

## Banking Supervision Department

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August 17, 2021

**Circular Number C-06-2670**

Attn:

**Banking Corporations**

### **Switching Banks Online**

(Proper Conduct of Banking Business Directive no. 448)

#### **Introduction**

1. In Amendment 27 to the Banking (Service to Customer) Law, 5741-1981 (hereinafter: “**the Law**”), Section 5b1 was added to the Law, determining that banks must allow customers who wish to switch banks to do so online, conveniently, reliably, safely, and at no cost to them. The purpose is to promote competition in the banking system and to lower barriers to switching banks by customers by simplifying the switching process while upholding customers’ rights, ensuring the continuity of their financial activity, and improving the quality of service that they receive as part of the bank-switching process.
2. In accordance with the powers established in the Law, the Governor of the Bank of Israel has determined, within the framework of the Banking Rules (Service to Customer) (Bank-To-Bank Transfer of Customer’s Financial Activity), 5769-2019 (hereinafter: “**the Governor’s rules**”), the type of financial activity to which the requirement in the Law shall apply and the types of bank accounts to which said requirement shall apply to financial activity therein.
3. In accordance with the powers of the Supervisor of Banks as established in the Law, Proper Conduct of Banking Business Directive no. 448 was promulgated on December 6, 2019, laying down the instructions that banks must implement in accordance with the Law and the Governor’s rules when they handle a customer’s request to switch banks online.
4. Section 5b1 of the law, the Governor’s rules, and Proper Conduct of Banking Business Directive no. 448 are expected to go into effect on September 22, 2021. At the present writing, the banking system is in the final stretch of the technological developments that are needed to implement them.
5. In addition, in order to implement the provisions of the Law in regard to transferring a customer’s financial activity in checks, legislative amendments had to be enacted in response to cases where a customer who draws a check has switched banks, and where a customer who presents a check has switched banks. With this in the background, the Governor’s rules were updated and legislative changes were made in the Check Clearing (Scanning, Saving, and Producing Digital Output) Rules, 5777-2016, and the Check Clearing (Saving Checks) Rules, 5776-2016. Furthermore, an amendment was passed that clarifies in Section 5b1 the Governor’s authority to

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determine the period in which the banks must continue to carry out, in regard to certain kinds of financial activities, the actions pertaining to switching banks even after the date of the switch (the routing [“follow me”] period).

6. As a complement to the aforementioned legislative amendments and in accordance with the authority of the Supervisor of Banks under the Law, Proper Conduct of Banking Business Directive no. 448 was updated as specified below. Furthermore, various updates were made in view of needs that arose as the process of implementing the law and the Governor’s rules continued after the original directive was promulgated on December 16, 2019.
7. After consulting with the Advisory Committee on Banking Business Affairs and with the approval of the Governor, I have established this Directive.

## Updates of the Directive

### 8. Update of Section 2—Incidence

The Incidence section of the Directive was updated to make it clear that the Directive applies to banks for the purpose of complying with their obligations as an “old bank” or a “new bank” and extends the incidence of Section 41 of the Directive to a bank to which, under the provisions of the Law, Section 5b1 of the Law does not apply.

#### **Explanatory notes**

The requirement of transferring a customer’s financial activity to another bank under Section 5b1 of the Law applies to a new bank and an old bank, as these terms are defined in Section 5b(b) of the Law. The Incidence section is updated in accordance with the incidence specified in the Law and the definition of a “bank” in the Definitions section is updated commensurably.

In addition, to support the legislative requirements, the Governor’s rules, and the Directive, and to make it possible to apply them to switching of banks, it is explained that Section 41 of the Directive shall apply to any bank, even in cases where the bank is not a party to the switching process as a new bank or as an old bank, and including a bank that, according to the provisions of Section 5b1(e), is exempt from having to implement Section 5b1 of the Law. This correction allows all customers of the banking system to maintain continuity of financial activity in checks, both in cases where customer who draws a check has switched banks, in which case payees need a response, and in cases where the customer who presents a check to the old bank has switched banks, in which case the customer needs continuity such that his or her account with the new bank will be credited when the check is paid.

### 9. Update of Section 3—Definitions

The definitions of the terms “bank” and “routing” are updated.

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### **Explanatory notes**

The definition of the term “bank” is updated pursuant to the aforementioned revision of the Incidence section.

In the definition of the term “routing,” a reference to Section 5 of the Governor’s rules, which defines the types of financial activity that are transferred even after the switching date, is added.

### **10. Update of Section 5—Choosing the switching date**

In Subsections (a) and (b), reference to the Law is made.

