Navigating the Pizza Paradox

**PAS OR PAS NISHT**

**RABBI TZVT ROSEN**
EDITOR, KASHRUS KURRENTS

If you ask any out-of-town *kiruv* professional involved in outreach, “What are the two most important community ‘must-haves’ needed to attract *baalei teshuvah* or create growth in a particular Jewish community?”, nine times out of ten the answer you will get is 1) an *eruv* and 2) a kosher pizza shop! I can bear witness to this fact. At the beginning of my tenure as executive director of the Vaad Hoer of St. Louis 35 years ago, I sent out a questionnaire to the *frum* community at large asking what they think would enhance the St. Louis *frum* community. Believe it or not, the overwhelming response was a kosher pizza shop. Soon thereafter, a kosher pizza shop opened. Subsequently, two community *eruvim* were also built.

Similarly, over 40 years ago in my *shul* in Birmingham, Alabama, where the community was too small to support either a kosher pizza shop or an *eruv*, one of the congregants who happened to be a professional pizza chef made kosher pizzas for the *shul* every month.

**The History of Pizza**

When did pizza become so popular? Speculation has it that pizza, a popularly known flatbread topped with cheese and vegetables, dates back to ancient times. According to some Hebrew historians, the word ‘pizza’ is derived from a kosher cookie called ‘pizzarelle,’ which was eaten by Roman *yidden* after coming home from *shul*. This etymology is one amongst many, but probably the most intriguing.

Contemporary historians attribute the modern-day pizza to the Italian pizza maker, Raffaele Esposito, who created the pizza in honor of Queen Margherita of Savoy, Italy in 1889. His creation was called ‘Pizza Margherita.’ In the early 1900s, the first pizza shop was opened in New York City by Gennaro Lombardi. At that point, pizza was exclusively viewed as an ethnic dish and did not cross over to the U.S. until after World War II, when servicemen returned from Europe and pizza shops began to proliferate. Of course, with the commercialization of pizza it did not take long for kosher pizzerias to make their appearance in Jewish communities throughout the New York area.

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The *kasrus* of pizza ingredients is relatively simple: Flour, water, and yeast for the dough and kasher tomato sauce, kasher cheese, herbs/spices and vegetables (no pepperoni) for the toppings. What was not so simple was determining what *bracha* to make over pizza. Pizza dough is a bread dough and the *bracha* made would be *Hamotzi*; however, the pizza’s other components could transform it to a completely different *bracha*. Pizza falls into a unique category of bread-like products known as *pas haba’a b’kisnin*. *Pas Habaa’a B’kisnin* literally means ‘pocket bread’. Horav Moshe Heinemann, shli”ta, gave us a novel explanation of the term ‘b’kisnin’ as a bread product that you can put in your pocket. This should be taken figuratively, not literally. However, Rav Heinemann maintained that it was called *pas haba’a b’kisnin* for its snack-like qualities. These products were not created for *kivyas seuda*, breaking bread at a meal.

Determining the Criteria

What defines *pas haba’a b’kisnin*? Interestingly, *halacha* provides four approaches to define *pas haba’a b’kisnin*

1. The *Tur*, *Rosh*, *Aruch*, and the *Rashba* say that *pas haba’a b’kisnin* is a bread product that is filled with honey, nuts, sweets and spices.

2. *Rambam* and *Bais Yosef* maintain that the dough itself is distinctively sweet or fruity. The dough should taste markedly cake-like rather than bread-like.

3. The *Bach* expands on the position of the *Rambam/Bais Yosef*. Eggs, honey and other sweet or spicy ingredients should not only give the dough a distinctly sweet or spicy taste, but should also be a major component of the recipe.

4. *Rav Hai Gaon’s* approach to *pas haba’a b’kisnin* is that the bread dough is baked into a crisp, hard cracker, e.g., flatbread, bread sticks, and pretzels.

*Halacha* concludes that all four opinions fulfill the criteria of *pas haba’a b’kisnin*, and the *bracha* recited would be *Borei Minei Mezonos*.

