



מדינת ישראל

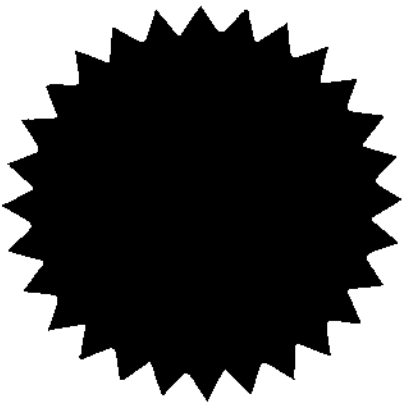
THE STATE OF ISRAEL

משרד המשפטים

THE MINISTRY OF JUSTICE

בקשה לעזרה משפטית בעניין פלילי

REQUEST FOR LEGAL ASSISTANCE IN A
CRIMINAL MATTER





State of Israel

Ministry of Justice

Jerusalem

To the Competent Authorities of the United States of America

Request for Legal Assistance in a Criminal Matter

1. In accordance with the Treaty Between the Government of the United States of America and the Government of the State of Israel on Mutual Assistance in Criminal Matters (hereinafter: **the Treaty**), the State of Israel hereby requests that the United States of America grant legal assistance in the manner provided for by its laws. This assistance is required in order to procure evidence relating to a serious criminal episode, the details of which are set out below.
2. This request is signed and submitted by the Director of the Department of International Affairs in the Ministry of Justice of the State of Israel, who is authorized to submit such requests on behalf of the State of Israel.

Factual Background

3. A police enquiry is underway in Israel, concerning suspicions against the defendants, directors, officers and employees in the Bank Leumi criminal matter. The suspicions include the commission of serious crimes in violation of the laws of the State of Israel, as explained hereinafter:
4. Bank Leumi le- Israel B.M. is a public company, registered with the Registrar of Companies in Israel and traded on the Tel-Aviv stock exchange. It is the parent company of Bank Leumi le-Israel Trust Company Ltd. (hereinafter:

"Leumi Trust"), Bank Leumi (Luxembourg) S.A., Leumi Private Bank S.A. of Switzerland and Bank Leumi USA.

5. As a publically traded banking corporate body, Bank Leumi le-Israel B.M. owes a fiduciary duty to its shareholders and to its clients and is subject to Israeli criminal law, as are its directors, officers and employees. Leumi Trust and its directors, officers and employees also are subject to Israeli criminal law. Bank Leumi (Luxembourg) S.A., Leumi Private Bank S.A. of Switzerland and Bank Leumi USA., along with their directors, officers and employees are subject to Israeli criminal law, if particular conditions of Israeli law are met in a given case.
6. The Israeli authorities have reviewed the **Deferred Prosecution Agreement** of December 22, 2014 and the Exhibits attached thereto (specifically the **Information** and the **Statement of Facts**) in the case of **United States of America, Plaintiff v. Bank Leumi le-Israel B.M., the Bank Leumi le-Israel Trust Company Ltd., Bank Leumi (Luxembourg) S.A., Leumi Private Bank S.A. and Bank Leumi USA., Defendants, case no. CR 14-0731**, filed in the United States District Court for the Central District of California (hereinafter: "the Deferred Prosecution Agreement", "the Information" and the "Statement of Facts"). Said documents are attached to this Request.
7. The admissions by the afore-referenced Defendants and the facts stated in the Deferred Prosecution Agreement, the Information and the Statement of Facts have led the Israeli authorities to suspect that the Defendants conspired to obtain new American clients and maintain some of their existing American clients, by employing subterfuge that disguised the true identity of the beneficial owners of some of the accounts of their American clients, held in Bank Leumi le-Israel B.M., Bank Leumi (Luxembourg) S.A. or Leumi Private Bank S.A. of Switzerland. Specifically, in order to disguise the identity of some of their American clients, said entities opened and maintained accounts held in the name of Leumi Trust or in the name of off-shore corporations controlled by the beneficial account owners. In the period of 2000-2010 at least, it is suspected that Bank Leumi le-Israel B.M., Bank

