

Banking Supervision Department

Jerusalem, June 11, 2023

Circular No. C-06-2745

Attn: The Banking Corporations

Re: Opening a current account with no credit facility and managing an account

(Proper Conduct of Banking Business Directive No. 422)

Introduction

1. Section 2(a)(2) of the Banking (Service to Customer) Law, 5741-1981, establishes that a banking corporation is to enable every customer to open, at least, a current account with no credit facility and to manage it, provided that there is no reasonable cause for not providing the service.
2. This Directive comes to clarify the cases in which the claim of “reasonable refusal” will not be accepted for refusing to open a current account with no credit facility or to manage an account via basic payment services.

Due to information and enquiries received at our office, including dialogue with the Administrator General’s office, and within the framework of an initiated control carried out in this issue, it arose that there are population groups that face various barriers when requesting to manage their account via basic payment services. In view of the importance and the need for providing such banking services to all customers, it was decided to update and clarify the Directive’s existing guidelines and to clarify that across the board rules preventing basic means of payment or blocking customers’ activity in their account should not be established just because they belong to a certain population group, and that each request is to be examined on its own merits, while utilizing discretion.

3. In addition, the application of the Directive was expanded so that it applies, beyond managing a current account with no credit facility, to managing a current account with a debit balance that does not deviate from the approved credit facility.
4. Moreover, the basic payment services established in the Directive were expanded, among other things due to the technological developments in the banking system, and the change in the manner of consuming banking services by the public. These lead to a situation in which most transactions in the economy are executed by payment at the merchant via payment card, and via the use of authorized debits that allow regular transfer of ongoing payments. Likewise, it is common to follow the activity in an account, to receive information, and to carry out activities, remotely. Therefore, and in particular against the background of the phenomenon of reducing branches, in general, all customers should be able to carry out payments and to receive services and information in their account, including via e-banking channels, and to give them the tools to manage economically in an efficient and convenient manner.

5. The Banking Supervision Department views providing service to all customers, and in particular to the weakest customers, a significant component in a culture of fairness by banking corporations toward their customers.
6. In view of the above, after consulting with the Advisory Committee on Banking Business Affairs, and with the approval of the Governor, I have amended this Directive. The regulation was not accompanied by the publication of a report under the Principles of Regulation Law, 5782-2021, in view of the notable activities that were carried out before the Law went into effect, in accordance with the Governor's decision.

Main points of the Directive

7. Expansion of the application of the Directive

- 7.1 In the Directive's title, "and its management" shall be replaced by "and managing an account".
- 7.2 In Section 2 of the Introduction, after the words "with no credit facility" shall be "and to manage an account via basic payment services". The end clause of the Section shall be deleted and instead it should say, "In addition, the Directive clarifies that across the board rules, preventing basic means of payment or customer's activity in the account through e-banking channels, should not be established just because the account or the customer belong to a certain type of accounts or customers, and that every request should be examined on its own merits, while utilizing discretion. This is through the approach that that providing service to all customers and in particular to the weakest customers, is a significant component in a culture of fairness by the banking corporations toward their customers."
- 7.3 In the section with definitions:
 - 7.3.1 In the definition of "Bankruptcy", reference was added to "Insolvency proceeding". Instead of the words, "in its various stages, including the issuing of an order of receivership, declaration of bankruptcy, and the issuing of a discharge order", shall be, "or by force of the Bankruptcy and Economic Rehabilitation Law, 5778-2018, and the regulations set in their various stages".
 - 7.3.2 In the definition of "Account", instead of "A current account with no credit facility in Israeli currency with a positive balance in the customer's favor" shall be, "a current account with no credit facility in Israeli currency as well as a current account in Israeli currency with a debit balance that does not deviate from the approved credit facility in the account".
 - 7.3.3 A definition of "Account with no credit facility" was added—"A current account in Israeli currency with a positive balance in the customer's favor".

Explanatory notes:

The goal of the changes in the definition of "Account" is to establish directives regarding managing an account and receiving services via e-banking channels in a current account with a debit balance that does not deviate from the approved credit

facility in the account as well. This is in order to ensure that customers with such accounts will be given access to receiving information through e-banking channels and basic payment services as well.

