



November 28, 2018

**Interpretive Letter #1161
December 2018**

Subject: Interactive Teller Machines

Dear []:

This is in response to your letter to John O'Brien, OCC Licensing Manager for the Central District, dated November 19, 2018, inquiring whether the placement of an Interactive Teller Machine ("ITM") in a commercial location open to the public will require following the procedures in 12 CFR 5.31 for the establishment or relocation of a branch office by a federal savings association.

As discussed below, we conclude that the ITM described in your letter is not a branch office under 12 CFR 5.31, and therefore it does not require a filing by a federal savings association.

Inquiry

Your letter described the ITM as an electronic device that, in addition to performing traditional automated teller machine ("ATM") functions, would have the ability to process withdrawals and requests for specific denominations and coins; accept deposits (both checks and cash); open deposit accounts; cash checks; accept loan payments; facilitate a customer request for change of address; re-order checks; and process customer requests for lost or damaged replacement ATM and debit cards.

The letter further represented that all functions identified above could or may require the involvement of a customer service representative operating in a remote offsite location to assist in fulfilling the consumer's request. The ITM has a video screen for the consumer to communicate with the customer service representative. The customer service representative would open accounts at the offsite location, and the federal savings association would use e-mail or regular mail to convey necessary disclosure documentation to the consumer. Processing of withdrawals, accepting loan payments, and cashing checks could or may require the involvement of the customer service representative to authorize the transaction to fulfill the customer's request at the ITM. Changing account information, ordering checks, and the replacement of

ATM and debit cards could or may require the involvement of the customer service representative, but these transactions would be no different than calling into the customer service representative location and having the customer service representative fulfill the request over the phone (new checks or cards would be sent through the mail).

Discussion

The requirements and procedures for a federal savings association to establish, acquire, or relocate a branch are set out in 12 CFR 5.31.

The term “branch office” for purposes of section 5.31 is defined in 12 CFR 145.92(a) as “any office *other than* your home office, agency office, administrative office, data processing office, or an electronic means or facility under part 155 of this chapter.”¹

Pursuant to 12 CFR 155.200(a), “electronic means or facilities include, but are not limited to, automated teller machines (ATM), automated loan machines (ALM), personal computers, the internet, telephones, and other similar electronic devices.” The regulation explains that a Federal savings association may use, or participate with others to use, electronic means or facilities to perform any function, or provide any product or service, as part of an authorized activity.

Based on your inquiry’s description of the ITM in question, it is an electronic means or facility because it is an electronic device designed to allow the customer to perform banking functions either autonomously or through communication with and remote assistance from bank personnel, similar to the examples the regulation provides such as ATMs, ALMs, computers, and telephones.

Since your ITM, based on the description in your letter, is an electronic means or facility pursuant to 12 CFR 155.200, it is not a branch office under 12 CFR 145.92, and so the requirements in 12 CFR 145.92 and 12 CFR 5.31 are not applicable.²

This letter is based on the facts and circumstances as presented in this case, including the applicability of the Home Owner’s Loan Act, and regulations promulgated pursuant thereto, to you as a federal savings association. Different facts, circumstances, or applicable laws or regulations could result in a different conclusion.

I trust that this is responsive to your inquiry.

Sincerely,

/s/

Bao Nguyen,
Acting Chief Counsel

¹ Emphasis added.

² It is our understanding that [**Bank**], is not proposing establishing ITMs in the District of Columbia at this time. The Home Owners’ Loan Act has a provision specifically addressing branching in the District of Columbia, 12 USC 1464(m). Thus, such a proposal would require additional legal analysis.