Leumi (Luxembourg) S.A. and Leumi Private Bank S.A. actually advised some of their clients and potential clients to open their accounts in the name of Leumi Trust or off-shore corporations, in order to disguise the fact that the client was the beneficial account owner; and in some cases they referred clients and potential clients to outside advisors who would establish these off-shore accounts. Leumi Trust opened accounts for some of the American clients, in order to allow the client to open an account in the name of Leumi Trust in Bank Leumi le-Israel B.M., Bank Leumi (Luxembourg) S.A. or Leumi Private Bank S.A.. Also for the purpose of disguising the identity of the beneficial account holder, some accounts were maintained as "numbered accounts" and some documents were sent by the above entities to Bank Leumi USA, in the United States, in which the name of the beneficial account holder purposely was deleted. In addition, it is suspected that for purposes of disguising the identity of certain American clients, Bank Leumi le-Israel B.M., Bank Leumi (Luxembourg) S.A. and Leumi Private Bank S.A. advised some of their clients that their mail from the bank should not be sent to them in the United States, but rather held in the bank for personal delivery to the client or his agent.

8. According to the afore-referenced Statement of Facts, in some cases, representatives of the above entities personally would deliver, in the United States, bank mail to their American clients. According to the afore-referenced Information, at least in one specific case, an employee of Leumi Private Bank S.A. "instructed" an American client not to take any bank account opening documents back to the United States. It is suspected that Bank Leumi le-Israel B.M., Bank Leumi (Luxembourg) S.A. and Leumi Private Bank S.A. might all have advised some of their American clients not to take any bank documents with them when they returned to the United States.
9. According to Section 12 of the afore-referenced Statement of Facts, "Bank Leumi, though certain of its managers, private bankers and employees, **promised** certain U.S. clients that their accounts would not be disclosed to the U.S. taxing authorities" [emphasis added].

10. According to Section 16 of the Statement of Facts, representatives of Bank Leumi travelled to the United States to meet clients and potential clients, and some of these representatives made fraudulent claims on their Customs Declaration Form 6059B, upon entering the United States. They claimed that the primary purpose of their trip was not for "business". The following is stated in Section 16 of the Statement of Facts: "Bank Leumi managers were aware of the false declarations and took no corrective action until April 2009".
11. According to the Deferred Prosecution Agreement, the Information and the Statement of Facts, the Defendants also devised a scheme to enable said American clients to make use in the United States of the assets they held in the aforementioned accounts in Bank Leumi le-Israel B.M., Bank Leumi (Luxembourg) S.A. or Leumi Private Bank S.A., while purposely avoiding disclosure of the true identity of beneficial account holders. They arranged for said clients to receive loans from Bank Leumi USA, collateralized by their assets in Bank Leumi le-Israel B.M., Bank Leumi (Luxembourg) S.A. or Leumi Private Bank S.A.. These loans were either "participation loans" or loans guaranteed by a Standby Letter of Credit ("SBLC"), also known as "back-to-back" loans. The Defendants took steps to ensure that the paperwork involving these loans and transfers of funds to the American clients would not contain any information disclosing the fact that these clients maintained accounts abroad.
12. Furthermore the Defendants had been put on notice, no later than in 2008, that the Government of the United States was investigating practices of the Swiss bank, UBS, practices which purposely disguised the identity of American account holders. The Defendants knew that in July of 2008, UBS not only terminated such practices but announced that it was closing its U.S. cross-border business. Rather than concluding from this information that the above practices of Bank Leumi le-Israel B.M., Bank Leumi (Luxembourg) S.A. and Leumi Private Bank S.A. potentially would be helping to entangle some of their American clients in illegal activities and could endanger the assets and good name of the Bank Leumi le-Israel B.M. and all of its subsidiaries, the above entities not only continued said practices but encouraged Americans

who had held Swiss bank accounts to move their assets to Bank Leumi le-Israel B.M., Bank Leumi (Luxembourg) S.A. or Leumi Private Bank S.A., in order to continue to disguise the identity of the beneficial account holders.

