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**Criteria and general conditions for an applicant for a permit to control or hold controlling shares in an acquirer or a credit card company**

This document defines the criteria for who can obtain a permit to purchase a credit card company or to create and own an acquirer.

The main criteria that guide the Banking Supervision Department examination, and according to which the Governor grants a permit for control, include elements of honesty and integrity, financial strength (as defined in this document), an investment strategy, previous business experience, and verification that no conflicts of interest exist. If these criteria are met, and as part of the new and expanded policy that was defined by the Banking Supervision Department, the purchaser of a credit card company may be among the following: an Israeli financial or non-financial corporation, as long as they fulfil all provisions of the law; a foreign financial or non-financial corporation; a private equity fund, as described in this document. In addition, the controlling core in a credit card company or acquirer can be made up of a group that includes a number of the aforementioned financial or non-financial corporations that have signed an agreement that defines the collaboration between them. Other possible ownership structures for a credit card company or acquirer are a totally dispersed ownership structure, in which shares are held by the public, or a combination of a controlling core and shares held by the public.

The following describes the procedures for receiving additional information from the Banking Supervision Department and submitting an application to it for a control permit.

**1. General**

- 1.1 In general, the ownership structure of an acquirer, including that of a credit card company (with a license for acquiring pursuant to Section 36 of the Banking (Licensing) Law, 5741–1981 (hereinafter: the Law)), like the ownership structure of banking corporations in Israel, can include controlling shareholders who received a permit from the Governor of the Bank of Israel, or alternatively it can be a completely dispersed ownership structure. This document relates to the criteria and relevant conditions for an application to control an acquirer, according to the first alternative, i.e. ownership by controlling shareholders.
- 1.2 The applicant for control of an acquirer requires a permit from the Governor of the Bank of Israel (herein: the Governor) as mentioned in Section 36k1 of the Law.<sup>1</sup> Unless otherwise specified, the terms in this document will be understood according to the definitions in the Law.
- 1.3 The aforementioned requirement to obtain a permit, given the definitions in the Law for the terms "holding" or "acquisition", "together with others" and "control", relates to the entire hierarchy of control, up to the first level of the hierarchy.

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<sup>1</sup> This document relates only to a permit for control and not to other conditions for receiving an acquiring license.



- 1.4 The main considerations taken into account by the Governor with respect to the eligibility of the permit applicant relates to the following four main elements:
  - 1.4.1 Personal and business honesty and integrity;
  - 1.4.2 Financial strength;
  - 1.4.3 Investment strategy;
  - 1.4.4 Business experience, other occupations and businesses of the permit applicant, and the potential for conflicts of interest with the acquirer.
- 1.5 The control permit includes conditions of various types, including the existence of a solid and stable controlling core, the manner in which the means of control are held, and so forth. Apart from, and in addition to, the conditions that will apply in general, there will also be special conditions that are to be met according to the unique characteristics of each case.
- 1.6 This document describes the criteria that serve as the basis for the examination of the control permit applicant, as well as the regular conditions with regard to the elements mentioned in Section 1.4.
- 1.7 The instructions and criteria described in this document are to be regarded as guidelines that will be implemented in practice, together with the exercise of discretion according to the data of the acquirer and the potential controlling shareholders. Deviations from the described criteria and conditions are possible if the Governor is convinced that there exist, among other things, elements that compensate for the deviation from the criteria, and that the deviation does not negatively affect the goals that the criteria and conditions are meant to achieve, i.e. ensuring the financial strength of the acquirer, stability of control over it, and its proper management over time.
- 1.8 The principles listed below are general and the Supervisor of Banks (herein: the Supervisor) has the right to require additional information and documents from the permit applicants as needed, in his opinion, in order to examine the application.

## **2. The controlling core**

- 2.1 The controlling core of the acquirer can be held by an individual with desirable characteristics in various aspects, or by a group, such that the various elements are balanced.
- 2.2 A group<sup>2</sup> that is applying for a permit to control an acquirer (hereinafter: "the controlling group") must have an agreement between the parties making up the group, which sets out, among other things, the methods of collaboration between the members of the group, the method of voting in the General Assembly, the method of appointing the acquirer's directors, and a mechanism for resolving disputes, including an arrangement to deal with an event in which one of the controlling group members is required to leave the controlling group or is interested in doing so.
- 2.3 The owner of the control permit for the acquirer is permitted to transfer the means of control in it only if the entire controlling core is transferred or if the transfer of part of the controlling core is to an entity who will collaborate on a permanent basis with the other members of the group. A condition for the transfer under

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<sup>2</sup> Everywhere in this document where a "group" or "controlling group" is mentioned, the intention is also to an individual that possesses control on his own, *mutatis mutandis*.



each of the two possibilities is that the recipient has received a permit according to law.

