

Regulation of Payment Services

Document of Principles

The principles for regulation of payment services in Israel were formulated within the framework of the Subcommittee for Regulation of Payment Services¹, led by the Bank of Israel. The subcommittee includes representatives of the Bank of Israel, the Ministries of Justice and Finance, and the Antitrust Authority.

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¹ A subcommittee of the Committee for Promoting Use of Advanced Means of Payment.

1. Background

On November 29, 2015, the Joint Committee for Promoting Use of Advanced Means of Payments published an interim report² as part of the process of advancing the payment and settlement system in Israel. Among other things, the report recommended the formation of a joint subcommittee to formulate a legislative memorandum for regulation of payment services (management of a payments, issuance, and merchant acquiring account).

On June 3, 2015, the Minister of Finance and the Governor of the Bank of Israel appointed a Committee to Increase Competitiveness in Common Banking and Financial Services, headed by former Israel Antitrust Authority director general Dror Strum (hereafter, “the Strum Committee”). As part of the its recommendations, the report published by the Committee³ proposed adopting the decision of the Committee for Promoting Use of Advanced Means of Payments to establish a joint subcommittee to formulate a legislative memorandum for regulation of payment services.

The payment services to be regulated in the legislative memorandum are managing a payment account (current account); carrying out payments transactions to or from the payment account, such as deposits, withdrawals, and payments transfers; issuing means of payment; and acquiring of payment transactions.

In March 2016, the Subcommittee for Regulation of Payment Services was formed, headed by Bank of Israel Payment System Oversight Unit head Noa Sheshinski. Led by the Bank of Israel, the subcommittee is composed of representatives of the Bank of Israel, the Israel Antitrust Authority, the Ministry of Justice and the Ministry of Finance. During its discussions, the subcommittee formulated principles for the regulation of payment services. These principles are the basis for the writing of a draft legislative memorandum for payment services. The principles were based on the European Payment Services Directive (hereafter – “PSD”) and on the PSD2 revised directive⁴, with the adjustments required for the local market. This document presents the principles set forth by the subcommittee for public comment. The draft legislative memorandum for the payment services bill is in the process of being written, and will be published for public scrutiny when it is completed.

2. Committee Members

Name	Agency
Noa Sheshinski	Bank of Israel
Netanel Tauber	Bank of Israel
Elitzur Weiser	Bank of Israel
Ehud Moria	Ministry of Finance
Amihud Shmeltzer	Ministry of Finance

² Interim Report of the Committee for Promoting Use of Advanced Means of Payment.

³ <http://mof.gov.il/Committees/CompetitivenessCommittee/CommitteeRecommends.pdf>.

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L2366&from=EN>.

Itzik Daniel	Ministry of Finance
Roni Neubauer	Ministry of Justice
Liron Mautner Lugasi	Ministry of Justice
Dr. Dana Heller	Israel Antitrust Authority
Omer Brender	Israel Antitrust Authority
Dana Bar Tzur	Israel Antitrust Authority
Elad Mekdasi	Israel Antitrust Authority

3. Purposes

The payments market in Israel is undergoing a process of innovation. This innovation is reflected in reduced use of cash and an increase in the volume of electronic payments, a switch to payments through cellular telephones and additional new payment services. This process is challenging the regulatory framework, and requires an adjustment in the definitions of payment services to these changes. Up-to-date regulation is therefore necessary that will apply to all the concerns dealing in payment services, bridge the gaps between the existing regulation and the developing technologies, and enhance legal clarity concerning payment services and the customers' confidence in them.

The development of technology has brought with it a range of advanced means of payment and platforms that make it possible to efficiently provide diverse payment services. These changes have brought new players into the payments services sector. At the same time, in recent years, the need has again arisen to enhance competition in banking services. Today, a large majority of payment services in Israel are provided by banking corporations, all of which participate in the payments systems, while nonbank entities wishing to provide payment services are unregulated, and do not participate in the payment systems, either directly or indirectly. Regulating payment services will bolster public confidence in the nonbank payment systems, and enable them to provide high-quality and secure services.