13. In addition, according to Section 33 of the afore-referenced Statement of Facts, on August 27, 2008, the FDIC and the California Department of Financial Institutions issued a Cease and Desist Order against the Los Angeles branch of the Israeli bank, Mizrahi Tefahot Bank Ltd. (hereinafter: "Mizrahi Bank"), in which it was ordered not to make any SBLC based loans or other extensions of credit based upon foreign collateral, without having obtained and reviewed all records including those involving the identity of the beneficial owner of the collateral. Section 33 of the Statement of Facts states as follows: "Bank Leumi understood that the FDIC and CDFI found that Mizrahi Bank's practices with respect to back-to-back loans did not satisfy Mizrahi Bank's know your Customer obligations and violated certain Bank Secrecy Act and anti-money laundering regulations". According to the Statement of Facts, the Defendants were aware of the above order against Mizrahi Bank and decided, none the less, not to change their practices. Only in January of 2011, did Bank Leumi USA start to require that any SBLC guaranty include the name of the actual beneficial account holder in the foreign assets.

14. Due to the afore-referenced activities, the Defendants agreed, *inter alia*, to pay the United States a resolution amount in the sum total of \$270,000,000.

Details of the Assistance Requested

15. The American authorities are requested to provide the Israeli authorities with all of the evidence they have gathered, relating to the activities of the Defendants themselves (including those of their directors, officers and employees), relevant to the matter of **United States of America, Plaintiff v. Bank Leumi le-Israel B.M., the Bank Leumi le-Israel Trust Company Ltd., Bank Leumi (Luxembourg) S.A., Leumi Private Bank S.A. and Bank Leumi USA., Defendants**, case no. CR 14-0731, filed in the United

States District Court for the Central District of California on December 22, 2014.

16. This request includes, *inter alia*, the evidence referred to in the **Deferred Prosecution Agreement** of December 22, 2014 and the **Information** and the **Statement of Facts**, attached thereto as Exhibits.

Relevant Sections of Israeli Law

17. **Sections of the Israel Penal Code, 5737-1977** ("the Penal Code") provides as follows:

Section 415:

"Obtaining a thing by Deceit"

If a person obtains a thing by deceit, he is liable to three years imprisonment; if the offense is committed under aggravating circumstances, he is liable to five years imprisonment "

Section 423:

"If a founder, manager, member or official of a body corporate, with intent to deceive, enters or causes to be entered a false particular in a document of the body corporate, or if- with intent to deceive- he refrains from entering there any particular which he is under obligation to enter, he is liable to five years imprisonment. For purposes of this section and of sections 424 and 425, "body corporate" includes a body corporate about to be established."

Section 424:

"If a director, manager or other employee of a corporate body –

- (1) Knowingly performs an act, involving the business of the corporate body or its assets, that damages the ability of the corporate body to meet its obligations, then he is subject to three years imprisonment or a fine of 100,000 Lirat [as adjusted to N.I.S. and the cost of living index];*

(2) *Knowingly performs an act, involving the business of the corporate body, in a manner that damages the correct management of its business, then he is subject to imprisonment for a term of one year or a fine of 20,000 Lirot [as adjusted to N.I.S. and the cost of living index]"*.

Section 425:

"If a director or manager or other employee of a body corporate ...commits deceit or a breach of trust harmful to the body corporate in the course of performing his functions, then he is subject to three years imprisonment."

18. The Banking Ordinance of 1941:

Section 14B:

"a) A member of the Board of Directors or a manager of a banking body corporate, who knowingly performs an act, involving the business of the banking body corporate, in a manner that damages its ability to meet its obligations, is subject to four years imprisonment or a fine of 100,000 Lirot [as adjusted to N.I.S. and the cost of living index]";

b) A member of the Board of Directors or a manager of a banking body corporate, who knowingly performs an act, involving the business of the banking body corporate, in a manner that damages the correct management of its business, is subject to a term of imprisonment of one year or a fine of 20,000 Lirot [as adjusted to N.I.S. and the cost of living index]".

19. Income Tax Ordinance [New Version] 5721-1961:

"Fraud, etc."

