

INTERPRETIVE LETTER 85-4 (APRIL 26, 1985)

Bank that only services ATMs is not establisher of the ATMs.

This letter is to explain the position of the Illinois Commissioner of Banks and Trust Companies under the Illinois Banking Act (IBA) and the Electronic Fund Transfer Transmission Facility Act (EFT Act) as to whether an Illinois national bank is deemed to be the "establisher" of an ATM or in violation of the branching restrictions if the bank in question only enters into a service contract with an EFT service provider to supply cash for ATMs established throughout Cook, DuPage and Lake Counties. Other relevant facts include: (1) a credit union has been designated as the establishing financial institution of the ATMs; (2) the bank in question does not own or lease the ATMs from the EFT service provider.

Based on the facts as presented, the bank in question could not be deemed to have established the ATMs in question because the bank does not own or lease the ATMs. Furthermore, if the bank is not the establisher, then questions concerning branch banking are not relevant despite the service agreement to supply cash to the ATMs.

In addition, the bank at this time will not provide * the opportunity to share these ATMs. Should the bank decide to share these ATMs in the future (within the limitations for sharing under the IBA and EFT Act), then the fact of the service agreement would not raise branch banking questions either.