Putting the Consumer Into the Picture

Nevertheless, as with every general principle there are exceptions; *Pas haba’a b’kisnin*, is no different. There are two common scenarios when a "Mezonos" *pas haba’a b’kisnin* product can be elevated to *Hamotzi* status.

When One is Kovea Seuda

When one eats enough *pas haba’a b’kisnin* for a full dinner meal, or if one eats *pas haba’a b’kisnin* to augment other side dishes for a full meal, the *bracha* one makes on that *pas haba’a b’kisnin* is *Hamotzi*. Why? In these cases, when one eats the *pas haba’a b’kisnin* as one would eat bread, the *pas haba’a b’kisnin* has been elevated to bread-like status; hence, the *bracha* would be *Hamotzi*. In all instances of exclusive *pas haba’a b’kisnin*, the amount that an average person consumes for a dinner meal determines how much *pas haba’a b’kisnin* constitutes a full meal. When the *pas haba’a b’kisnin* augments the meal, such as cake or a *pas haba’a b’kisnin* roll with an airline meal, even if the *pas haba’a b’kisnin* roll or cake tastes like cake, once one eats this cake or roll with a meal it fulfills a bread-like criteria and one would have to wash and recite *Hamotzi* on the cake or Mezonos roll.

Current Pizza Consumption Habits

When Kashrus Kurrents took a pizza poll of current pizza consumption, the results revealed that the average person eats one slice of an 18” pizza (alone, without any sides) as a snack, three slices of an 18” pizza (alone, without any sides) as a meal. Two slices of an 18” pizza (alone, without any sides) was questionable. Most pizza shops agreed that the average consumer orders two slices of thin or thick crust pizza with a side dish for dinner. Similarly, one slice of square dish Sicilian pizza eaten alone as a meal is questionable. In order to avoid a *sofei*, doubt, on what is the correct *bracha*, two slices of 18” pizza or one slice of Sicilian pizza should not be ordered alone, but rather with sides dishes, be it thin or thick crust pizza and the *bracha* would be *Hamotzi*.

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1. *Be'er Heitev* O.C. 168 No. 12. According to this opinion, the *pas haba’a b’kisnin* is comparable to cake that is eaten at the end of a meal.

2. According to this opinion, *pas haba’a b’kisnin* means food that one chews.

3. *Be’er Heitev*, O.C. 168 No. 10

4. *See Be’er Halacha*, ibid No. 6. It seems clear that an elderly person or a young child who eats smaller portions would have to wash and *bentch* on the amount that they normally eat because their age group is satiated with a smaller amount.
subject to the prohibitions of ribbis. One may not own shares in such a bank, borrow money from it, or even deposit money there.2

The first to respond was Rabbi Yosef Shaul Nathanson. He took issue with Rabbi Ganzfried’s stringent ruling and put forth two reasons to permit the loan. First, the opinion of Rashi is that the prohibition of ribbis does not apply through an intermediary. Second, the principle of breira applies – in other words, the funds financing a loan are “selected” from those of the non-Jewish depositors who are not subject to the prohibition of ribbis.

In a letter published a year after the first printing of the Kitzur Shulchan Aruch, Rabbi Nathanson asked Rabbi Ganzfried to retract his position and change future printings of the Kitzur to permit such loans.3 Future printings showed no change in Rabbi Ganzfried’s position.

Majority Rules

Over the next half century, this issue was hotly debated in the responsa literature. While many authorities took issue with Rabbi Nathanson’s specific reasoning, several other rationales were given to permit borrowing with interest despite Jewish ownership.

Most Poskim permit these loans only when the majority of the ownership belongs to non-Jews. This leniency is based on one of two principles:

- Some apply the rule of kol d’parish m’rubah parish, i.e., we can assume that the money funding this loan came from the majority of monies.4
- Others apply the concept of batul b’rov, i.e., the Jewish money is nullified in the majority non-Jewish money, at least as far as the prohibition of ribbis is concerned.5

Ownership and Risk

Another approach to permit borrowing from a bank delves into the question of responsibility for the loan. How can we identify who is really lending the money? It stands to reason that whoever bears the loss if the borrower defaults on the loan is considered the real lender.