There is currently no specific legislation applying to all payment service providers in Israel. The only law that includes a license requirement for the provision of payment services is the Banking (Licensing) Law in the framework of regulation for an acquirer license for merchant acquiring activity. The law does not require any license for other payments services. There are a number of laws in Israel relevant to certain aspects of payment services and relating to specific entities, specific means of payment, or relations between a business and a customer – including the **Debit Cards Law**, which concerns the contractual relations between a payment card issuer and the customer and the consumer protection regarding their use, and the **Banking (Licensing) Law**, which prohibits accepting deposits and providing credit simultaneously without a bank license, but does not prohibit the provision of payment services without a license.

The **Banking (Service to Customer) Law**, the banking rules based on it, and various Proper Conduct of Banking Business directives instituted by the Supervisor of Banks also

regulate the relations between a bank and a customer in the provision of payment services, and include many consumer protection measures. These directives, however, do not apply to concerns outside the banking system. In order to maintain a uniform standard in relations between payment service providers and their customers after the entry of new players into this sphere, legislation is needed that will apply to all the payment services providers. This legislation will determine permanent rules in areas requiring uniform rules applying to all payment services providers. At the same time, every regulator will be authorized to set additional rules for the concerns that it supervises, according to their characteristics.

Two new legislative memoranda currently being written are designed to regulate the financial services activity of nonbank entities that are also likely to provide payment services:

- The Supervision of Financial Services (Credit and Deposit Services) Bill, 5776-2016. The proposed legislation is designed to regulate other concerns that will be allowed to simultaneously accept monetary deposits and provide credit, providing that they receive a license to do so, and in accordance with the restrictions stipulated in the bill.
- The Supervision of Financial Services (Regulated Financial Services) Law, 5776-2016 (hereinafter – “the Financial Services Law”) will allow the provision of credit services or services for a financial asset, and providing a license for this activity.

These concerns and others wishing to provide payment services, such as managing a payment account or issuing means of payment, will require a license regulating this activity in order to gain the trust of the public and the financial institutions, and in order to participate in the payment systems. Ostensibly, the absence of a license requirement could have been interpreted as encouragement of competition, since any concern wishing to provide payment services can operate in the market without having to meet license requirements. In the payment services market, however, the absence of a license requirement makes it difficult for new players to enter the market.

In contrast to entities that receive deposits and provide credit—which are required to manage the risks in this activity, including liquidity and credit risks, in order to ensure that they will be able to fulfill their obligations—there is less exposure to risks in the provision of payment services, and the risks are easier to monitor, providing that the money⁵ designated for making payments is held in trust. The license requirements for a payment institution will therefore be less strict than the requirements for a banking corporation. This license will limit the activity of payment institutions, but will retain the regulatory and risk-based capital requirements. Financial market concerns will be able to choose the license suitable for them, according to the nature of their activity and the risk incurred in it, and will benefit from the license requirements corresponding to this risk.

The payment systems in Israel are the factor that enables payment services providers to give their customers the option of carrying out payment transactions with customers of other payments services providers. Without these systems, a payment services provider will be able to facilitate payments for his customers only within the closed group of his customers. Making payments systems accessible to nonbank payments service providers

⁵ Money is any official currency (legal tender), but not virtual currencies or club points.

will therefore expand their business, enable them to provide worthy competition for the payments services provided by banking corporations, and open this market to competition. At the same time, the activity of these concerns in the payments systems mandates adopting the measures required to ensure that their participation does not jeopardize the stability of the payments systems, whose activity is critical for the economy's entire payments apparatus. The absence of supervision and regulation of nonbank concerns providing payments services has a negative impact on the reputation of these concerns, public trust in them, and the ability of the payment systems to enable such concerns to participate in the systems without jeopardizing their stability.

The globalization of payment services has led international payment services providers to extend their business to Israel, and appropriate regulation for them is necessary. The proposed payment services legislation will meet this need.