- 2.4 The dispersion of the controlling core, on the Stock Exchange or in some other manner, will also require prior coordination and approval of the process by the Governor.
- 2.5 The controlling core of the acquirer will be determined according one of the following alternatives:
  - 2.5.1 When the controlling group holds all of the means of control (the holdings of the members of the group alone at a rate of 100 percent) of the entities within the hierarchy of ownership through which the means of control that constitute the controlling core of the acquirer are held, the controlling group will hold no less than 30 percent of the means of control (herein: the “controlling core”);
  - 2.5.2 Otherwise – when the controlling group controls on its own each of the entities in the hierarchy of ownership through which the controlling shares of the acquirer are held, even if it does not hold 100 percent of the means of control in each of the entities in the hierarchy, the size of the controlling core will be determined in a manner that will ensure the capital interest (concatenated rate of holdings) of the controlling group in the acquirer at a rate of no less than 20 percent, and in addition the rate of ownership in the acquirer will not be less than 30 percent.
- 2.6 In addition, the following guidelines will apply to the holdings of the controlling group:
  - 2.6.1 The holdings of the means of control by the controlling group, beyond the required controlling core, will be considered as surplus holdings beyond the controlling core (hereinafter: “surplus holdings”). The requirements applying to the surplus holdings are less stringent than those for the investment in the controlling core, as explained below.
  - 2.6.2 At the time of the acquisition of an “acquirer with a broad scope of activity”, as the term is defined in Section 36l(a) of the Law (Large Acquirers), 20 percent of the means of control in the controlling core will be free of any debt or encumbrance, i.e. the maximum proportion of shares of the controlling core that can be encumbered will not exceed 10 percent of the means of control. Encumbrance of shares of the controlling core will be possible only with the Supervisor’s approval.
  - 2.6.3 In the acquisition of an acquirer that is not included in Section 2.6.2, it is not possible to encumber the shares of the controlling core.
  - 2.6.4 The rest of the means of control that are not held by the controlling group will be held by the public, such that the holdings of an individual, including all of the entities under his control, will not exceed 5 percent, except pursuant to a holding permit from the Governor.
- 2.7 The controlling group will be required at all times to hold the controlling core by a calculation according to full dilution, while taking into account the realization of options and securities that are convertible into shares. The Supervisor has the right to approve an exemption from this requirement in the case of the issue of specific complex instruments.



**3. The manner in which the controlling shares are held**

- 3.1 In examining the controlling entities, the bodies through which the means of control are held will also be examined prior to the issue of a control permit.
- 3.2 The control structure and manner in which the individual or individuals hold the control group must be simple, transparent and clear. An important criterion in approval of the controlling owners is the ability to identify the individual or individuals at the head of the chain and throughout the entities in the control chain.
- 3.3 An individual who is seeking to hold the means of control through a corporation will be required to control it on his own or together with others who have received a permit for control of the acquirer.
- 3.4 In general, the means of control in the acquirer that constitute the controlling core may be held, whether directly or indirectly, by financial bodies and non-financial corporations, whether foreign or local, on condition that there is no legal or other barrier to such a holding. For example, it is prohibited for a major non-financial corporation, as defined in Section 30 of the Promotion of Competition and Reduction of Concentration Law, 5774–2013, to control an “acquirer with a broad scope of activity”, due to its definition in Section 29 of that law as a “major financial body” or the restrictions according to Section 10 of the Promotion of Competition and Reduction of Concentration in the Banking Market in Israel (Legislative Amendments) 5777–2017.
- 3.5 The requested holding structure will be examined as part of the examination of the bodies through which the means of control are held, in terms of, among other things, the fulfillment of the instructions of any law, the ability to maintain effective control, the potential for conflicts of interest, proper management, financial strength, financing ratio, stability and the like. As needed, and according to the circumstances of each case, changes will be required and additional conditions will be determined in relation to the structure of holdings, among other things.
- 3.6 In order to guarantee the controlling group’s control of the acquirer, the manner of holding will be fixed. Therefore, as part of the permit conditions, it is prohibited to change the manner of holding of the means of control of the acquirer without the approval of the Governor or the Supervisor, if he was thus empowered in the control permit. The owners of the entities in the hierarchy of control are not to be changed or added to without the approval of the Governor or the Supervisor.
- 3.7 One of the considerations in granting a control permit is whether the controlling group has a capital interest in the acquirer. As mentioned, the controlling group’s capital interest in the acquirer shall be no less than the rate specified in 2.5.2 above.