7.3.4 Instead of the definition of “Customer” shall be “an individual, as defined in the Prohibition on Money Laundering (The Banking Corporations’ Requirement regarding Identification, Reporting, and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) Order, 5761–2001, who receives or requests to receive service from a banking corporation, and is one of the following:

- (1) Israeli resident
- (2) A foreign worker who resides legally in Israel”

Explanatory remarks

Due to information and enquiries received at our office, it arose that there are cases in which banking corporations refuse foreign workers’ requests to open a current account with no credit facility, despite their holding all the required documents for opening an account. In view of the above, the definition of “Customer” was expanded so that the Directive will also apply to customers who are foreign workers residing legally in Israel, who receive or request to receive service from a banking corporation. It is clarified that the above is subject to the plausibility rule and to a check of the source of the funds, in accordance with the law.

8. Sections 5–10

In relevant places in the Sections in which “Account” is written, “with no credit facility” shall be added.

In Section 5(b), in place of the words “In accordance with Section 11 and Section 12(c) of this Directive, shall be “In accordance with Section 11(a)(1) and 11(b) of this Directive”. Before the words “with receipt of approval in advance from the trustee of the special manager” shall be “given the existence of an express judicial order”.

Explanatory notes

In view of the change in the definition of “Account” at the end of the definitions section, it was clarified that the sections dealing with opening an account refer to an account without a credit facility.

Section 5(b) was changed as the reference in it is to Sections 11(a)(1) and 11(b) of the Directive. According to the Section, a banking corporation may make activity in authorized debits and in checks contingent on the existence of an express judicial order (that refers explicitly to opening the account and how it is managed), or on the receipt of an approval in advance from the trustee or special manager. The above cannot be made contingent in the case of a debit card, cash withdrawal card, and carrying out activities via e-banking channels. This is in view of the letter from the Deputy Official Receiver and the Supervisor of Insolvency Proceedings and Economic Rehabilitation dated March 24, 2020, according to which the banking

corporations may issue debit cards to their customers who are in the process of bankruptcy or insolvency, without need for specific approvals by trustees. With regard to adding these customers to the service of executing transactions in the account via e-banking channels, the permission was given across the board and the specific approval of each trustee is not required for that. With regard to issuing checks to customers on whom a special restriction has been placed according to the Checks without Cover Law, 5741-1981, please refer to the Supervision's letter dated July 19, 2018, regarding "Issuing check forms for withdrawal from the account of a customer during the restriction period".

9. Account management (Sections 11–12)

9.1 Sections 11 and 12 were combined and the wording of Section 11(a) was revised, in order to clarify what are the basic payment services that a customer should be allowed to receive, and refusal of which due only to the account or the customer belonging to a specific type of accounts or customers shall not on its own be reasonable refusal to provide the service. Within this framework it was established that in addition to the payment services that already appeared in the Directive, that:

- There should not be an unreasonable refusal of a customer's request to use a payment card of the type established in Subsections (2) or (3) that allows the carrying out of a limited sum of activities per period. The banking corporation will build uniform levels for the sum limit and the limitation for the period.
- There should not be an unreasonable refusal of a customer's request to carry out activities via e-banking channels. As such, it was established that the banking corporation may prohibit a specific customer from using a channel offered to all the banking corporation's customers, provided an adequate alternative to carrying out activities remotely was given.

Explanatory notes

The goal of this section is to establish a list of basic banking services that should not be unreasonably refused. Added to the list of services was the possibility of a bank debit card or cash withdrawal card that makes it possible to carry out activities at a limited sum per period. The uniform levels that will be set up by the banking corporations for limiting the sums and the period will make it possible to coordinate, as much as possible, the activities via means of payment for various customers in accordance with their needs. This is in order to allow the providing of said service to population groups that are encountering difficulties in transacting in an account due to the lack of the ability to limit the withdrawal sums via the means of payment. This need arose, among other things, in legal guardian accounts, in which it was required to assist people for whom a legal guardian was appointed to act in their accounts in line with their abilities and through the risk management of the banking corporation.

Regarding the requirement to allow the carrying out of activities via e-banking channels, it should be noted that it is not enough to derogate from the obligation to provide services in a bank's branch as well. In addition, and to remove doubt, it should

be clarified in this issue that the above does not derogate from Section 11(b) of this Directive regarding checks or to require issuing a credit card to a customer.

9.2 Sections 11(c)–(f)

Refusal due simply to the account or the customer belonging to a certain type of account or customer, shall not be considered as reasonable refusal of the customer's request to use payment services. However, limitations or controls may be set regarding the providing of such services, in accordance with the specific circumstances, including in accordance with the customer's type of activity, through allocating the resources required for providing as rapid a response as possible to the customer's request.

Not developing an infrastructure for implementing limitations or controls shall not be accepted as a reason as far as claiming reasonability of the refusal.

