

THIRD-PARTY GUARANTEES IN FAVOR OF A BANKING CORPORATION

Introduction

1. (a) The terms “single guarantor” and “protected guarantor” shall have the same meaning as in the Guarantee Law, 5727–1967.
- (b) All the provisions of this directive, except those in which it is specified otherwise, shall apply to all guarantors, whether defined as “single guarantor” or “protected guarantor”, or not.

Limits on obtaining a guarantee

2. (a) A banking corporation shall not require a person who guarantees credit for a specific amount or period to sign a guarantee document for an unlimited amount or period; it may require a person to sign an appropriate guarantee that specifically addresses either the defined amount or period of the guarantee.
- (b) In every instance that a banking corporation requires a guarantor to sign a guarantee for an unlimited amount, it shall bring the nature of the guarantee to the special attention of the guarantor, and give him a written statement which states the amount of the known indebtedness at that time that is the object of the guarantee. The said notice shall include an explicit and prominent paragraph regarding the extent of the guarantee for various types of indebtedness and of future indebtedness, as determined in the guarantee contract.
- (c) If the banking corporation has received a signed guarantee for a limited amount, it shall give the guarantor a written statement specifying the extent of the guarantee on the basis of various types of indebtedness and future indebtedness, as determined in the guarantee contract.

Database of guarantors

3. Before a person signs a guarantee for a banking corporation, the banking corporation shall check whether that person has already given a guarantee to the banking corporation and what is the extent of the indebtedness for which he is a guarantor.

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For this purpose every banking corporation shall maintain a database of guarantees it has received.

Obligation to inform a guarantor who is not a “single guarantor”

4. (a) When a guarantor signs a guarantee in favor of a banking corporation, the banking corporation shall note the number of guarantors who shall guarantee the debt, and inform the guarantor if he is guaranteeing the entire debt or only part of it.
- (b) A banking corporation shall bring it to the guarantor’s attention in writing and explicitly that the guarantee is for an existing debt or a debt that replaces an existing debt.

Disclosure obligation

5. A banking corporation shall bring the following information to the guarantor’s attention in writing and explicitly:
 - (a) If the borrower is a restricted customer in that banking corporation.
 - (b) If the guarantee replaces the guarantee of a shareholder or manager in the borrowing corporation, including the spouse of one of these.

Statements to guarantors

6. The banking corporation shall send a statement to the guarantor noting the existence of the guarantee and its amount at the time the statement is sent, as follows:
 - (a) If the guarantee is for a limited amount, and the outstanding unpaid indebtedness to which the guarantee applies exceeds NIS 15,000, a statement shall be sent every two years;
 - (b) Notwithstanding the provisions of subsection (a) above, if the guarantee was given for a loan to purchase a residential apartment or as a mortgage on a residential apartment, and the outstanding unpaid loan balance exceeds NIS 110,000, a statement shall be sent every three years;

- (c) If the guarantee is for an unlimited amount, a statement shall be sent every year.
- (d) The Supervisor of Banks may change the amounts in this section from time to time.

Guarantee for a specific charge

- 7. (a) If a banking corporation has obtained a guarantee for a specific charge that is not a debt in the debtor's current account, the banking corporation may require the guarantor to pay only the amounts on account of that charge.
- (b) In view of the aforesaid in subsection (a), in accordance with permission from the debtor, if the banking corporation collects the payments via a charge to the borrower's current account, and 90 days have passed since the current account was debited for the repayment of the loan, the payments shall be considered to be repaid in the relations between the banking corporation and the guarantor, even if the balance in the current account is overdrawn.

Notification of expiry of guarantee

- 8. If the guaranteed debt has been repaid, or if the guarantee has expired for another reason, the banking corporation shall inform the guarantor in writing of the expiry of the guarantee, within 30 days of its expiration

Notification to guarantor who is not a "single guarantor" of failure to pay debt

- 9. (a) If a debtor has not paid his debt, the banking corporation shall inform the guarantor of this within 90 days of the date on which the debtor should have repaid the debt.
- (b) Notwithstanding the aforesaid in subsection (a), a banking corporation shall be exempt from notifying the guarantor of the failure to pay the debt if the debtor's debt repayments are made periodically, and the accumulated amount in arrears does not exceed the sum of two periodic payments, and provided that such amount does not exceed NIS 2,000, indexed to the CPI published in April 1998.

Notification to guarantor on demand for immediate repayment of loan or initiation of legal proceeding

10. (a) If a banking corporation seeks to demand immediate repayment of the debtor's loan or to initiate legal proceedings against the debtor due to failure to meet the terms of loan, notification of such shall be submitted to the guarantor in writing, at least 21 business days in advance, via registered mail to the guarantor's address listed with the banking corporation.

b) Said notification listed in subsection (a) shall include the outstanding loan balance and the amount of the loan that is in arrears.

(c) In circumstances in which the banking corporation does not send such notice to the debtor, due to one of the reasons listed in section 5a1(d) of the Banking (Service to Customer) Law, 5741-1981, the requirement to send such notice to the guarantor, as detailed in subsections (a)-(b) above, shall not apply to it.

Demand notices before realizing a guarantee — a guarantor who is not a “protected guarantor”

11. (a) As a rule, a banking corporation shall not demand that a guarantor pay the amounts promised in his guarantee unless it has first, or simultaneously, demanded them from the debtor himself. The guarantor may be required to pay the amounts ensured without these having been demanded first from the debtor only in special cases, such as losing contact with the debtor, insolvency of the debtor, etc.

(b) A banking corporation shall not obtain payment from a guarantor by realizing the guarantee unless a notice has been sent to the guarantor of the banking corporation's intention, at least 10 days before the proceedings to realize the guarantee have begun and at least 20 days after a notice as specified in Section 9(a) has been sent. The said notice may be given in the demand notice to the guarantor, as stated in subsection (a) above.

- (c) The provisions noted above shall not apply in special cases in which circumstances dictate acting without delay to immediately realize the guarantee.
- (d) In demand letters, or in petitions against guarantors of specific loans, the loan balance shall be detailed by its various components—such as principal, indexation differentials, interest, and amount in arrears.

Transitional provisions

12. In certain obligations taken out before 1.7.1995, and in which guarantors were required to sign guarantees in order to ensure repayment, and the repayment of the obligation was implemented by debiting the debtor's overdrawn current account, the banking corporation may not repay these charges to the loan later than 90 days after this regulation went into force, in the following instances:
- (a) When the banking corporation has honored various charges in the current account (checks, debit by authorization, standing orders, etc.), in amounts that are not less than the obligations on the loan account, at the time of the charge or subsequently;
 - (b) When the obligations in the current account were made when the account had a credit balance or in the framework of authorized credit.

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