

Joint accounts—“Survivorship” Clause and Handling Existing Charges after a Death

Introduction

1. It is important for customers to be aware of the possibility of an account co-owner’s death and its ramifications, and to manage the account accordingly. In addition, when such an event occurs, there are many complexities and sensitivities for the surviving co-owner. These increase the need for awareness and sensitivity by the banking corporation, while adjusting the service to the needs of the surviving co-owner, among other things as determined in Proper Conduct of Banking Business Directive no. 501.
2. Section 13A of the Banking Ordinance, 1941, with regard to a “joint account and joint safe-deposit box” establishes the following: “Where a banking corporation receives monies or securities or other negotiable instruments in a joint account in respect of which it has been stipulated with the banking corporation that upon the death of one of the account holders, the surviving holder or a person legally acting by his authority shall be entitled to carry out operations in the said account, the stipulation shall, for the purposes of relations between the banking corporation and the holders of the account, have effect even after such death.” This clause in the contract between the banking corporation and the customer shall be termed in this Directive as “Survivorship”.
3. Under this section of the law, banking corporations may continue to carry out the instructions of the surviving account holder without risking prosecution from other parties, such as the executor of the estate or the heirs of the deceased account holder. This section states explicitly that it applies “with regard to relations between the banking corporation and the holders of the account.” It thus helps the surviving co-owner to continue to act in the account after the death of the co-owner. Regarding the relations between the surviving account owner and the decedent’s heirs, the Survivorship condition does not relate to such relations and does not change the rights of the heirs.
4. The Banking Supervision Department received enquiries from the public that indicated a lack of clarity regarding the significance of noting the “survivorship” clause in the contract between the banking corporation and the customer, as well as the significance of not having such a condition in the contract. Thus, a there is a mistaken view among the public that the “survivorship” condition in the joint account forms has the force to transfer assets such as money or securities, from the deceased co-owner to the surviving co-owner, while from a legal perspective, the “survivorship” condition does not have such an outcome, and on its own it does not have the force to transfer assets on the day of the death, as the directives in the joint account forms are not a will. In addition, the enquiries indicated that there are cases in which it turned out that the contract with the banking corporation did not have a

survivorship condition, and the joint owners were not aware of that prior to the death, which led to difficulty for the surviving joint owner to act in the account after the death of the co-owner.

5. With the goal of enhancing joint account owners' level of awareness of the existence of the survivorship clause in account opening forms, and its significance, and so that its application or non-application is in line with their interest regarding the rights of the surviving co-owner to act in the account in a case of the death of one of the joint account owners, and with the goal of making it easier for the surviving owner to deal with existing charges via means of payment that were issued for the use of the deceased co-owner, this Directive has been amended.

Application

6. This Directive shall apply to a banking corporation, as defined in the Banking (Service to the Customer) Law, 5741-1981 (hereinafter, "**banking corporation**").

The Survivorship Condition in a Joint Account

7. The banking corporation must offer its customers, in the joint account opening agreement, the Survivorship condition and present it in a clear and notable manner. Very close to the Survivorship condition, there should be an explanation of the significance of the application or nonapplication of said condition. In addition, it should be clarified that the condition only applies to the relationships between the banking corporation and its customers, and does not change the ownership relations between the joint account owners—between themselves or between them and their heirs.
8. Without derogating from the provisions of Section 7 above, an agreement to open a joint account shall be subject to the following as well:
 - 8.1 If the joint customers in the account defined the signatory rights in the account as together and separate, the banking corporation shall recommend that the Survivorship condition apply; it shall enable the customer to change this decision simply, and shall receive from the customer an authorization of the choice, as a condition for making the agreement.
 - 8.2 If the joint customers in the account defined the signatory rights in the account only as together, the banking corporation shall receive from the partners their decision regarding the application or nonapplication of the Survivorship condition, as a condition for making the agreement.
9. If the joint account owners changed the signatory rights in the joint account, the banking corporation must notify the co-owners about the application or nonapplication of the Survivorship condition and of their option to change their choice.

10. If a new partner joined the account, the banking corporation is required to receive from the co-owners their updated choice regarding the application or nonapplication of the Survivorship condition.
11. The banking corporation shall document the customers' choice in the account at the time the agreement is made and whenever there is a change regarding the Survivorship condition.

Existing debits via means of payment that were issued for the use of the deceased co-owner

12. The banking corporation managing the partners' current account shall inform the surviving co-owners as soon as possible what means of payment were issued for the use of the deceased co-owner and are connected to the account, and will be responsible for the existence of the following processes:
 - 12.1 For means of payment issued by the banking corporation, the banking corporation shall explain to the surviving co-owners how to arrange the existing charges, including transferring them to another means of payment.
 - 12.2 For means of payment that were not issued by the banking corporation and are connected to the account, the banking corporations shall determine among themselves the processes for notifying the surviving co-owners about the existing charges on these means of payment, and provide explanations for arranging them (including transferring them to another means of payment).
 - 12.3 These processes shall be established taking into account the need to provide rapid and convenient service to the surviving co-owner.

Internal control on the implementation of the Directive's provisions

13. The banking corporation's management shall establish procedures for the existence of appropriate internal control of regarding the compliance with the provisions of this Directive.

Transition provisions

14. The banking corporation shall contact the existing joint account owners who did not choose for the condition to apply to them, in order to direct their attention to the issue and to clarify their needs, and to the extent necessary, to help them in making a change in what is established in the agreements in this regard.

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Revisions

Circular number	06	Version	Details	Date
686			Original circular	May 27, 2077
-----		1	Integrated into Proper Conduct of Banking Business Directive	August 1991
-----		2	Renewed version of the Proper Conduct of Banking Business Directive file	December 1995
2746		3	Revision	June 11, 2023

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