

## **INTERPRETIVE LETTER 91-19 (AUGUST 6, 1991)**

### **Automatic teller machines are not branches for purposes of home office protection.**

As per our conversation on \*, I am writing in response to your letter of that date in which you sought an opinion from the Illinois Commissioner of Banks and Trust Companies ("Commissioner's Office") as to the validity of the installation of an ATM at a grocery store located approximately 700 yards from your main bank facility in \*.

The Illinois Banking Act ("Act") Section 5(15) sets out the branching rights for Illinois state banks, and specifically where the main banking premises are afforded "home office protection." That Section, by its terms, applies to main banking premises and their branches.

Section 2 of the Act defines the term branch to specifically exclude ATMs, stating: "A place of business at which deposits are received, checks paid, or loans made shall not be deemed a branch, branch bank, or branch office if the place is an automatic teller machine established and maintained in accordance with paragraph (16) of Section 5 of this Act, or a point of sale terminal established and maintained in accordance with paragraph (17) of Section 5 of this Act." Section 5(16) of the Act allows a state bank to establish and maintain certain unmanned ATMs. Specifically, a bank may establish and maintain unmanned ATMs on the main banking premises or at branches permitted under paragraph (15) of Section 5 and also may establish and maintain not more than ten (10) unmanned ATMs, other than on the main banking premises or at branches permitted under paragraph (15) of Section 5, in the county in which the main banking premises of the establishing bank are located and in counties contiguous to the county in which the main banking premises of the establishing bank are located. Note, there is no "home office protection" given.

Therefore, not taking into effect any other restrictions that may be imposed by the Act, the \* Bank of \* would be allowed to establish an ATM within 700 yards of the \* Bank's main banking facility.

Please note that Federal banking law defines what constitutes a branch and sets forth the restrictions, if any, for ATMs regarding national banks. The Office of the Comptroller of the Currency is the primary regulator for national banks.

**Note: Public Act 88-4, effective June 7, 1993, eliminated the restrictions in Sections 5(15) and 5(16) of the Banking Act. ATM's may be established in any number and at any location in this State.**