In bank loans, the risk of a defaulted loan is borne by the bank. This means that depositors and shareholders have no claim against a borrower should he default. Therefore, any loans that the bank extends are not on behalf of their Jewish depositors, even if the bank is technically lending the Jewish money.6

Scribal Duties

Yet another approach takes advantage of a small loophole in the laws of ribbis. According to the Mishnah, the borrower is responsible to pay the scribe’s fees for writing the promissory note documenting the loan (s’char sofrim).7 It seems from this that the costs incurred in servicing a loan may be paid by the borrower without a concern for the prohibition of ribbis. Given that banks have extensive operating costs, such as rent and salaries, bank loans would not be subject to the prohibition of ribbis as any monies paid over the original amount of the loan are to be viewed as an expanded schar sofrim, paying those costs.8

Corporate Life

The above discussion about the banks and loan societies of the late 19th century dealt with smaller institutions in which the share of each partner was significant, and their contributions directly fueled the loans.

Modern banks, like most big businesses in the United States, are incorporated. This legal term – derived from the Latin word corpus, or body – means “to form or add into a body”. In other words, when a...
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Furthermore, the pizza poll concluded that amounts qualifying for an average meal that would require a Hamotzi include half of a 14” thin crust pie, half of a 12” regular crust pie, half of a 9” deep dish pizza, or a complete 9” or 10” pie for dinner.5 Relatively new pizza shop offerings qualifying for Hamotzi include one slice of vegetable pizza, half of a calzone, half of a large garlic knot and half of a pizza shop soft pretzel.

The Great Pas baba’a b’kisnin Oxyron

The term “Mezonos roll” is one of the great kashrus oxymorons. Often, a roll comes with a sticker stating, “Made with Apple Juice – shop soft pretzel.

Birchoso Mezonos

Pizza, Hamotzi

The principle - the intention of the producer. If the intention of the baker will be converted into bagel chips. Those bagel chips would be pas baba’a b’kisnin.

Melba toast is a classic example of bread that is subsequently toasted. Melba toast was named after Dame Nellie Melba, who wanted a low-fat alternative to bread so that she could watch her weight. The baker’s intention when making the Melba toast was to create an alternative to bread. Even though Melba toast resembles Rav Hai Gaon’s criteria of pas baba’a b’kisnin, the bracha on Melba toast is Hamotzi. Conversely, frozen pizza boards that are par-baked and edible are manufactured with the intention of being further processed into pizza, a product that is a snack food, and is pas baba’a b’kisnin upon which one recites Mezonos.

Frying creates a completely different halachic ruling with all bread products. Any fried bread product – croutons, pita chips, bagel chips and the like – warrants a Mezonos because frying nullifies the bread status of a bread product less than a k’zayis. Boiling a flour-based product, such as pasta, always creates the Borei Minei status because it is not bread and does not have the texture of bread.

Baruch Hashem, we are living during a time when we can benefit from Hashem’s generous bounty and experience the culinary innovation to create delicious dishes. Also, Baruch Hashem for giving us the chochma, wisdom, to properly apply the halachic fundamentals to understand what we are eating so that we can recite the correct bracha. We are fortunate to have the double benefit of being able to enjoy the fruits of our labor while giving nachas ruach to the Ribbons Shel Olam.

5. For other scenarios and halachic issues regarding pizza, see https://www.star-k.org/articles/kosher-lists/1512/pas-habaah-bkisnin/.
You are at a חתונה and all of a sudden they roll in the Viennese tables full of cakes, chocolates, ice cream, melons and bread. You are not sure whether or not you should recite a ברכה ראשונה over any of these desserts. The question is equally applicable in your own home whether on שabbos or any given day of the week: Do I or don’t I need to recite a ברכה over dessert?