**4. Financial strength and business integrity**

- 4.1 The financial strength of the members of the controlling group will be examined on the basis of a number of parameters. The main parameter is the ratio between net equity (assets minus liabilities) of the entity controlling the acquirer (the individual that controls the chain of entities if the holding is not direct) and the value of the means of control in the acquirer that it is obtaining, as described



below. When there is no individual that controls the top of the hierarchy, the financial strength of the entity at the top of the hierarchy will be examined. In the case of a private equity fund, the total assets of the fund will be examined.

- 4.2 The valuation of assets is done conservatively, on the basis of fair value and after imposing various margins of error (haircuts). In addition, the source of wealth of the permit applicants and major milestones in the creation of their proprietary will be examined.
- 4.3 The assessment of financial strength and stability of control will include an examination of the leverage of each of the entities in the control chain.
- 4.4 The value of the means of control in an acquirer will be determined based on the net worth of the acquirer according to the acquirer's latest financial statements, or according to the equity required as part of the license conditions (share capital and reserves, minus startup costs), whichever is greater. When there is a gap between net worth according to the financial statements and the market value according to the stock market price, the Bank of Israel can take into account the gap in the calculation of equity for the purpose of the financial strength requirement.
- 4.5 The net worth required of a member of the controlling group and from the group as a whole, or from the body at the top of the hierarchy (including the case of a private equity fund), in cases where there is no individual in relation to the investment will be as follows:
  - 4.5.1 Total net worth of the group applying for a permit to control an acquirer will not be less than 150 percent of the value of the means of control that constitute the controlling core required according to Sections 2.5.1 and 2.5.2 above. The total net worth of the group is defined as the total equity in the financial statements of each member of the controlling group minus conservative margins of error that will be determined by the Supervisor of Banks.
  - 4.5.2 The members of the controlling group will commit to inject capital into the acquirer under their control in accordance with, and in the amount determined in, the license. The condition for the realization of the liability is nonfulfillment of the capital requirements of the acquirer.

## **5. A controlling shareholder who is a private equity fund**

- 5.1 When examining the request for control by a private equity fund (hereinafter: a "fund") the following considerations will be taken into account:
  - 5.1.1 The fund has or once had a permit in one of the OECD countries to control a financial body, such as a bank, insurance company, acquirer or payments institution, of complexity or on a scale that is no less than that of the acquirer that the fund is seeking to acquire.
  - 5.1.2 General investment policy, investment history, volume of assets and investments, level of leverage, strategic and business plans and expected dividend policy, the planned duration of investment (until exit), investment exit strategy, expertise and past returns.
  - 5.1.3 Education, professional background and experience of the general partners, the fund's manager and the members of its investment committee.



The examination of the experience of the fund managers and the members of the investment committee will include, among other things, whether they served as officeholders or controlled—for a significantly long period to satisfy the Supervisor—a corporation with a license in the same domain in which the financial body is active, or a corporation that controlled a corporation with such a license, in one of the OECD countries.

