

Fact Sheet: ATM Fee Disclosure Lawsuits

Background

Plaintiffs' class action lawyers are targeting ATM owners and operators over alleged violations of required fee disclosures. These lawsuits are frivolous and based on an outmoded and unnecessary federal law requirement. Litigation costs are burdensome on all of ATM owners/operators, especially on smaller financial institutions and IADs (independent ATM deployers).

Regulation E of the Electronic Funds Transfer Act requires that ATM operators charging consumers for cash withdrawals or balance inquiries must provide two notices about the fee: one on a physical sticker or placard attached to the ATM, and the other on the video monitor of the ATM during a transaction. The ATM owner/operator must also give the consumer the right – on the video screen disclosure – to decline to pay the fee or complete the transaction, by a notice that says, for example, “Do you wish to pay a fee and proceed with this transaction?” The customer must key “YES” or the transaction is terminated.

Vandals are removing the physical stickers, permitting someone to begin litigation because of the absence of the sticker. Furthermore, the EFT Act's generous civil liability provisions permit these frivolous lawsuits.

We believe the physical signage disclosure is now obsolete and should be deleted from the EFT Act. It no longer provides any important information to the consumer that the consumer will not otherwise get. The video screen delivers the consumer the required information in a manner that is more timely, accurate, and easily viewed. Consumers are adequately protected by the on-screen notices.

At the time the physical signage requirement was added, it made sense to require the two different types of notices because many ATMs were not technically capable of giving an on-screen fee notification. This is no longer the case. Every ATM is capable of giving the on-screen disclosure.

Recommendation

In order to streamline federal regulations and to permit ATM owners and operators to avoid costly and baseless litigation, both of which can help strengthen the U.S. economy, the EFT Act's physical notice requirement should be deleted.