

FEDERAL RESERVE SYSTEM

Bank Hapoalim, B.M.
Tel Aviv, Israel

Arison Holdings (1998) Ltd.
Tel Aviv, Israel

Israel Salt Industries Ltd.
Atlit, Israel

Order Approving Notice to Engage in a Nonbanking Activity

Bank Hapoalim, B.M. (“Bank Hapoalim”), Arison Holdings (1998) Ltd. (“Arison”), and Israel Salt Industries Ltd. (“Israel Salt”) (collectively, “Notificants”),¹ foreign banking organizations subject to the provisions of the Bank Holding Company Act (“BHC Act”),² have requested the Board’s approval under sections 4(c)(8) and 4(j) of the BHC Act³ and section 225.24 of the Board’s Regulation Y⁴ to acquire all the voting shares

¹ Arison and Israel Salt own 16.5 percent and 7 percent, respectively, of Bank Hapoalim and are parties to a shareholder agreement among the owners of 29 percent of the voting shares of Bank Hapoalim. Under the agreement, Arison and Israel Salt each have the power under certain circumstances to control the voting of all the shares held by the parties to the agreement. As a result, Arison and Israel Salt each is considered to control Bank Hapoalim, and each institution has joined in the filing of the notice.

² As a foreign bank operating branches in the United States, Bank Hapoalim, and any company that controls Bank Hapoalim, is subject to the BHC Act by operation of section 8(a) of the International Banking Act of 1978 (12 U.S.C. section 3106(a)).

³ 12 U.S.C. sections 1843(c)(8) and 1843(j).

⁴ 12 CFR 225.24.

of Investec (US) Incorporated (“Investec”), New York, New York. Investec would be acquired through Notificants’ wholly owned subsidiaries, Zohar Hashemesh Le’Hashkaot Ltd., also of Tel Aviv, and Hapoalim U.S.A. Holding Company, Inc., also of New York. As a result, Notificants and their subsidiaries would engage in the United States in the following activities:

- (1) providing financial and investment advisory services, in accordance with section 225.28(b)(6) of Regulation Y;⁵
- (2) providing securities brokerage, riskless principal, private placement, futures commission merchant, and other agency transactional services, in accordance with section 225.28(b)(7) of Regulation Y;⁶ and
- (3) underwriting and dealing in government obligations and money market instruments that state member banks may underwrite or deal in under 12 U.S.C. sections 24 and 335 and engaging as principal in investing and trading activities, in accordance with section 225.28(b)(8) of Regulation Y.⁷

Notice of the proposal, affording interested persons an opportunity to comment, has been published in the Federal Register (70 Federal Register 71,304 (2005)). The time for filing comments has expired, and the Board has considered the notice and all comments received in light of the factors set forth in section 4 of the BHC Act.

Bank Hapoalim, with consolidated assets of more than \$60 billion, is the largest banking organization headquartered in Israel. In the United States, Bank Hapoalim maintains branches in New York, Chicago, and Miami and a representative office in Miami. Investec is a securities broker-dealer and a member of the New York Stock Exchange, Inc. and NASD.

⁵ 12 CFR 225.28(b)(6).

⁶ 12 CFR 225.28(b)(7).

⁷ 12 CFR 225.28(b)(8).

The Board has determined by regulation that acting as a financial or investment advisor, providing agency transactional services for customer investments, and engaging in investment transactions as principal are activities closely related to banking for purposes of section 4(c)(8) of the BHC Act. Notificants have committed to conduct these activities in accordance with the limitations set forth in Regulation Y and the Board's orders governing these activities. To approve the notice, the Board also must determine that the acquisition of Investec by Notificants can reasonably be expected to produce benefits to the public that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.⁸

As part of its evaluation of these factors, the Board considers the financial and managerial resources of the companies involved and the effect of the proposal on those resources.⁹ The Board has considered, among other things, information provided by Bank Hapoalim, public comment,¹⁰ confidential reports of examination, other confidential supervisory information, and publicly

⁸ 12 U.S.C. section 1843(j)(2)(A).

⁹ 12 CFR 225.26.

¹⁰ A commenter expressed concern about Israel's anti-money laundering policies and procedures based on (1) a report dated June 22, 2000, by the Financial Action Task Force ("FATF"), an intergovernmental body that develops and promotes policies to combat money laundering, and (2) an advisory issued by the U.S. Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN"). These matters were cited in the Board's order approving Notificants' application to become bank holding companies. See 87 Federal Reserve Bulletin 327 n.11 (2001). In June 2002, the FATF recognized that Israel had addressed the deficiencies identified in its 2000 report. FinCEN withdrew its advisory in July 2002, noting that Israel "now has in place a counter-money laundering system that generally meets international standards." FinCEN Advisory Withdrawal Issue 17A.

reported financial and other information in assessing the financial and managerial strength of Bank Hapoalim.

In evaluating the financial factors of this proposal, the Board has considered a number of factors, including capital adequacy and earnings performance. Bank Hapoalim's capital ratios exceed the minimum levels that would be required by the Basel Capital Accord and are considered equivalent to the capital that would be required of a U.S. banking organization. Moreover, consummation of this proposal would not have a significant impact on the financial condition of Bank Hapoalim. Based on its review, the Board finds that Notificants have sufficient financial resources to effect the proposal.