- 5.1.4 The degree of integrity of the general partners in the fund, the fund managers and employees that participate in the fund's decision-making processes, such as investment managers, advisors and limited partners with surplus rights (such as: voting rights, veto rights or rights to surplus profits).
- 5.1.5 To the extent that—to the Supervisor's satisfaction—the general partners and other aforementioned position holders have only negligible investment in the funds that they manage, or none at all, the examination of their eligibility to receive a permit will not be based on their financial strength.
- 5.1.6 The degree of leverage in the fund's investments and in the investments of all the entities in the control chain up to the general partners (if they are leveraged, meaning that their total net assets are less than declared and that they involve the risk of a loss that is larger than the investment itself).
- 5.1.7 The degree of diversification of the fund's limited partners. For this purpose, it should be clear that the larger the number of limited partners that are not dependent on one another, and the smaller the proportion of the investment of each of the aforementioned limited partners within the fund's total investment, the higher the degree of diversification will be considered to be. To the extent that the Supervisor is satisfied that the level of diversification is sufficiently high, the examination of the request for a permit will focus only on the general partners in the fund, without considering the limited partners.

**5.2 The fund will present the following information and documents with the permit application:**

- 5.2.1 The fund's policy on the prohibition of money laundering and financing of terrorism.
- 5.2.2 The declaration of the general partners and the fund managers that the receipt of funds from investors and limited partners in the fund, including the final individual beneficiaries, meets international standards for the prevention of money laundering and the financing of terrorism, including the guidelines set down by international organizations such as OFAC and the EU. In addition, the fund must commit to check the final beneficiaries according to the lists and laws set down by Israeli law.
- 5.2.3 The fund's founding documents, the contracts with advisors who have the ability to influence and direct the fund's activity, an example of the fund's contracts with the limited partners, a list of special agreements with limited partners, and a list of special agreements with limited





partners who have surplus rights (such as voting rights, veto rights or the right to receive surplus profits).

- 5.2.4 An obligation by the limited partners and the fund manager not to encumber the means of control at the rate of 20 percent included in the controlling core in the acquirer.
- 5.2.5 Strategic plan, business plan and dividend policy.
- 5.2.6 Information on anyone who—whether alone or together with others—has a right to receive more than 10 percent of the funds invested in the fund. This information will include at least name, identification number (identity number, passport number or registration with the Registrar of Companies or similar institution) and the percentage of the fund's funds to which he is entitled. If this is a legal entity or a legal arrangement, the fund will also provide the details of the final beneficiaries and its controlling shareholders. This information will also be submitted following any change in the composition of limited partners in the fund such that the proportion of the funds invested in the fund to which one of the limited partners is entitled will then exceed 10 percent.
- 5.2.7 Once a year, the fund will submit information on the degree of dispersion of the limited partners in the fund.
- 5.2.8 The commitment of the fund that the replacement of limited partners in the fund is subject to the approval of the Governor and will be subject to the examination of his eligibility and suitability, in accordance with the principles listed in Sections 5.1.3 and 5.1.4 above. The replacement of the fund's manager requires that a notification be sent to the Supervisor.

## **6. A controlling shareholder that is a foreign acquirer**

A controlling shareholder that is a foreign acquirer (hereinafter: a "foreign acquirer") will be required to meet the conditions listed in this document, *mutatis mutandis*. In addition, following are qualitative and quantitative criteria which a foreign acquirer will be required to fulfill:

- 6.1 The foreign acquirer will have an acquiring license in one of the OECD countries, of a complexity or on a scale that is not less than that of the acquirer that the foreign acquirer is seeking to obtain;
- 6.2 In the country in which the foreign acquirer is incorporated and in countries in the hierarchy of control (hereinafter: "host countries") there are no restrictions on the flow of capital;
- 6.3 In the host countries, there is supervision over the activity of the foreign acquirer, according to the accepted standards in Israel;
- 6.4 The host countries are not at high risk with respect to money laundering and financing of terrorism;
- 6.5 Receipt of written consent from the supervisory authorities in the host countries as to the ownership of an acquirer in Israel;
- 6.6 Receipt of written consent from the supervisory authorities in the host countries that there are no restrictions on the conveyance of information to the Banking Supervision Department in Israel with regard to the foreign acquirer and its activity, or alternatively, the receipt of the foreign acquirer's consent that the supervisory authorities in the host countries will provide information to the Banking Supervision Department in Israel as needed;



- 6.7 The foreign acquirer operates and maintains comprehensive supervision, on a consolidated basis;
- 6.8 Presentation of a strategic plan, a business plan and the dividend policy.
- 6.9 Receipt of approval from the supervisory authorities in the host countries and in the other countries in which the foreign acquirer operates that there is no barrier to granting it an acquirer license in Israel;
- 6.10 If there are individuals that control the foreign acquirer, they will be examined according to the criteria listed in Sections 1, 3 and 4 of this document;
- 6.11 The financial strength and stability of the foreign acquirer and the corporations in the hierarchy up to the entity controlling the hierarchy, the rate of financing in the transaction, compliance with financial ratios at the discretion of the Supervisor, and also, if it is relevant, the rating of the parent company by a recognized international rating agency as investment grade or higher.