#### **Explanatory notes**

The dates on which financial activity is transferred are determined in the Law and in the Governor’s rules. For the sake of completeness, a reference to the provisions of the Law in the aforementioned sections is added.

### **11. Update of Section 10—transfer of activity from several accounts**

A reference is added to the conditions laid down in the Governor’s rules concerning the types of bank accounts in which financial activity may be transferred in accordance with the provisions of the Law.

#### **Explanatory notes**

Section 2 of the Governor’s rules defines the types of bank accounts to which Section 5b1 of the Law applies. Section 10 of the Directive specifies that the new bank must allow its customers to transfer financial activity from several accounts with one old bank or several old banks to one account with the new bank. For the sake of completeness and clarity, a reference to the Governor’s rules is added in order to explain more precisely that all requests to switch to a new bank must comply with the Governor’s rules individually and that there is no requirement to transfer types of accounts for which the Governor’s rules do not require portability.

### **12. Update of Section 11—forbidding the imposition of limits on the number of transfers**

A reference to the conditions laid down in the Governor’s rules concerning the types of bank accounts to which Section 5b1 of the Law applies is added, redundancies vis-à-vis Section 2 of the Governor’s rules are deleted, and the instruction concerning a case where a customer submits several requests for transfer with different new banks on account of the same financial activity with the original bank is updated.

#### **Explanatory notes**

Section 2 of the Governor’s rules specifies the types of bank accounts to which Section 5b1 of the Law applies, including the conditions of current accounts with which the old bank and the new bank must comply. In view of this, Subsections (a) and (b), which are redundant vis-à-vis the contents of the Governor’s rules, are deleted and a reference to the Governor’s rules is added for the sake of completeness. In addition, the instruction pertaining to a case where an old bank

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may receive several requests from a customer to switch banks by means of several new banks is updated.

### 13. Update of Section 13—sharing customer’s information

In addition to a reference to privacy laws, a reference to the provisions of any law is added.

#### **Explanatory notes**

For the sake of completeness and given the importance of defending and protecting information given over about the customer generally, and in the case of switching banks particularly, a reference to the provisions of any law, including privacy law, is added.

### 14. Addition of Section 16a—apprising customers of the possibility of switching banks

An instruction is added to the effect that a bank must apprise its customers of the possibility of switching banks in accordance with Section 5b1 of the Law as part of the process of opening an account and also as part of the information presented to the customer concerning possibilities and processes of closing an account.

#### **Explanatory notes**

To stimulate competition and enhance customers’ awareness of the possibility of rapid, efficient, and reliable online switching of banks, the requirement of apprising customers about the possibility of switching banks under section 5b1 of the Law is set forth both when customers open an account and as part of the information they receive about closing an account.

### 15. Update of Section 18(e)—customer consent

Subsections (1)–(3) are updated as specified below.

#### **Explanatory notes**

Section 18(e) deals with the consent that customer gives the banks as part of his or her request to switch banks. In the update, the reference to customer consent is couched in sharper language, as follows:

- (a) Subsection 18(e)(2) is updated with a reference to consent to sharing information between the old bank and the new bank for switching and routing purposes, and with other players who may need the information for the purpose of requisite actions to make said switching and routing take place, such as the automatic clearinghouse (MASAV), credit-card companies, beneficiaries of credit authorizations, debiting parties, and so on. In addition, the reference to information shared about activity in checks is updated and the word “historical” is deleted because the information that needs to be shared for switching and routing purposes in checks is broader than historical information only.
- (b) At the beginning of Subsection 18(e)(2), a reference is added to the use of the customer’s consent to allowing the new bank to share his or her contact information with the old bank both for forwarding notices from the old bank to the customer about the switching process and for the need to contact the customer in order to obtain instructions about handling existing

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products in the original account, and it is explained that the old bank may also use said contact details to deal with dormant deposits.

- (c) The end of Subsection 18(e)(3) is updated such that instead of “shall be required,” “insofar as this is possible” appears, in order to explain more clearly that insofar as there is residual activity in the old bank account after the switching, the expectation is that the old bank will close the customer’s account and not wait for a further demand or request from the customer in this matter. It is also explained that completing the switching process is tantamount to the end of the contractual relationship and that the old bank shall act in accordance with Section 15b of Proper Conduct of Banking Business Directive no. 420 in this context.
- (d) Subsection 18(e)(3)(c) is updated in order to delete redundancies in examples of the types of credit authorizations that may be established and to set forth a general instruction concerning the validity of such authorizations. The duration of the switching period is regulated in the Governor’s rules and the reference in the Directive is amended accordingly.

