

To: EFTA Members

From: Dennis Ambach, Legislative & Regulatory Council Chairman

Date: July 20, 2012

Subject: ATM Signage Fee Disclosure Senate Update

This week has been a rollercoaster in the United States Senate with respect to our ATM signage bill and I wanted to give you the latest.

As you know, the House unanimously passed [H.R. 4367](#) on Monday, July 9 by a vote of 371-0. The Senate companion bill ([S. 3204](#)) has more than 35 cosponsors from both sides of the aisle. I provided the Senate Banking Committee minority staff with some detailed statistics on the number of lawsuits, plaintiff firms involved and the dollar amounts spent to fight and/or settle these cases. The Senate Republicans approved advancing our legislation straight to the Floor for approval.

Senate Banking Committee Chairman Tim Johnson (D-SD) had a different plan. He introduced a new bill ([S. 3394](#)) this week combining the language of H.R. 4367/S. 3204 with another measure related to the Consumer Financial Protection Bureau's protection of privileged information ([H.R. 4014/S. 2099](#)). The House passed H.R. 4014 unanimously in March but it has been held up in the Senate over objections to the Bureau's structure and funding. Chairman Johnson is the chief sponsor of S. 2099. His strategy was to ascertain if objections would be overcome if it was attached to the non-controversial, bipartisan ATM bill. EFTA did not oppose the combo bill (S. 3394) because it did not change the signage language.

Unfortunately, we learned yesterday that Sen. Al Franken (D-MN) proposed [language](#) to the Banking Committee essentially empowering the Bureau to set the standards for an on-screen fee notice disclosure **before** the transaction is ever initiated by the consumer. EFTA and our coalition partners oppose the Franken approach. I offered the following points to key Senate staff yesterday:

- H.R. 4367/S. 3204 is the right approach
- Let the ATM operator properly identify the consumer when he/she inserts the card by reading the information on the mag stripe
- When the consumer is identified, the ATM operator can provide the proper fee notice disclosure
- A "pre" onscreen fee notice is of no real benefit to the consumer and will be redundant once the transaction is initiated

At this writing, the situation in the Senate is very fluid. EFTA and many, if not all of our coalition partners will likely oppose S. 3394 if it includes the Franken language. I will keep you posted on any new developments.