For the above-mentioned reasons, the Committee is formulating a legislative memorandum for proposed payment services legislation that will regulate the activity of payment institutions, safeguard the customers' money, strengthen public confidence in these concerns, and reduce the risk of these institutions' activity in the payments apparatus.

The current laws and proposed legislation in this sphere do not apply to all the concerns operating in the payment services market, and where nonbank entities are concerned, do not encompass all aspects of relations between a payment services provider and the party receiving the service. Furthermore, there are differences in the existing consumer protection between the various means of payment, and between banking corporation and nonbanking corporation payment service providers. One of the purposes of the payment services bill is therefore to adapt consumer protection to payments services, and to set maximally uniform conditions for use and consumer protection in receiving payment services from the various payment service providers, and through various means of payment.

In accordance with the points noted above, the main goals in promoting the payment services bill are as follows:

1. **Competition** – The payment services market features reciprocal relations between the customers (consumers and businesses) and the payment service providers, and between the services providers themselves. These relations require the creation of trust between the various players in this market, and the setting of rules for their activity; otherwise, activity in the payment services sphere is impossible. The proposed legislation is designed to enable nonbank concerns to enter the payment services market by introducing risk-based regulation that will bolster public confidence in payment services and the new nonbank payment services providers, and enable the latter to participate in the payments systems. One of the ways of achieving this goal is by setting conditions that will enable payment service providers from foreign countries to obtain a license and operate in Israel, similar to the conditions for allowing Israeli payment services providers to do so.
2. **Stability** – The payment systems are the infrastructure linking the payment services providers and facilitating payments between their customers. This

infrastructure serves the entire public through the concerns that participate in it. A failure in a payments system is liable to adversely impact economic activity and stability. The payments system must therefore be stable, efficient, and safe. The Payment Services Bill will maintain the payment system's stability by setting requirements that will enable the payment services providers to participate in the payments system without jeopardizing them.

3. **Consumer protection** – Guarding the interests of the payment services providers' customers (individuals and businesses) in order to safeguard their money, and ensuring a uniform a level of service to the greatest extent possible, including:
 - **Uniformity in conditions for use and consumer protection** – Setting uniform conditions for use and the same consumer protection in obtaining payment services from the various payment services providers, and for the various means of payment;
 - **Safeguarding the customers' money** – Setting conditions that will safeguard the customers' money deposited with all the payment services providers for the purpose of making payments.
4. **Technological and business innovation** – The regulation ensuring that payment services can be provided using both the older means of payment and advanced means of payment will be formulated in a forward looking manner and in accordance with the characteristics of the service, not only according to the technology, which is likely to change.

4. Incidence and Licensing

4.1 Payment services

Payment services include managing a payment account; conducting payment transactions, including deposits, withdrawals, and transfers, with the payment being to or from a payment account; issuing means of payment; and merchant acquisition of payment transactions.

4.2 Definitions

The developing area of payment services is undergoing many changes that are generating a lack of clarity in the definitions of the various payment services. As of now, the definitions refer to the various products, which are usually defined according to the way or the object by which the services are provided. In practice, however, these products overlap. For example, many applications make it possible to pay businesses through a transfer payment, rather than through payment cards, and money can also be loaded on a payment card. These facts complicate the implementation of the regulations, and raise many questions about the applicability of the legislation to the new products.

The proposed payments legislation redefines payment services, and focuses on the substance of the service being provided, instead of the product by means of which the service is provided. It does not distinguish between means of payment—plastic card, website, application, or fingerprint identification—a means of payment is any agreed-upon process between the payment service provider and the customer that enables the customer to initiate and carry out a payment transaction.

Similarly, managing the customer's money in an account can be done in a current account, as has been the practice up until now, but also by payment card or through an application. Any money held by the payment services provider and available to the customer for making a payment will therefore be considered a payment account.⁶ An account in which money is deposited and is unavailable to the customer will consequently not be considered a payment account. Since a payments institution will be required to hold in trust the money deposited in the payment account, the money in the account will therefore not be considered as monetary deposits for the purpose of licensing as a banking corporation under the Banking (Licensing) Law.