**7. Avoiding conflicts of interest between the controlling shareholders and the acquirer**

- 7.1 A permit will not be given to anyone who already controls, or has a significant holding in, an acquirer in Israel (including someone whose relative has a significant holding in an acquirer in Israel ) unless the holding of the means of control in the additional acquirer is by means of the acquirer controlled by those same controlling shareholders.
- 7.2 The activity of the controlling shareholders in the acquirer will be limited in order to avoid a conflict of interest between them and the acquirer. Therefore, as necessary, the controlling shareholders will be required to terminate their involvement in companies competing with the acquirer.

**8. Restrictions on activity in the means of control**

- 8.1 The controlling shareholders in the acquirer will not transfer the means of control that constitute the controlling core, nor the means of control in bodies through which they hold the controlling core, and will not encumber them, whether directly or indirectly, without the Supervisor's approval. In addition, the controlling shareholders in the acquirer will be obligated to deposit the means of control that constitute the controlling core, with a trustee, where the conditions of the trust will ensure that it will not be possible to transfer the means of control or to encumber them except with the approval of the Supervisor.  
The identity of the trustee and the conditions of the trust require the prior written approval of the Supervisor.
- 8.2 A controlling shareholder that holds additional means of control in the acquirer, beyond the controlling core, will have the right to sell his surplus holdings on the condition that between the most recent purchase and the sale of surplus means of control and vice versa, at least three months will have passed.

**9. Financing of the acquisition of the means of control and dividend distribution**

- 9.1 The purchase of a credit card company shall not be financed by the banking corporation that is selling the company.





- 9.2 The dividend distribution policy of the acquirer will be approved by the Supervisor, taking into consideration the capital required by the acquirer, the risk profile and the acquirer's strategic and business plans.
- 9.3 In this context, attention should also be given to the Conduct of Proper Banking directive regarding Dividend Distribution by Banking Corporations (Directive no. 331), which applies to the acquirer, as part of the Conduct of Proper Banking directives.

#### **10. Restrictions on the appointment of directors**

It is hereby clarified that controlling shareholders in the acquirer and their relatives have the right to serve on the board of directors and its committees, apart from the position of Chairman of the Board, in the case of an acquirer with a broad scope of activity. In any other acquirer, a controlling shareholder in the acquirer and his relative can also serve as the Chairman of the Board, subject to law.

#### **11. Management fees**

The permit will specify the restrictions on the payment of management fees or benefits to the members of the controlling group, as follows: The members of the group, their relatives, or corporations under the control of any or all of them, will not receive management fees or any compensation or other benefit from the acquirer or from corporations under the acquirer's control. However, they will have the right to provide services normally provided, at market prices, on condition that written prior notification is given to the Supervisor regarding the nature of the service and the compensation at least 14 business days before the service is provided. If the Supervisor provides notification that the service is not of a type normally provided to others or that the compensation for it is unreasonable, the service will not be provided.

#### **12. Transitional provisions**

The provisions of this document will apply to any new permit applicant. The provisions will also apply to holders of an existing control permit, *mutatis mutandis*, when changes are made to the permit they hold.

#### **13. Clarifications and submitting of applications to the Banking Supervision Department**

- 13.1 Those interested in an informational meeting and responses to questions regarding licensing policy are invited to contact Ms. Sima Spitzer, Head of the Licensing and New Banks Unit within the Banking Supervision Department by email at [LicensingApplications@boi.org.il](mailto:LicensingApplications@boi.org.il) or by telephone at 02-655-2402.
- 13.2 The submitting of an application to the Banking Supervision Department will be by means of answering the questionnaire attached as Appendix A and all of the accompanying material in Appendices B to F.
- 13.3 The Banking Supervision Department can be expected to respond to an application within about 4 months from the time it confirms that all of the documents necessary for the request have been received.