



Directive 5—Settlement Finality and Irrevocability in a Controlled Payment System and a Designated Controlled Payment System

1. Introduction

In accordance with Section 8 of the Payment Systems Law, 5668-2008 (hereinafter: “the Law”), the operator of a controlled system shall formulate rules that will ensure the stability, efficiency, and sound functioning of the system.

In accordance with Principle 8 of the Principles for Financial Market Infrastructures (PFMI), published in 2012 by the Committee on Payment and Settlement Systems (CPSS) and the International Organization of Securities Commissions (IOSCO), a financial-market infrastructure shall provide final, certain, and clear settlement no later than the end of the value date. Where necessary or preferable, a financial-market infrastructure should provide final settlement intraday or in real time in order to mitigate settlement risk. Furthermore, a financial-market infrastructure shall clearly define the point of irrevocability of each type of payment, transfer instruction, or other obligation not yet settled.

This Directive defines the requirement that a controlled payment system and a designated controlled payment system establish clear dates of irrevocability and finality for each type of payment, transfer instruction, and other liability.

It is important to define these points and attain settlement finality and irrevocability no later than the end of the value date because deferral of finality to the next business day may expose participants and other stakeholders in the financial-market infrastructure to credit and liquidity pressures that may be a source of system risk. Additionally, establishing a finality date provides legal certainty for the moment at which the financial risks are transferred within the system, including the point of transaction irrevocability.



2. Definitions

“Payment system”, “controlled payment system”, “designated controlled payment system” -	As defined in the Payment Systems Law ;
“Payment-system operator,” or “system operator” -	The operator of a controlled payment system or a designated controlled payment system ;
“Payment Systems Oversight” or “Oversight” -	The Payment Systems Oversight Unit at the Payment and Settlement Systems Division of the Bank of Israel ;
“Participant in a payment system” -	One who is defined as a participant under the rules of the system ;
“Irrevocability” -	The point at which payment instructions, other obligations, or payments not settled can no longer be cancelled and/or modified by the participant;
“Finality” -	The point in time, specified in the system rules, at which the transfer of an asset or a financial instrument cannot be cancelled and is unconditional, or the point at which the financial infrastructure or its participants have discharged their



“Date of value” -

obligations in accordance with the terms of the basic contract ;
The date on which a payment transfer instruction, or other obligation falls due, and on which the funds and securities associated with the transaction are usually available to the recipient party ;

3. Incidence

- 3.1 This Directive shall apply to the operator of any payment system that the Governor has declared a controlled payment system or a designated controlled payment system.
- 3.2 The Bank of Israel may, as circumstances shall indicate, absolve or exempt a payment-system operator from the incidence of certain sections of this Directive and may rescind said exemption.

4. Settlement finality and irrevocability

- 4.1 A system operator shall specify dates of irrevocability and finality for every type of payment, transfer instruction, or other obligation in the system and shall include them in the system rules. In establishing these dates, the system operator shall bear in mind:
- 4.1.1 possible failure events;
 - 4.1.2 a scenario of participant insolvency;
 - 4.1.3 points of irrevocability and finality in another payment system to which any type of payment, transfer instruction, or other liability is forwarded.
 - 4.1.4 points of irrevocability and finality in a payment system from which any type of payment, transfer instruction, or other obligation is received.



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- 4.2 The system operator shall establish clear rules for deviation from said points and for the process of approving the deviation.¹ The system operator shall specify the circumstances and the times at which any type of payment, transfer instruction, or other liability received by the system may be canceled and also, *inter alia*, the manner in which cancellation may occur and the players entitled to implement it.
- 4.3 The system operator shall clearly specify the frequency of processing, dates of settlement or transfer to settlement, and dates of settlement of each type of payment, transfer instruction, or other liability between the system and its participants.
- 4.4 Insofar as the payment system has participants outside of Israel who operate in various jurisdictions, the system operator shall solicit a reasoned legal opinion as to the enforceability of the points of irrevocability and finality that have been established.
- 4.5 The system operator shall ascertain that the system's operational processes are designed to ensure settlement finality no later than the end of the value date.
- 4.6 The payment-system operator shall apprise system participants of their dates of settlement, hours of settlement, and final account balances, if any, as promptly as possible and, to the extent possible, in real time. The payment-system operator shall also specify the manner in which said information shall be forwarded to the participants.
- 4.7 The system operator shall specify clearly whether the finality provided by the system is intraday or in real time.
- 4.8 The system operator shall specify the method of handling cases in which a participant lacks the balance needed to carry out settlement at the time of settlement and the implications of these cases on the points of irrevocability and finality.

¹ Deviation shall include, *inter alia*, changes in activity hours, extensions associated with implementation of monetary policy or disruptions in the financial market, operational problems in completing processing by participants, and so on.



5. Reported information and reporting frequency

5.1 The system operator shall present Oversight with a legal opinion about the enforceability of finality and irrevocability in cases where a legal opinion is mandatory under this Directive.

6. Forwarding information to the Bank of Israel

6.1 A payment-system operator shall forward the information under this Directive by means of secured communication (the Kasefet application). Said application shall be used after prior coordination with Oversight. Oversight may allow the information to be forwarded in other ways.

6.2 The information in this Directive shall be forwarded by the system operator to the contact persons whom Oversight has appointed for this purpose.

6.3 A system operator who forwards information under this Directive shall ascertain receipt of the information by the contact persons set forth in Subsection 6.2 by telephone or by electronic mail from said contact persons, confirming receipt of the information.

6.4 Reports to Oversight shall be presented in the form of a digital document and not in handwriting.

6.5 Reports shall be presented by the deadlines established for each report. Insofar as a payment-system operator believes that a given report will not be presented by the specified deadline, he or she shall present Oversight, by electronic mail, with a written request to postpone the deadline for the presentation of the report. Said request shall include, inter alia, the actions taken up to said request for postponement, the reasons for requesting the postponement, and the requested target date for the presentation of said report. A report presentation for which postponement is not approved by Oversight shall be presented by the deadline established for said report.



7. Promulgation and update of Directive

Date of promulgation	Essence of update
November 20, 2016	Promulgation of Directive
December 24, 2018	Update

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