Another service to be regulated under this bill is payment transfers. A payment transfer is a transfer of money from the payer's payment account to the receiver's payment account, whether or not the payment is in respect of the purchase of a product or service. A payment services provider can be the entity managing the payer's account, the entity managing the account of the party receiving the payment, or the entity managing the account of both parties in the transaction. Payment transfers conducted in cash (money remittances) will not be regulated under this bill.⁷

Businesses selling goods and services want to make sure they receive the proceeds from the customer, but sometimes are required to supply the goods or services first. A customer is not always able to transfer payment immediately, and the business is therefore exposed to the risk that the customer will not meet his obligations. For this reason, credit card companies currently provide merchant acquiring services for payment cards. In addition to their function of transferring the payment from the customer to the business through the payment card issuer, they guarantee the payment to the business, so that they credit the business with the payment even if the customer or issuer does not meet his obligations. The merchant acquiring services provided by the credit card companies do not have to be provided on a payment card. Furthermore, they also do not have to be provided solely in debiting transactions.⁸ The Payment Services Bill will regulate payment transaction merchant acquiring services in every case in which the payment services provider undertakes to transfer the proceeds from the customer to the business, whether a debiting or crediting transaction is involved, without distinction between the various means of payment. Communications companies that have an

⁶ The European Union (EU) directives distinguish between electronic money and a payment account. Electronic money is defined as value accumulated on an object or in the issuer's records, while a payment account is defined as an account used to conduct payment transactions. In certain EU countries, a distinction is made between them: an account is defined as a payment account only when a payment order is made together with the deposit of the money. The account is therefore used solely as a "shadow" account until a payment order is carried out. In contrast, electronic money can be held without a standing payment order, and it is therefore more similar to a current account. Other countries have chosen to regulate the two directives together, since both payment accounts and electronic money are used to hold the customer's money. Where there EU regulator is concerned, it appears that the reason for the separation between the directives consists of constraints resulting from the EU structure, and the need to adapt the directives to all the EU countries. The committee therefore decided to consolidate the two directives into a single bill using a broad definition of payment account.

⁷ A service of this kind is included in the proposed financial services legislation.

⁸ A debiting transaction is a transaction initiated by the party receiving the payment for debiting the payer's account, in contrast to a crediting transaction, which is initiated by the payer an order to debit his account and credit the account receiving the payment.

agreement with service providers in which they undertake to transfer the payments from the customer to the providers, and to collect the payments for them through their communications services account, will require a merchant acquirer license.

4.3 Banned Services

Payment services activity may not be conducted without a payment services provider license. The regulator can rule at his discretion that certain services shall not be considered payment services requiring a license. One such example is a means of payment used for a limited network of providers, types of products, or specific services. Nevertheless, entities providing these services at a scope or under conditions determined by the regulator shall be required to report this activity to the regulator, so that he can either approve their exemption from the licensing requirement or rule that their activity is not included in the definition of the exempted services.

4.4 Payment Services Providers

The proposed payment services legislation will arrange the conditions for obtaining the payment institution license required in order to provide payment services, as will be described at greater length later, and subject to Section 4.1. At the same time, other entities besides payment institutions can provide payment services without being required to hold a payment institution license. All the concerns permitted to provide payment services (a payments institution and the other concerns) shall be referred to as “payment services providers.” Payment services providers permitted to provide payment services without being required to hold a payments institution license shall include the Bank of Israel, government ministries, banking corporations, auxiliary banking corporations, the Postal Bank, and a merchant acquirer that has received a license under the Banking (Licensing) Law. Other entities wishing to provide payment services will be required to obtain a payments institution license in addition to another license arranging their activity, insofar as this is required. For example, in addition to its license as a provider of financial services, a financial services provider wishing to provide payment services will be required to obtain a payments institution license. If the payment services are provided only incidentally and for the purpose of providing credit, however, the credit services provider will not be required to hold a credit institution license. With the consent of the Governor of the Bank of Israel, the Minister of Finance shall have the authority to both remove and add entities to the list of payment service providers exempt from the payments institution license requirement, if he sees that the requirements of another license held by them cover/no longer cover the payments institution license requirements.

