



Legislation Eliminates Federal Requirement to Post Fee Notice at Automated Teller Machines

December 21, 2012

President Obama has signed legislation eliminating the federal requirement that ATM operators post a sign on or at an ATM disclosing that a fee is imposed on transactions at that ATM. However, a New York State law that imposes a similar notice requirement is still in effect and institutions subject to the New York State law will still need to post such a sign until the New York law is repealed.

The legislation signed by President Obama amends the Electronic Fund Transfer Act (EFTA) to eliminate a redundant disclosure requirement under federal law which has been a source of class-action lawsuits against financial institutions. The EFTA had required ATM operators to post a fee disclosure sign on or at an ATM, and also disclose on the screen or on a paper notice that a fee will be imposed (and the amount of the fee). Now, only the notice on the screen or on paper is required by the EFTA.

Prior to this legislation, if a consumer used an ATM without the proper signage, he or she was entitled to bring an action against the ATM operator for statutory damages under the EFTA. Many class-action lawsuits were brought against financial institutions based on this signage requirement.

Please note that New York General Business Law Section 399-y has an ATM signage requirement similar to the EFTA requirement which was eliminated, so ATM operators subject to the New York law will still need to post a fee sign on or at an ATM. However, it was the EFTA provision that was the major source of class-action lawsuits against financial institutions, and the elimination of that provision may reduce or eliminate such lawsuits even in New York.

The legislation was signed by the President on December 20, 2012, and became effective that day. The legislation does not have any language making it retroactive, so it does not appear to directly impact any claims under the EFTA for improper signage prior to the effective date.

If you have any questions regarding the legislation, please feel free to contact Joseph D. Simon at [516-357-3710](tel:516-357-3710) or via email at jsimon@cullenanddykman.com.

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