

# Bloomberg

## Bank Leumi, Mizrahi Clients Said to Aid U.S. Tax Probe (2)

(Updates with lighting business in 13th paragraph.)

### By David Voreacos

Feb. 19 (Bloomberg) -- Dozens of U.S. citizens who used offshore accounts to avoid taxes have helped the federal government in a criminal investigation of two Israeli banks, Bank Leumi Le-Israel Ltd. and Mizrahi Tefahot Bank Ltd., two people familiar with the matter said.

Leumi and Mizrahi set up accounts in Israel that U.S. clients didn't declare to the Internal Revenue Service, said the people, who asked not to be identified because they aren't authorized to speak publicly about the probe. Those accounts served as collateral on loans from U.S. branches that gave clients access to their money in Israel, according to the people and tax lawyers for the banks' clients.

Zvi Sperling, a Los Angeles businessman born in Israel who took such back-to-back loans from both Tel Aviv banks, was the first person charged by the Justice Department. Sperling agreed to admit he conspired with Leumi and Mizrahi bankers, according to a plea agreement filed Feb. 14 in Los Angeles federal court. The filing refers to the banks as Bank A and Bank B. Mizrahi is Bank A and Bank B is Leumi, the people said. Other clients will be charged in the coming weeks, the people and tax lawyers said.

"Those two banks are under investigation for making loans to permit their depositors to repatriate undeclared, offshore assets to the U.S.," said Robert Fink, a tax attorney at Kostelanetz & Fink LLP in New York who represents clients who have come forward. "The focus is on

undeclared foreign bank accounts on which income has been earned that has not been reported to the IRS."

### U.S. Crackdown

The probe, which the people said involves a U.S. grand jury, comes amid a U.S. crackdown on offshore tax evasion that has widened since UBS AG, the largest Swiss bank, avoided prosecution in February 2009. Zurich-based UBS paid \$780 million, admitted it helped clients evade taxes, and later turned over data on thousands of accounts.

Since then, at least 11 banks have been the subject of U.S. criminal investigators, including Mizrahi; Leumi, Israel's biggest bank; Credit Suisse AG, the second-largest Swiss bank; and HSBC Plc, Europe's largest bank.

Wegelin & Co., Switzerland's oldest private bank, pleaded guilty last month to helping American taxpayers hide assets from the IRS.

Orit Reuveni, a spokeswoman for Leumi, said in an e-mail that the bank is "within the scope of a U.S. inquiry into tax matters involving U.S. customers," and that it is cooperating with the probe. Calls and e-mails seeking comment from a spokesman for Mizrahi weren't returned. Benny Shoukron, a spokesman for Mizrahi, said by phone last week that the bank is looking into the Sperling matter.

Charles Miller, a spokesman for the Justice Department, declined to comment.

### People Charged

Since 2009, at least 83 people have been

charged by the U.S., including two dozen offshore bankers, lawyers and advisers. More than 38,000 Americans avoided prosecution by entering an IRS amnesty program in which they paid back taxes and penalties while disclosing the banks and bankers who helped them hide offshore accounts.

Dozens of former Leumi and Mizrahi clients who entered that voluntary disclosure program told the IRS and Justice Department about their back-to-back loans, according to tax lawyers who represent those coming forward.

“There's no question that the U.S. is mining all the data from voluntary disclosures to build cases against both the banks and the bankers,” said William Sharp, of Sharp Kemm PA of Tampa, Florida, who has clients involved in the probe. “The Israeli cases tend to have more dual passport holders than many of the other banks.”

### **Maxim Lighting**

Sperling, who was born and raised in Tel Aviv, moved to the U.S. to attend school, according to his plea agreement. He later became a U.S. citizen and still holds an Israeli passport. He joined his brother in forming Maxim Lighting, which sells throughout the U.S. and has an office in China, according to the company's website.

The brothers used a Chinese account to keep profits not reported to the U.S., according to court filings.

A banker at Mizrahi persuaded Sperling to move the money from China to Israel, where it would be kept secret from the U.S. government, according to the plea agreement. The account was set up in the name of an offshore company, and Mizrahi only sent statements to an attorney.

Sperling began taking back-to-back loans in 2003 through the Los Angeles branch, pledging his Israeli account that grew to \$4

million as collateral. He never reported the account on his tax returns, nor did he report the interest earned or file Reports of Foreign Bank and Financial Accounts, known as FBARs.

### **Account Moved**

In 2008, the bank told him that he had to pay off his loans, according to the plea agreement. Sperling then moved his Israeli account to Leumi, and one of its bankers told him at a hotel in Beverly Hills, California, that it was better able than Mizrahi to keep the account secret, according to court filings.

He also took a back-to-back loan from Leumi, and failed to report the account to the IRS, the U.S. said. As in other such arrangements, Sperling's account was held in a certificate of deposit, and the bank charged a spread of 1 percent to 2 percent on the back-to-back loan, according to the criminal information filed against him.