In general, the sections of the bill dealing with consumer protection shall apply to all payment services providers, while the sections dealing with a payments institution license will refer only to a payments institution, unless stated otherwise.

4.5 Incidence

The proposed payment services legislation will apply to any payment service provided in Israel, whether conducted in New Israel Shekels or in foreign currency. In the case of a payment transaction in which one of the parties receives a payment service in Israel, and the other party receives the payment services overseas, the bill shall apply only to the payment services provider that provided the service in Israel.

4.6 Exceptions

Certain services are likely to be considered payment services, but due to their unique character will not be included in the payment services regulations, and a license will therefore not be required in order to provide them; the consumer protection included in this proposed legislation shall not apply to them. The following are examples of services that may be exempted from the incidence of the bill:

- An intermediary who represents only one of the parties in a payment transaction. In this case, the payment to the intermediary shall be considered a payment to the party receiving the payment from the moment the payment is transferred to the intermediary, and receiving a payment from the intermediary shall be considered as receiving the payment from the payer from the moment the payment is received from the intermediary.
- A business that provides cash in return for receiving a credit through a different means of payment.
- Transactions conducted in paper-based means of payment, such as cash, checks, promissory notes, vouchers, travelers' checks, or stamps.
- Payment transactions involving services for securities, such as sale payments, dividends, and distribution, carried out by securities management companies.
- Means of payment facilitating purchases in a limited network of service providers or types of goods and services up to an amount determined by the minister. The relevant supervisor will rule at his discretion whether the number of providers or services in the means of payment is really limited.
- A service provider contracting with other providers of goods or services for the purpose of enabling his customers to purchase these goods or services, and to include the debiting of them together with the payment for the services he himself provides, and transferring the payment or his share of it to the providers of these goods or services and adding value to them, rather than being merely an intermediary.

4.7 Payments Institution License

In order to open the payment services market to activity by nonbank entities, a new "payments institution" license will be mandated. This institution will feature a low level of risk, in comparison with concerns that simultaneously provide credit and accept deposits, and the regulatory requirements for it will consequently be less stringent than those for the latter concerns. A private individual or corporation incorporated in Israel shall therefore be entitled to submit a request for a license as a payments institution.

Since payments institutions hold the money they have received from their customers in trust, in order to facilitate the entry of various players into the payment services sector, payments institutions will be able to provide their payments services simultaneously with any other business activity. At the same time, the regulator shall be authorized to require that payment services activity be carried out under a separate legal entity.

In order to maintain a low level of risk for the payments institution, conditions shall be stipulated limiting its activity. Among other things, it will be required to keep the money from payment services activity separate from money obtained through other activities, and to either keep this money at a minimum in a group trust with legal protection in case of bankruptcy or insure it for its customers. For merchant acquirers, the money must be protected from the moment it is received from the payer's payment services provider.

Concerns providing payments services to their clients that are not required to obtain a license will sometimes wish to obtain a payments institution license that will enable them to request the opportunity to participate in the payments system, benefit from the prestige of a supervised concern among their customers, or meet a requirement mandated by international organizations. These concerns can ask the regulator for a license. The regulator will consider their request, and if they meet the required conditions, will grant them the license on terms to be stipulated.

4.8 Capital for a Payments Institution

Since the clients' money is kept in trust and legally protected, the capital requirement is mainly due to operating risks. The primary capital of the payments institution shall therefore be NIS 500,000. The payments institution's working capital shall be 1 percent of the money deposited in the payment accounts. In addition, the regulator can choose among three models in the PSD for determining the regular capital for each type of service. These models are as follows:

Model A

10 percent of the payments institution's fixed expenses in the past year, and if it has not been operating yet for a full year, according to the fixed expenses in the business plan.