### 16. Update of Section 18(f)

The expression “If such an instruction is not given, this shall not derogate from the soundness of the request” is appended to the end of the section.

#### **Explanatory notes**

The text is added in order to make it clear that the customer shall be allowed to choose how to deal with dormant deposits, if at all, and that insofar as a customer chooses to give no instruction in the matter, this shall not impair the continuation of the process.

### 17. Update of Section 18(g)

A section dealing with a customer’s instruction concerning his or her activity with checks is added.

#### **Explanatory notes**

This section was added after necessary legislation to extend the implementation of Section 5b1 to customers’ activity with checks was passed.

### 18. Update of Section 21

A reference to disclosure and explanations to customers about how to deal with existing products is added.

#### **Explanatory notes**

The section is updated to include the explicit requirement of full disclosure and explanations to the customer about the way the old bank shall handle existing products in the switching process, including actions needed to move the switch ahead, complete it, and carry out routing. By giving customers full explanation about how existing products are treated, including reference to decisions/instructions that they should give the banks in order to implement their request, and by explaining the implications of customers’ decisions about the handling of the products and the

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switching and routing processes, the transparency of the process and the customer's involvement in it will be enhanced; this is also likely to mitigate the uncertainty and natural concerns that the customer entertains in the process of switching banks. The need for this consumer protection becomes all the more significant with the addition of switching customer's activity in checks, a level that also requires customer involvement in giving instructions and consent.

### 19. Update of Section 23(e)

The requirement of presenting the customer with information about the switching process is expanded.

#### **Explanatory notes**

The section is updated to include a disclosure and explanation requirement about the routing period, the meaning of routing, apprising the customer of the possibility of canceling routing, and giving information about the customer's activity in checks. A reference to the requirement of apprising the customer of cases in which he or she may receive notices and forewarnings during and upon the completion of the switching process is added as well.

### 20. Update of Section 26

The wording of Subsection (b) is fine-tuned and subsection Sf) is added, as specified below.

#### **Explanatory notes**

Section 26 concerns compulsory actions by the old bank after it finds that the request to switch banks is sound. Within this context, the information it must share is specified and a section that includes information about checks is added.

### 21. Update of Section 28(c)

References to various notifications that must be sent out in accordance with this section are updated and explained with greater precision.

#### **Explanatory notes**

The beginning of the section is updated and the words "the customer" are deleted because the section relates to updating both the customer and the old bank as the case may be.

Subsection 28(c)(1) relates to a case in which the new bank finds that the customer's request is unsound. Here it must apprise the customer and the old bank and stop the switching process. In order to protect the customer's privacy, a finer distinction is made between notices that the new bank must send the customer and the old bank in the case at hand, and the reference to restrictions imposed on the old bank is expressed in sharper terms.

Subsection 28(c)(2) relates to a case in which the new bank finds that the customer's request is sound; here it must keep the customer informed about progress in the process and the restriction of his or her activity with the old bank as his or her request to switch banks is dealt with. Given the dramatic implications of this stage for the customer's ability to carry out actions in his or her

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account with the old bank, a requirement is added to the section that notice to the customer about the imposition of restrictions must be given shortly before the restrictions go into effect.

### 22. Update of Section 29

Section (b) is updated and Section (e) is added, as specified below.

#### Explanatory notes

- (a) Section 29(b) is amended so that the default lay down in the previous wording of the directive, by which an account with the new bank shall be considered an account to which the customer has instructed the transfer of funds on the day of maturation of a deposit or savings that remained with the old bank, even if no such instruction is given, is deleted, and it is determined instead that the old bank must contact the customer and obtain an instruction as to the handling of the funds in accordance with Proper Conduct of Banking Business Directive no. 443.
- (b) Section 29 (e) is added, determining instructions that the old bank must carry out as it switches customer financial activity in checks to the new bank, in order to maintain continuity in the handling of the checks.

### 23. Update of Section 29a

Section 29a, giving further instructions concerning the handling of checks, is added.

#### Explanatory notes

Section 29 of the Directive issues instructions that apply to the old bank. Section 29a gives additional instructions that pertain to cases in which the banks need to cooperate or where the new bank has to take action.

### 24. Update of Section 31

The words “in the old account in such a way that it does not comply” are replaced by the expression “no longer complies.”

#### Explanatory notes

The section is updated in order to make it clear that action in accordance with the instructions in this section shall be taken in any case of noncompliance with the Governor’s rules.

### 25. Update of Section 32(b)

The expression “its switching date is different from the day of the switching” is deleted and replaced with “that can be transferred at a later time than the switching date in accordance with the Governor’s rules, and except for residual activity at the old bank after the switch takes place.”

