



December 23, 2018

Circular Number C-06-2583

To:

The banking corporations and credit card companies

Issue: Merchant acquirers and acquiring payment card transactions

(Proper Conduct of Banking Business Directive no. 472)

Introduction

1. In recent years we have witnessed a phenomenon in which customers, and particularly the elderly, are victims of fraud, deception, and unfair influence by merchants, at a cost of thousands of shekels. The funds that are collected from these customers are transferred to the merchant by merchant acquirers, which are not parties to the underlying transaction and serve only as a conduit for the money.
2. Due to the concern of a negative impact to the customers, the acquiring companies at times choose to refuse to provide those merchants with acquiring services, and in response at times they are sued by those merchants and forced to deal with the issue in the legal system.
3. In view of the severity of said phenomenon, which is caused by merchants that are not acting in accordance with consumer protection laws, and with the goal of strengthening the ability of merchant acquirers to refuse to provide services to those merchants, thereby protecting consumers, and in light of the merchants' fraud exposing the acquirer to various risks, the need arose to establish that an acquirers' refusal to provide acquiring services to a merchant regarding which there is a real concern that its activity includes customer fraud, customer deception, or use of unfair influence on customers, or to carry out a specific transaction for such merchant, shall be considered a reasonable refusal, among other things, regarding the Banking (Service to Customer) Law, 5741-1981.
4. After consulting with the Advisory Committee on Banking Business Affairs, and with the consent of the Governor, I have amended this Directive. In parallel, the Fair Trade Authority is working to combat this phenomenon via the means available to it.
5. The directive, as noted, shall provide greater protection if and when a law will be



passed allowing acquirers to also report to the Fair Trade Authority, which will publish a list of merchants for which acquiring should be ceased, and in parallel the Authority will report on merchants that act unfairly toward customers.

The updates to the directive

6. Following Section 7(c) shall be:

(d) (1) In conditions in which an acquirer has a real concern that the merchant's activity includes customer fraud, customer deception, or use of unfair influence on customers, it is permitted to refuse to provide acquiring services to the company or to carry out a specific transaction for it. The refusal shall be considered a reasonable refusal, among other things regarding the Banking (Service to Customer) Law, 5741-1981.

(2) If the acquirer decided not to provide acquiring services to the merchant or not to carry out a specific transaction for it, it shall send a notice regarding that to the merchant soon afterwards, to the extent that there is nothing preventing that.

(e) Without derogating from the generality of the provisions of Subsection (d), it is possible to view, among others, each of the following criteria as a basis for a real concern:

(1) A high percentage of chargebacks relative to the merchant's turnover or relative to the quantity of transactions in a given period of time. In this regard, the customers' age shall be taken into account, to the extent that the acquirer has such information.

(2) A high percentage of customer complaints against the merchant, which based on the acquirer's experience are liable to indicate fraud, deception, or unfair influence. In this regard, the customers' age shall be taken into account, to the extent that the acquirer has such information.

(3) An activity pattern of numerous repeated attempts to charge the same payment card fixed or varying amounts relative to a specific transaction.

(4) An activity pattern of attempts to charge cards of deceased customers.

(f) An acquirer shall determine policy and procedures for implementing the provisions of Subsections (d)–(e).

(g) In this section, "deception" and "unfair influence"—as defined and as used in Sections 2 and 3, respectively, of the Consumer Protection Law, 5741-1981.



Explanation

It was determined that an acquirer may refuse to provide acquiring services or to carry out a specific transaction for a merchant when the acquirer has a real concern that the activity includes customer fraud, deception, or use of unfair influence on them. If the acquirer decided to do so, it is required to send notice of that to the merchant soon afterwards, to the extent that there is nothing preventing that (such as a legal impediment or lack of ability to contact the merchant). Examples of criteria listed in the section were formulated based on the experience of the credit card companies, and on the guidelines of the international organizations. Thus, for example, the international organizations' documents serve as an indicator for the first criterion, a high percentage of chargebacks. The experience of the credit card companies indicates that the third criterion, an activity pattern of numerous attempts to charge the same payment card relative to a specific transaction, is not plausible and is liable to raise the concern that the transaction is not real. The acquirers may establish additional criteria that establish a real concern. The acquirers shall establish policy and procedures for implementing the above.

Effective date

7. This amendment shall go into effect up to three months after its publication.

File update

8. Attached please find update pages to the Proper Conduct of Banking Business Directive file. Following are the update pages:

Remove page

(5/16) [1] 472-1-7

Insert page

(12/18) [2] 472-1-7

Sincerely,

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Supervisor of Banks