Model B

The amount of the payments is a monthly average of the sum of the payment transactions that the payments institution carried out over the past year. Capital shall be set as the sum of the following elements:

- 4 percent of the total payments up to NIS 25 million
- 2.5 percent of the total payments between NIS 25 million and NIS 50 million
- 1 percent of the total payments between NIS 50 million and NIS 500 million
- 0.5 percent of the total payments between NIS 500 million and NIS 1 billion
- 0.25 percent of the total payments over NIS 1 billion

Model C

The gross profit shall be calculated as the sum of the revenues from interest, commissions, and other operating revenues, minus interest expenses during the past year.

Capital shall be calculated as the sum of the following elements:

- 10 percent of the gross profit up to NIS 12.5 million
- 8 percent of the gross profit between NIS 12.5 million and NIS 25 million

- 6 percent of the gross profit between NIS 25 million and NIS 125 million
- 3 percent of the gross profit between NIS 125 million and NIS 250 million
- 1.5 percent of the gross profit over NIS 250 million

The regulator shall have the authority to set the capital requirement up to 20 percent higher or lower equity than the calculated figure, according to the additional risks incurred in the payments institution's business or circumstances ensuring a lower risk in that business.

4.9 Provision of Credit by a Payments Institution

The proposed payment services legislation shall regulate the payment services, not the providing of credit to customers. Therefore, a payments institution that provides credit to its customers, whether in the form of a loan or as a credit facility in the means of payment or in the payment account, shall also be required to have, in addition to a payments institutions license, a credit provider license under the proposed Financial Services Supervision Law. If, however, this credit is secondary to the payment services, and the institution meets criteria to be established (for example, the credit does not bear interest), the payments institution will not be required to have a credit provider license, and can provide this credit in the framework of its license as a payments institution. In any case, the credit shall not be provided from the money of the payments institution's customers.

4.10 License Application Process

Since payment services activity by a payments institution requires meticulous management of operating risks, a request for a payments institution license must also include—in addition to the business plan and the capital—documents attesting to a high level of information security, principles for gathering statistical information, a business continuity plan, an operating plan and a list of the types of services to be provided, the method of safeguarding the customers' money, a description of the corporate governance structure and the identity of the controlling shareholders, a description of the organizational structure including a list of branches and agents, a description of the mechanism for preserving documents, a description of the mechanisms for control over money laundering and financing of terrorism, and a statement of the sources of financing. The Supervisor has been granted the authority to require additional data and documents from the license applicant that he or she believes are necessary in order to evaluate the application. The payments institution shall be required to fulfill the conditions for obtaining a license during the entire period of its activity, and the Supervisor shall be granted the authority to cancel its license if he or she sees that the institution no longer fulfills these conditions.

4.11 Registry

The entry of new players into the payment services market requires the establishment of a registry of entities entitled to provide these services, so that the customer can find out whether the concern offering him its services is an authorized payment services provider. The regulator supervising the payments institutions shall therefore maintain a registry that includes all the payment services providers, regardless of whether they are payments institutions or institutions that have been exempted from licensing as a payments

institution, and regardless of whether they are banking corporations or nonbank concerns. The registry shall be published, and shall include the payments services that each listed payment services provider is allowed to provide and the category of its license. A payments institution providing its services through agents shall publish a list of its agents.

4.12 Agents and Outsourced Services

In order to enable new concerns to operate in the market without having to set up expensive infrastructure and large-scale marketing apparatuses, they will be allowed to distribute their payment services through agents, and to utilize outsourced services for the purpose of operating the services. However, in order to ensure that the license terms and consumer protection are observed in this method of operation as well, the payments institution shall bear responsibility for ensuring that its activity through agents and outsourced services does not detract from compliance with the legal requirements. If the regulator sees that the payments institution's activity carried out through an agent or outsourced services is negatively impacting the institution's compliance with the legal requirements, or the regulator's ability to supervise it, the regulator can order it to redress the faults, and if necessary, even halt the institution's activity through the agent or the outsourced services.