The Shulchan Aruch states that when one eats bread, all foods which are eaten together with the bread are פטור (exempt) from a ברכה because they are secondary to the bread. Therefore, the ברכה recited over the bread covers any other food that is eaten, as well.

On the other hand, since a dessert is eaten to end the meal with a sweet taste, it is entirely different since the intention is not to eat it as an accompaniment to the bread. Consequently, anything eaten as a dessert should require a ברכה ראשונה.

There are exceptions to this rule. One exception is that most cakes may be considered to be בצק (bread). This is because the exact classification of bread is a מחלוקת (dispute). If one recited a ברכה over bread at the beginning of the meal, and the cake is considered a form of bread, then we don’t recite another ברכה. The reason is because it is not considered secondary to the bread. However, any מזון item which is clearly not considered to be bread should require a ברכה. Examples of this include Rice Crispy Treats, chocolate oat balls and a sweet pasta dessert.

A second questionable dessert item is ice cream, which definitely requires the recitation of the ברכה of שהכל since the ice cream is not considered secondary to the bread. However, some poskim maintain that ice cream is really a ‘drink’ which has been solidified by means of a cold temperature. Since drinks are generally considered to be an accompaniment to the bread, and ice cream is not considered to be the same kind of ‘drink’, still we do not differentiate between the two and no ברכה is recited over the ice cream. There are those who assert that since ice cream is not considered an accompaniment to the bread, one must recite a ברכה. Most opinions follow this rule, as does HaRav Moshe Heinemann, shlit’a.

Regarding compote (a sweet cooked fruit sauce), a ברכה should be recited when eaten as a dessert. However, there is evidence that the Chofetz Chaim refrained from reciting a ברכה over compote at the end of a meal. The reasoning for this is not clear, however, he did not retract what he wrote in his Hilchos Brachos. The opinion of many poskim, including HaRav Moshe Heinemann, shlit’a, is to recite a ברכה over compote like all fresh fruits.

The ברכה should be recited over all candy and items which would normally require this ברכה.  

DESSERT:
A REAL BRACHA!

business is incorporated it is given a life, or at least a body, of its own. It then exists independently of its owners and founders. The corporation can own property and make contracts and other transactions with limited connection to the owners. Their liability is limited to their stake in the company.

However, while the halacha does recognize the partnership aspect of a multi-owner corporation and also allows for limitation of liability, there is no clear halachic device to divest Jewish owners of their connection to their share of the corporation. Consequently, how can a Jew own a share in a corporation which conducts business on Shabbos? Does he need to inspect its warehouses for chametz? Can they lend money with interest?

In a seminal responsa, Rav Moshe Feinstein, zt’l, wrote that owning a few shares in a corporation is not considered a halachic leadership in kashrut education.
partnership at all. Firstly, a shareholder has no substantial say in how the business is run, whereas a true partner influences the business decisions. Furthermore, a shareholder has no actual stake in the assets of the business, so his investment is more of a bet on the future profits of the company. Rav Elyashiv, zt”l, agreed, writing that it is obvious that this is not true ownership. According to this reasoning there is no issue whatsoever in borrowing money from a bank even if there are Jewish shareholders. Likewise, there is no problem owning shares in a business that operates on Shabbos or deals in chametz on Pesach, as the shareholder does not truly own the business.

Credit Unions
In November of 2018 several major Poskim in America publicized a statement as follows:

“It is our opinion that it is forbidden both to join credit unions and to borrow from them without a heter iska, and one who does so is lending and/or borrowing with ribbis. This was also the opinion of Rav Moshe Feinstein, zt”l, and the leniency which he wrote does not apply here. However, since there are those who find room for leniency even though it is fitting and correct to be stringent about a Torah prohibition, one who wishes to borrowers money, or who has already borrowed money [from a credit union] should consult his rabbi or other competent authority.”