Section 220:

"If a person willfully commits one of the offenses specified below with the intent to evade tax or to assist another person to evade tax, then he shall be liable to seven years imprisonment or to the fine said in section 61(a)(4) of the

Penal Law and double the amount of income which he concealed, intended to conceal or helped to conceal, or to both penalties; and these are the offenses:

(1) He omitted from a return made under the Ordinance any income which must be included in the return;

(2) He made a false statement or entry in a return under the Ordinance;

(3) He gave a false answer, verbal or written, to a question asked or to information requested of him in under the Ordinance;

(4) He prepared or maintained or allowed another to prepare or to maintain false account books or other false records, or he falsified or allowed falsification of account books or records;

(5) He made use of any fraud, artifice or contrivance or allowed use of them;

(6) He presented a false document to the person who paid the income, in order to prevent or reduce the deduction of tax at the source."

20. The Israeli Prohibition of Money Laundering Law, 5760-2000:

Section 3:

a) A person performing a property transaction provided in paragraphs (1) to (3) hereunder, (in this Law referred to as "prohibited property"), with the object of concealing or disguising its source, the identity of the owners of the rights, the location, movement or disposition with respect to such property, shall be liable to ten years' imprisonment or a fine twenty times greater than the fine specified in section 61(a)(4) of the Penal Law –

1) property originating directly or indirectly in an offense;

2) property used to commit an offense;

3) property establishing the commission of an offense.

b) A person performing a property transaction or delivering false information with the object of preventing of any reporting under section 7 or in order

not to report under section 9, or to cause incorrect reporting under the aforesaid sections, shall be liable to the penalty prescribed in subsection (a); for the purposes of this section, "transmitting false information" shall include failure to deliver updated information about any item required to be reported.

21. The Securities Law, 5728-1968:

Section 53:

a. A person who is convicted of having committed one of the following will be punishable by imprisonment for a term of five years, or by the imposition of a fine in an amount five times the fine prescribed in section 61(a)(4) of the Penal Code, and if a corporation is so convicted – it will be subject to a fine which is twenty five times the size of the said fine:

(4) Failed to comply with a provision of section 17(c), of section 35X, of section 36, or with a provision of an ISA directive issued pursuant to section 36A, or with provisions applicable to [the party in question] by virtue of section 36B or with one of the provisions of section 37, or with any regulation enacted pursuant to the said sections, or caused a report, notice, registration document or purchase offer specification, pursuant to this Law or regulations enacted hereunder and submitted to the ISA or the stock exchange to contain a misleading item - all with the intention of misleading a reasonable investor: for this purpose, the non-submission of periodic report or interim financial report within two months from the final date provided for the submission of the same, or the non-submission of an immediate report or notice within seven days from the final date provided for the submission of the same, or a failure to submit any of the above reports or notices in accordance with an ISA requirement shall be prima facie evidence that the person upon whom the duty to submit such report or notice is imposed refrained from so doing with the intent to mislead.

Confidentiality

22. In Israel, there is no disclosure requirement until the filing of an indictment. In consonance with the need for confidentiality, the State of Israel asks that this Request, and the activities undertaken pursuant to the request, be kept strictly confidential.

Supplementary

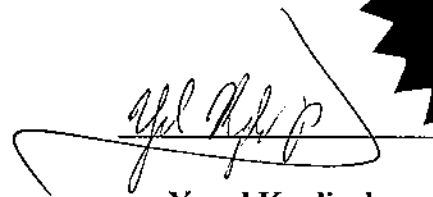
23. The State of Israel will submit any additional information, which the American authorities may require in order to permit them to accede to this Request.

24. Inquiries regarding the matters set forth in this request may be directed to Attorney Nina Mansur of the International Department of the State Attorney's Office at telephone number 972-2-5419609 or Ninah@justice.gov.il.

25. The State of Israel takes this opportunity to express its appreciation to the American authorities for their cooperation and assistance in this case and offers its assurance of reciprocal assistance.

Jerusalem, 13th of Adar I, 5776

22 of February, 2016



Yuval Kaplinsky

Director

Department of International Affairs

Office of the State Attorney

Ministry of Justice