4.13 Supervision of the controlling shareholders

To ensure proper conduct of the payments institution, it is important to supervise the institution's controlling shareholders. All parties at interest in a payments institution must therefore report to the regulator their voting rights in the payments institution and any change in voting rights when they pass through the 20 percent, 30 percent, and 50 percent levels of voting rights. The regulator shall have the authority to restrict or suspend the party at interest's voting rights if the regulator sees that the party's vote is liable to detract from the proper conduct of the payments institution.

4.14 Exemption from the License Requirement

In order to make it easier for new concerns to arise, and to enable them to enter the market, and because the risk in their activity is limited to low levels, an exemption from the license requirement shall be granted to entities whose payment transactions total less than NIS 30 million per year. These concerns will have to demonstrate the integrity of their controlling shareholders and their corporate governance, and the regulator can require them to prove their capital, as the regulator sees fit. This capital shall not be greater than the capital set forth in a payments institution license.

4.15 Access to the Payment Systems

A payment services provider can operate as a closed system allowing its customers to make payments only to its own customers. In order to facilitate payments between the payment services provider's customers and those of other payment services providers, the payment services provider must be connected to the payments systems. The proposed legislation shall therefore stipulate that the conditions for access to the payments systems must be objective, non-discriminatory, and proportional, and that they do not restrict access to the systems beyond what is necessary in order to maintain their stability, efficiency, and proper functioning.

In order to participate directly in the payments systems, new payment services providers will have to set up very costly infrastructure and information security and business continuity mechanisms requiring extensive knowledge and expertise. These requirements are liable to prevent the entry of many players into the payment services market. Indirect activity by the payment services providers in the payment systems, relying on the direct participants in these systems, is critical for small players, and sometimes also to large players just starting out. In order to ensure that the new payment services providers are able to participate at least indirectly in the payments systems, the proposed payment services legislation shall require a payment service provider that participates directly in a payments system to allow indirect participation by any payment services provider in an objective and non-discriminatory manner.

Since the payments systems are based on crediting and debiting of the accounts participating in the system, the banking corporations will be required to manage the account of every payment services provider holding either a license or an exemption from a license in a manner that will enable that payment services provider to provide the payment services to its customers. In this case too, the Supervisor of Banks shall be authorized to rule that a bank's refusal to manage an account for an indirect participant is unreasonable.

4.16 Overseas Payment Services Providers

Because there is no uniformity in regulation of the payment services in the various countries, entities possessing a license to provide payments services in a foreign country shall be required to also obtain a payments institution license in Israel in order to provide these services in the domestic market. For a concern that has obtained a license from a foreign country, and requests a license in Israel, however, the regulator can rely on this license if he finds that it fulfills the requirements for a payments institution license in Israel. This reliance can be complete or contingent on supplements—fulfilling additional requirements, depending on the differences between the regulation applying to the payment services provider overseas and the regulation applying to Israel.

5. Rights and Duties

The development of advanced means of payment and the entry of new players into the payment services market requires extending the application of the arrangements concerning the rights and duties in the payment card sector to all payments services, together with the establishment of additional arrangements. As part of this process, the proposed payment services legislation shall regulate the relations between these service providers and their customers for both the entity making the payment and the entity receiving it. In addition, regulations shall be established for arranging the relations between the other relevant parties and payment services. For example, in relations between the payer's payment services provider and that of the party receiving the payment, directives shall be issued establishing the division of responsibility.

As part of the regulation of advanced payment services, the Debit Cards Law, 5741-1981, shall be canceled and inserted into the Payment Services Law, with adjustments and changes relating to advanced means of payment and the requirements set forth in the PSD.

Regulation of the rights and duties shall include rules and regulations in the following matters, among others:

- Drawing up and terminating a payment services contract – duties of disclosure, a prohibition on misleading the other party, the right to access information, and ways of terminating a contract;
- How the underlying transaction is handled;
- The rights and duties of the customer and the payment services provider in the use of means of payment;
- The division of responsibility in cases of failure in executing a payment order or misuse of means of payment;
- Instructions concerning the existence of a contract/blocking the means of payment and a refusal to carry out a payment order;
- The method of carrying out the payment order.

Criminal proceedings and financial sanctions for violation of the bill's provision shall also be stipulated.