As mentioned above, Rav Moshe, zt”l, held that a minority share cannot be considered true ownership, as the shareholder has no say in how the business is run. Credit unions are cooperatives and function according to a one-member-one-vote system regardless of the size of a member’s holdings. In other words, unlike corporations that are generally run by the majority shareholder or a group of large shareholders, credit unions offer an equal voice to every member. Moreover, any profits from the credit union’s loans are distributed equitably. Therefore, every member of a credit union is a true owner and Rav Moshe’s logic permitting bank loans would not apply.

The Bottom Line
One could argue that Rav Moshe Feinstein’s reasoning should apply to credit unions as well, since their boards and management exhibit control of the direction and day-to-day running of the credit union.

History shows that the management of credit unions can make decisions which are not in the interests of the shareholders. For example, they can turn the credit union into a conventional bank – at which point the members’ shares become deposits, unless they expressly choose to buy shares in the bank. Additionally, people who join a credit union do not intend to own the credit union any more than people who buy shares in a corporation intend to own the corporation.

Still, even assuming that Rav Moshe’s heter does not apply, the discussion about the loan societies in Europe is entirely relevant to the credit unions of today. Those arguments would permit borrowing from credit unions as well.

Based on the above, it is the opinion of Rav Moshe Heinemann, shlit’a, that ideally a heter iska should be used when borrowing from a credit union. However, in circumstances in which a heter iska is not possible or when one has already borrowed money from a credit union, there is an established custom to be lenient and permit the loan.

10. Koveitz Teshuvos 3:124
11. Nesivos Sholom (ibid.) reports that R’ Elyashiv, zt”l, states that this applies only to non-voting shares. Similarly, see Minchas Yitzchok 5:1.
12. United States Code Title 12 Chapter 14:1760
13. See also Brit Yehuda 30:16; Nesivos Sholom 173:8, The Laws of Ribbis 5:26-27
14. See https://www.quickenloans.com/about/legal/disclosures-licenses. The implementation of their heter iska is beyond the scope of this article but relies on Quicken’s practice of promptly selling the loans. See https://www.consumerfinance.gov/hubfs/526666-cfpb-how-can-i-find-who-owns-my-mortgage-eng-214/ for ways to find out who owns your loan.
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Six years before the historic “Abraham Accord” peace agreement between Israel and the United Arab Emirates (UAE) was even a thought, STAR-K Kosher Certification was active in the UAE, certifying an array of products— from dates to baklawa and aluminum pans to gum acacia. STAR-K has also been sending representatives to Dubai to attend the annual Gulfood food and beverage trade exhibition. In addition, it plays the role of a partner and supporter of the community as it develops in both its physical and spiritual growth, as the owner of STAR-K certified Elli’s Kosher Kitchen can attest.

“In 2018, I had met Joel Weinberger, who is one of the business developers at STAR-K Kosher Certification, one of the world’s biggest kosher certifying agencies,” shares Elli Kriel. “He travels through Dubai regularly, on his way to Pakistan and India. When he came across my service, he was very supportive and helpful. A few months later, he approached me and said, ‘Let me help you get your business onto the international stage. You’ve got a great story here; you’re doing a great thing. Let me help you get more customers. I will sponsor a stand for you at Kosherfest, the largest kosher food festival in the U.S.’”

Elli was the only exhibitor representing a Middle Eastern Arab country. She served Emirati date cakes and coffee and gave away spices. A real highlight of the event was a visit from the UAE’s consul general to the United States, H.E. Abdalla Shaheen. He came to her booth and they spoke over a cup of Emirati coffee. It was a wonderful acknowledgement and affirmation of Elli’s business and the community.

Elli’s stint at Kosherfest was featured in an article which UAE Ambassador to the U.S., Yousef Al Otaiba, sent to the Israeli media, communicating very directly with Prime Minister Netanyahu and the Israeli public, ‘Look at what is possible if there’s peace! In the UAE, we even have a kosher caterer!’ The rest is history…literally!