In addition, the Board has carefully considered the managerial resources of Bank Hapoalim, the supervisory experiences of the relevant banking supervisory agencies with Bank Hapoalim, and Bank Hapoalim's record of compliance with applicable U.S. banking laws.¹¹ The Board has also consulted with home country authorities responsible for supervising Bank Hapoalim concerning the proposal and the managerial resources of Notificants¹²

¹¹ The commenter criticized Bank Hapoalim's record under the Community Reinvestment Act ("CRA") (12 U.S.C. section 2901 *et seq.*) based on a CRA evaluation as of June 30, 1997, and a news report from 1993 on the CRA records of foreign banks generally, including Bank Hapoalim. The CRA does not provide for consideration of a notificant's CRA performance record in the evaluation of a notice under section 4 of the BHC Act. The Board notes that Bank Hapoalim's insured New York branch received an overall "satisfactory" rating at its most recent CRA performance evaluation by the Federal Deposit Insurance Corporation, as of June 9, 2003.

¹² The commenter also expressed concern about the proposal based on news reports of investigations by Israeli authorities into allegations of money laundering at Bank Hapoalim. As a matter of practice and policy, the Board generally has not tied consideration of a proposal to the scheduling or completion of an investigation if, as in this case, the applicant or notificant

and reviewed reports of examination from the appropriate federal and state supervisors of the U.S. operations of Bank Hapoalim that assessed its managerial resources. Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources of Notificants are consistent with approval.

The Board has also considered carefully the competitive effects of the proposal in light of all the facts of record. Because Bank Hapoalim does not currently engage in the proposed activities in the United States, the proposal would result in no loss of competition. Moreover, there are numerous existing and potential competitors in the industry. In addition, the market for the proposed services is regional or national in scope. Based on all the facts of record, the Board concludes that Bank Hapoalim's proposed activities would have a de minimis effect on competition for the relevant nonbanking activities.

The Board expects that the proposed activities would result in benefits to the public by enhancing Bank Hapoalim's ability to serve its customers. These customers will also benefit from the convenience and efficiency of being able to use the services of a broker-dealer affiliated with Bank Hapoalim.

The Board concludes that the conduct of the proposed nonbanking activities within the framework of Regulation Y and Board precedent is not likely to result in adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking

has an overall satisfactory record of performance and the issues being reviewed can be resolved in the examination and supervisory process. See 62 Federal Register 9290 (1997) (Preamble to the Board's Regulation Y). The Board has consulted with the Bank of Israel, Bank Hapoalim's home country supervisor, about the measures that Bank Hapoalim has taken to strengthen controls to prevent the bank from being used for money laundering or other illicit activities.

practices, that would outweigh the public benefits of the proposal discussed above. Accordingly, based on all the facts of record, the Board has determined that the balance of the public-benefits factor that it must consider under section 4(j) of the BHC Act is consistent with approval of the proposal.

Based on the foregoing, the Board has determined that the notice should be, and hereby is, approved.¹³ In reaching its conclusion, the Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act. The Board's approval is specifically conditioned on compliance by Notificants with the conditions imposed in this order and the commitments made to the Board in connection with the notice. The Board's approval is also subject to all the conditions set forth in Regulation Y, including those in sections 225.7 and 225.25(c),¹⁴ and to the Board's authority to require such modification or termination of the activities of the Notificants or any of

¹³ The commenter requested that the Board hold a public meeting or hearing on the proposal. Section 4 of the BHC Act and the Board's rules thereunder provide for a hearing on a notice to acquire nonbanking companies if there are disputed issues of material fact that cannot be resolved in some other manner. 12 CFR 225.25(a)(2). Under its rules, the Board also may, in its discretion, hold a public meeting if appropriate to allow interested persons an opportunity to provide relevant testimony when written comments would not adequately present their views. The Board has considered carefully the commenter's request in light of all the facts of record. In the Board's view, the commenter had ample opportunity to submit its views, and, in fact, submitted written comments that the Board has considered carefully in acting on the proposal. The commenter's request fails to demonstrate why the written comments do not present its views adequately and fails to identify disputed issues of fact that are material to the Board's decision that would be clarified by a public meeting or hearing. For these reasons, and based on all the facts of record, the Board has determined that a public meeting or hearing is not required or warranted in this case. Accordingly, the request for a public meeting or hearing on the proposal is denied.

¹⁴ 12 CFR 225.7 and 225.25(c).

their subsidiaries as the Board finds necessary to ensure compliance with, and to prevent evasion of, the provisions of the BHC Act and the Board's regulations and orders issued thereunder. For purposes of these actions, the conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

This transaction shall not be consummated later than three months after the effective date of this order unless such period is extended for good cause by the Board or the Federal Reserve Bank of New York, acting pursuant to delegated authority.

By order of the Board of Governors,¹⁵ effective March 10, 2006.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

¹⁵ Voting for this action: Chairman Bernanke and Governors Bies, Olson, Kohn, Warsh, and Kroszner. Absent and not voting: Vice Chairman Ferguson.