#### Explanatory notes

It is determined ab initio that during the switching day, all activity in the customer’s account with the old bank is suspended with the exception of activity in securities, which shall be transferred at a different time. The wording at the end of the section is fine-tuned so that the reference to

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securities includes securities that will be transferred after the switching day, in accordance with the Governor's rules, and a reference is made to residual activity in the old account after the switch is carried out in its entirety, including nontransferable securities.

### 26. Update of Section 33

References to compulsory notices from the new bank to customer and the old bank in a case where the new bank finds that the switching process cannot be completed on the switching date are updated.

#### Explanatory notes

In order to protect customers' privacy, a distinction is made between notices that the new bank shall send to them, which shall include the reason for halting the process, and notices that it sends to the old bank, which shall give an update about the case without specifying the reasons.

### 27. Update of Section 34

Sections (a) and (c) are updated and Section (e) is deleted, as specified below.

#### Explanatory notes

- (a) In Subsection 34(a), the phrase "from automatic machines" is deleted in order to bring the wording into better correspondence with the restrictions imposed on customers' activity in the old account as the switch takes place, in accordance with Section 26(b) of the Directive. On the switching day, cash withdrawal at the teller's desk shall not be allowed either.
- (b) In Subsection 34(c), it is explained that the reference is to the date on which the switching process is completed.
- (c) Subsection 34(e) is deleted and the important instruction that it contained concerning serving notice to those who debit a customer's account by authorization is inserted into Section 37 of the Directive. To eliminate doubt, it is stated for clarity that banks must comply with the requirements in the Payment Services Law, 5779-2019, and Proper Conduct of Banking Business Directives nos. 432 and 439 concerning advising beneficiaries of debit authorizations of a change in the particulars of the authorization.

### 28. Update of the title of the "Routing Process" chapter

The title of this part of the Directive is updated to "Activity after the switching date."

#### Explanatory notes

Sections 35–41 of the Directive deal generally with actions that banks must take after the switching date and not only during the routing process itself; the title is updated in order to add clarity.

### 29. Update of Section 35

A reference to the Governor's rules is added.



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### Explanatory notes

The actions not included in routing are determined in accordance with the Governor's rules and reference to them is added for completeness and clarity.

### 30. Update of Section 36

A reference to the length of the routing period is deleted

#### Explanatory notes

Under the legislative amendment referenced in Section 5 *supra*, instructions concerning the routing period and its duration are set forth in the Governor's rules. Accordingly, a reference to the Governor's rules is added in Section 36 and the redundant references in the Directive are deleted. To eliminate doubt, it is stated for clarity that the routing period for ongoing transactions with bank credit cards issued by the old bank shall accord with the routing period established in the Governor's rules and that Section 11(b) of Proper Conduct of Banking Business Directive no. 470 shall not apply in the case at hand.

### 31. Update of Section 37

The expression "or with a bank credit card issued to the customer's account with the old bank" is added, as is a reference to the timing of the requisite update of the Section.

#### Explanatory notes

Whenever a customer switches banks, the banks must take action to update parties that present instructions to debit or credit the customer's account with the old bank or a bank charge card issued to the customer in his or her account with the old bank about the change in the details of the account, and this, in order to prevent harm to the customer and to allow his or her financial activity to continue uninterruptedly.

### Dates of Effect

32. This Directive shall go into effect on the date Section 5b of the Law goes into effect.
33. The update in Section 11 of the Directive, concerning updating the wording of the notice that shall be sent to the customer; Section 16a of the Directive, concerning apprising the customer of the possibility of switching banks in accordance with Section 5b1 of the Law as part of the process of opening an account; and the updates in Sections 18(e)(2), 21, and 23(e) of the Directive shall go into effect three months after Section 5b1 of the Law goes into effect.
34. The updates in Sections 18(f) and 29(b) shall go into effect six months after Section 5b1 of the Law goes into effect.
35. Section 37 of the Directive, concerning compulsory notice to debiting parties, shall go into effect at the latest within two years of the date on which Section 5b1 of the Law goes into effect, and this, in view of the banks' request for additional time to complete the developments needed for the implementation of the section. At the end of the two years, a retroactive adjustment will be

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made for the change in the details of a customer's account to all players who submitted debits to the account at the old bank in the course of said two years.

### File update

36. Update pages for the Proper Conduct of Banking Business Directives file are attached. The following are the update instructions:

**Remove page**

448-1-13 [1] (12/19)

**Insert page**

448-1-14 [2] (8/21)

Respectfully,



Yair Avidan  
Supervisor of Banks