In cases in which the banking corporation decides to reject a customer's request, it shall provide the customer with its decision in writing with specification of the reasons for the decision, subject to all law, within 10 business days of the date the request is submitted. In cases in which the banking corporation decides to cease providing the services noted in this Section, in whole or in part, it must specify the reasons for its decision in its notice to the customer.

Explanatory notes

In general, it should be possible for customers to manage their account via basic means of payment and to receive services in the account via e-banking channels. According to the Directive, it is possible to refuse a customer's request to use payment services as long as the refusal is reasonable. Belonging to a certain population group is not a sufficient reason for refusal. However, if there is an additional explanation that derives from the unique circumstances of a specific customer, the banking corporation has discretion in its decision to provide the service.

In Circular 2558-06 dated March 26, 2018, which accompanied the previous amendment to the Directive, it was clarified that the means of payment detailed in Section 11(a) are basic means of payment in managing the account, and therefore a banking corporation may not set unreasonable terms for putting them into place for the customer's benefit. It was also clarified in that Circular that the use of e-banking channels in communication is an increasingly basic need among banking corporation customers, and therefore it was established that other than circumstances in which the refusal is reasonable, the banking corporation is to provide all its customers, who are interested in doing so, the possibility of executing transactions in this manner.

Notwithstanding the above, information and enquiries received at our office and within the framework of initiated control that was carried out on the issue, indicated that there are cases in which the banking corporation refuses a customer's request to manage the account via the means of payment listed in the Directive, or refuses a customer's request to execute transactions in the account via e-banking channels, only because the customer belongs to a certain population group, without examining the actual circumstances of the case.

Examples of population groups are customers who are in bankruptcy or insolvency proceedings, customers on whose account a lien has been placed, guardians (including a temporary guardian appointed for a person in accordance with Section 68 of the Legal Qualification and Guardianship Law, 5722-1962, someone given an enduring power of attorney, customers for whom a guardian has been appointed and approval was given by the guardian to use the payment services specified in the Directive, one named in an enduring power of attorney that went into effect and approval was given by the person appointing the power of attorney to use the payment services detailed in the Directive, customers who managed a joint account in which the “Survivorship Clause” is in place and one of the account owners died, etc.

It is clarified that the examples above were intended solely to illustrate the general principle, they are not a complete and exhaustive list.

In view of the above, the need arose to emphasize and clarify the said principles in Sections 11 and 12 of the Directive, and to clarify that every request should be examined on its own by utilizing discretion by the banking corporation and by offering options to establish appropriate limitations or controls in accordance with the circumstances of the issue and in line with the manner of the customer’s activities in the account, in order to allow the providing of said services. This is through allocating the resources required to provide a response that is as rapid as possible to the customer’s request, in line with the circumstances of the issue.

Thus for example, there is nothing to prevent establishing that an examination by a banker is required of a customer to execute an Internet transaction. Although the submission of the request should be possible in a convenient manner and without being involved in arriving at the bank branch, and providing it a response as rapidly as possible, given the circumstances of the issue.

In addition, it was clarified that not developing an infrastructure for implementing limitations or controls by the banking corporation shall not be accepted as a reason as far as claiming reasonability of the refusal.

In cases where the banking corporation refuses a request, it is to send the customer its decision in writing, detailing the reasons for the decision. In cases where the banking corporation decided to cease providing the services detailed in this Section, in whole or in part, they are to specify the reasons for the decision. Section 6(b) of the Payment Services Law, 5779-2019, establishes the requirement to notify the end of payment services contract, and this Directive adds the requirement to specify the reasons for said decision. In this regard, note Proper Conduct of Banking Business Directive no. 420 as well, on Sending Notices via E-banking, and the requirement that a banking corporation is to choose the appropriate communication channel for sending a certain notice to a customer that joined the service for sending notices via e-banking, and will examine the need of the customer in this regard in accordance with circumstances. Notification of the customer in a timely fashion of the change after examining the customer’s needs is intended to prevent the unpleasantness in notifying about the termination of the

providing of services based on the experience of carrying out an activity and to allow the preparation of the conduct via alternative ways.

Effective date

The amendment to this Directive, pursuant to this Circular, shall go into effect on the day it is published.

File update

Following are the updates to the Proper Conduct of Banking Business file:

Remove pages	Insert pages
(11/18) [3] 422-1-4	(03/23) [4] 422-1-4

Respectfully,

Yair Avidan
Supervisor of Banks