



To: EFTA Members

From: Dennis Ambach, Legislative & Regulatory Council Chairman

Date: May 6, 2010

Re: Legislative Alert on ATM Fees

Sen. Tom Harkin (D-IA) this week filed an amendment to S. 3712, the Restoring American Financial Stability Act. Yesterday, he spoke on the Senate Floor in support of it.

Sen. Harkin's amendment (#3812) would essentially cap ATM fees at fifty cents per transaction. Sen. Charles Schumer (D-NY) is a primary cosponsor. As you may recall, Sen. Schumer asked Federal Reserve Chairman Ben Bernanke to study ATM fees during his confirmation hearing before the Senate Banking Committee in December. EFTA is not aware the Federal Reserve issuing any report on the subject.

During his Floor speech, Harkin cited a 1997 Office of Thrift Supervision study on the actual cost of processing an ATM transaction (27 cents). He said the cost today (taking into account the rate of inflation) ought to be 36 cents. Harkin lamented that consumers often pay between \$2 to \$2.50 for a withdrawal.

The amendment also directs the Consumer Financial Protection Agency (to be created by the legislation) to regulate ATM transaction fees by ensuring the fee bears a "...reasonable relation to the cost of processing the transaction." Again, the amendment would mandate that the fee not exceed 50 cents.

At this writing, the amendment's prospects for approval are uncertain. Senate Banking Committee Chairman Chris Dodd (D-CT) was present on the Floor during Harkin's address. Dodd praised Harkin on many fronts, but made no direct comments on the ATM amendment.

In 1997 EFTA was the first trade association to testify before the Senate Banking Committee in opposition to then Senator Alfonse D'Amato's (R-NY) attempt to prohibit ATM surcharging. During the testimony Kurt Helwig, EFTA's President & CEO, stated that EFTA cannot support the "Fair ATM Fees Consumer Act of 1997" as it interferes with consumer choice and market forces. Mr. Helwig cited the recommendations of EFTA's ATM Surcharging Task Force which were to allow free market forces to determine the appropriate value for providing consumer convenience. The Task Force concluded that failing to do so could hinder the consumer's ability to obtain cash when and where they want by significantly reducing the number of ATMs.

EFTA continues to believe in the free market and will continue to vigorously oppose any efforts to artificially restrict ATM fees. Government intervention should be the court of last resort when there is no other way to protect the public interest.