

# Financial Institution Letter: Classification of Interactive Teller Machines as Domestic Branches or Remote Service Units

August 12, 2024

The Federal Deposit Insurance Corporation (“FDIC”) issued a [Financial Institution Letter](#) (“FIL”) regarding the classification of an Interactive Teller Machine (“ITM”) as a Domestic Branch or a Remote Service Unit (“RSU”). The letter is a response to banks seeking guidance from the FDIC regarding whether the proposed use of an ITM at a location other than an established branch facility would require the filing of a domestic branch application or would qualify for the RSU exclusion to the definition of domestic branch (meaning no branch application would be necessary).

## ***Statutory Background***

Section 18(d) of the Federal Deposit Insurance Act (“FDI Act”) (12 U.S.C. § 1828(d)) requires a state nonmember bank to obtain the FDIC’s consent before establishing a domestic branch. Section 3(o) of the FDI Act (12 U.S.C. § 1813(o)) specifically excludes automated teller machines (“ATMs”) and RSUs from the definition of domestic branch.<sup>[1]</sup>

## ***FDIC Approach to ITMs***

The FIL explains that the FDIC would not consider an ITM established by a state nonmember bank to be a “domestic branch” subject to FDIC approval under section 18(d) of the FDI Act where the following circumstances applied:

- The ITM is an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank, which is equipped to enable existing customers<sup>[2]</sup> to initiate an interactive session with remotely located bank personnel; and
- To the extent that bank personnel have the ability to remotely assist the customer with the operation of the ITM to perform core banking functions<sup>[3]</sup>, customers must be able to: (i) perform such transactions without the involvement of bank personnel; and (ii) have the sole discretion to initiate and terminate interactive sessions with bank personnel.

The determination of whether the establishment of an ITM constitutes an RSU needs to be done on a case-by-case basis. State nonmember banks that seek to operate an ITM with functionality beyond the parameters set forth in the FIL at a location that is not already an approved branch location may be required to file a branch application.

This advisory is a general overview of the FIL and is not intended as legal advice. If you have any questions about this advisory, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at [jSimon@cullenllp.com](mailto:jSimon@cullenllp.com), Elizabeth A. Murphy at (516) 296-9154, or via email at [emurphy@cullenllp.com](mailto:emurphy@cullenllp.com), or Gabriela Morales at (516) 357-3850 or via email at [gmorales@cullenllp.com](mailto:gmorales@cullenllp.com).

## Footnotes

[1] The term "domestic branch" includes any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State of the United States or in any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands at which deposits are received or checks paid or money lent. The term "domestic branch" does not include an ATM or a RSU. 12 U.S.C. § 1813(o).

[2] State nonmember banks may also provide access to ITM facilities to non- customers as long as the ITM services available to non- customers are limited to the same functionality typically provided by an ATM to non- customers (e.g., withdrawal of cash) and such users are unable to engage a live remote teller to remotely perform core banking functions.

[3] The core banking functions are those set forth in 12 U.S.C. § 1813(o) and include receiving deposits, paying checks, and lending money.

## Practices

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