

INTERPRETIVE LETTER 92-10 (AUGUST 19, 1992)

ATM that accepts commercial deposits may be established under Electronic Fund Transfer Transmission Facility Act; establishing institution may not prevent other members of same network from acquiring access to any available option.

We are in receipt of your letter, dated *, in which you presented two issues for this Agency to address.

The first issue pertains to the use of a "commercial deposit" option at a proposed automatic teller machine ("ATM") to be installed at a shopping mall in *. The [Bank] plans to establish the ATM at the mall. The option permits a customer to deposit commercial receipts at the ATM. The deposits are not posted until received by [Bank], even though the ATMs provide customers with written transaction records. You have asked if the use of that option at an ATM presented a concern with respect to EDP regulations.

The Electronic Fund Transfer Transmission Facility Act (the "Act") would permit the proposed ATM to accept commercial deposits as described above. Ill. Rev. Stat. ch. 17, par. 1301 et seq. (1991). Specifically, Sections 8-104(1)(A) and (C) of the Act would permit the proposed ATM to accept commercial deposits and payments on obligations to [Bank]. Ill. Rev. Stat. ch. 17, par. 1341(1)(A) and (C) (1991).

The deposit option also is subject to the provisions of Regulation E, 12 C.F.R. Section 205. [Bank] should ensure that it provides the information on its ATM receipts and account statements that is required by Sections 205.9(a) and (b). According to an official staff commentary on Regulation E, 12 C.F.R. Section 205.9-35A, if a difference arises between the amount printed on a depositor's receipt and the amount that is eventually posted to a customer's account, [Bank] must provide the correct amount on the next account statement or rectify the incorrect amount.

The next issue pertains to the use of the "commercial deposit" option by someone other than a customer of [Bank]. Section 8-104(1) of the Act requires compliance with Section 8-101 when an ATM is used by persons other than the establishing bank's customers. Section 8-101 requires that an ATM's use be available in such a manner that it would not discriminate among transmission facilities, similar facilities and financial institutions in Illinois. In Illinois, all of the members of a particular network are entitled to the same manner of access to an ATM as are the customers of the ATM's establishing member financial institution. [Bank] could not prevent other members of the * Network, of which [Bank] is a member, from acquiring access to [Bank's] ATM through the same options used by [Bank's] customers to gain access.

The * Network, on the other hand, would be permitted to use software that initially allowed only its members to have access to the "commercial deposit" option, although it would have to make that option available to customers of other transmission facilities, similar facilities and financial institutions in Illinois, if so requested, on a

nondiscriminatory basis at commercially reasonable fees and charges. Perhaps the software might be flexible enough to be able to prevent or allow use of the "commercial deposit" option depending upon the terms of each contract that the * Network has with other transmission facilities, similar facilities and financial institutions.