Sperling “recognizes the serious mistakes that he has made, and he accepts full responsibility for his conduct,” said his attorney, Steven Toscher, in an interview.

### **Prosecution Prospects**

“Unfortunately, too many taxpayers got involved with foreign bank accounts and those who have not taken advantage of the voluntary disclosure program are facing the prospect of criminal prosecution,” said Toscher, of Hochman, Salkin, Rettig, Toscher & Perez in Beverly Hills.

The Justice Department and IRS have gone beyond the information gleaned from taxpayers, he said.

“Given the quality of information the government has, it appears that they've gotten it from sources other than the voluntary disclosures,” he said.

Mizrahi has previously been implicated

in a back-to-back loan scheme. A former Mizrahi banker, Joseph Roth, pleaded guilty in federal court in Los Angeles in June 2008 to aiding a tax evasion scheme that prosecutors called "an astonishingly complex and sinister enterprise" involving Spinka, a religious group within Orthodox Judaism.

The Grand Rabbi of Spinka, Naftali Tzi Weisz, pleaded guilty to obstructing the IRS by soliciting donations to Spinka-related organizations with secret promises to refund donors the vast majority of the money they donated. The refunding and laundering of charitable contributions resulted in hundreds of millions of dollars in unreported income, according to the U.S.

### **Secret Accounts**

Roth, who was sentenced to 14 months in prison, helped contributors in the U.S. secure loans from the Los Angeles branch that were backed by funds in secret accounts in Israel, according to the government.

In August 2008, the Federal Deposit Insurance Corp. and the California Department of Financial Institutions issued a cease-and-desist order against Mizrahi's Los Angeles branch for alleged unsafe and unsound banking practices.

The agencies claimed the bank violated regulations requiring an anti-money laundering compliance program, procedures for monitoring suspicious activities, and due diligence on foreign correspondent accounts. Mizrahi was ordered to stop back-to-back loans and beef up its compliance programs.

In November 2010, the regulators imposed a \$350,000 fine on Mizrahi for violating the August 2008 order, particularly for lacking an adequate program to monitor suspicious activity.

### **Bail Review**

At a bail review hearing for Roth on Jan. 8, 2008, Assistant U.S. Attorney Daniel J. O'Brien said Mizrahi gave clients access to secret accounts through back-to-back loans.

"This is a product offered by the bank, and the bank is essentially engaged in money laundering operations for a clientele," O'Brien told U.S. District Judge George Schiavelli.

All of the sentencing filings for Roth were placed under court seal. Seven people pleaded guilty to conspiring to obstruct the IRS, and three donors admitted to tax evasion. The bank wasn't charged.

Leumi also actively marketed the back-to-back loans to allow clients access to their funds in Israel, said a former federal prosecutor who worked on the UBS case, Jeffrey Neiman. Leumi made millions of dollars in interest by arranging the back-to-back loans, he said.

### **'Significant Problem'**

"Leumi realizes that they have a significant problem on their hands and is doing what they can to shift responsibility from the bank to individual taxpayers," said Neiman, who practices in Fort Lauderdale, Florida. "It's a particular problem for dual citizens who innocently have bank accounts in Israel and now find themselves in a compliance nightmare."

Pedram Ben-Cohen, a Los Angeles tax attorney, has consulted with hundreds of clients holding Israeli accounts. Last year, he said, Leumi bankers personally notified all of his Los Angeles clients with back-to-back loans.

"They went up to every client and told them to enter the voluntary disclosure program and sign a document admitting they knew they had to report to the IRS their Israeli accounts securing back-to-back

loans," Ben-Cohen said.

"If they didn't sign the bank's document, Leumi would terminate their banking relationship, which was upsetting to high net-worth individuals," he said.

### **'Acted Fast'**

"My clients had relationships with their bankers for over 20 years," he said. "They didn't want to have to establish a new relationship with a new bank in this economy. Most of them entered the voluntary disclosure program and then signed the bank's document. In the face of the government's investigation, Leumi has acted fast."

Neiman and other lawyers said prosecutors will probably resolve the Leumi and Mizrahi investigations by filing charges and agreeing to drop them if the banks meet certain conditions, as they did in the UBS case. The Justice Department has filed dozens of such deferred-prosecution agreements in corporate cases in the past few years.

"Those investigations will culminate in separate deferred-prosecution agreements where each bank will pay a significant fine and agree to cooperate with the U.S. government," said Bryan Skarlatos, a law

partner of Fink. "The government would like them to turn over client information, but I don't know if that will be the ultimate result of the cooperation."

The Justice Department and IRS are "hoping prosecutions like this one against Bank Leumi will cause more customers to make voluntary disclosures," Skarlatos said. "We're going to see more prosecutions and voluntary disclosures involving unreported bank accounts in Israel."

The case is U.S. v. Sperling, 13-cr-108, U.S. District Court, Central District of California (Los Angeles).

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