli law, is however contrary to international law.”

“While we are quite aware of the fact that this is a widely held position, we would point out that it is primarily a political and not legal position, and one which has never been accepted by any binding international or national court. On the contrary, attempts to date to raise such arguments in authorized national and international courts have consistently failed. In some cases, the courts even went further and confirmed that adopting such positions, in and of itself, could be a violation of the law. As a prominent example, in 2009 the European Court of Human Rights (the highest human rights body in Europe) upheld the criminal conviction of French mayor Jean-Claude Fernand Willem in a succession of French courts as a result of his calling for the boycott of Israeli products, in protest against what he claimed to be “anti-Palestinian policies of the Israeli Government”.

“We also find it difficult to accept the stated assumption in your question that Israeli law and international law “differ” on these issues. Customary international law (which is the part of international law which is binding on all states) is actually automatically incorporated into Israeli law, and is binding on all Israeli state authorities. Furthermore, the Israeli Supreme Court, sitting as the High Court of Justice, routinely supervises the implementation of and compliance with customary international law by the Israeli authorities.”

2. According to Israeli law Israeli banks are required to not to discriminate, as you say. They are required to provide financial services like bank accounts and mortgages to all Israeli citizens - also in settlements. But what about settlement construction?

Are Israeli banks required to issue loans or guarantees to constructions companies in projects beyond the Green Line?

“The Prohibition on Discrimination in Products, Services and Entry into Places of Entertainment and Public Places, 5761-2000, prohibits banks, who provide banking services and credit, from discriminating in the provision of banking services and credit due to race, religion, religious group, nationality, country of origin, gender, sexual orientation, point of view, partisan affiliation, personal status or parenthood. It is also provides that discrimination includes setting irrelevant conditions in the provision of services.”

“Therefore, setting a policy at a bank, whereby banking services or credit would not be provided in connection with activity, such as mortgages, financing of building projects or provision of credit, in Judea and Samaria constitutes discrimination due to nationality, race, religious group and point of view which is prohibited under the law.”

“The general practice of the banks, before providing any financial services to a client, is to conduct a standard risk assessment on the client and the project, considering, among other things, the client's ability to repay the financing. If the bank finds that providing a financing to this client is at risk, the bank will not provide it.”

3. Is it correct that since 2009 banks have been required to be involved in all housing projects as a guarantor in order to avoid bankruptcy and failed projects? Can you perhaps send me anything on this law in English?

“The Israeli Sale Law (Houses)(The Protection of House Purchasers), 1974 seeks to guarantee house purchasers' money in case the building project they invested their money in, failed (e.g. the building company went bankrupt). In that case the purchasers' money is guaranteed by the bank escorting the project in several ways such as bank guarantees, insurances and pledges. This law does not distinguish between the various building projects and all contractors are obliged to it.”

4. Do Israeli banks receive any form of subsidies or support from the Israeli authorities regarding settlement construction? Are the financial risks involved in settlement projects somehow smaller than in regular construction projects inside the internationally recognized borders of Israel?

“No. The Israeli government offers loans with low interest to any person who meets certain conditions to buy a house. However, these days, it is not very common to take this kind of a loan since the banks offer lower interest rates to the lenders. We are not aware of any smaller financial risks involved in settlements projects.”