

# Classification of Interactive Teller Machines as Domestic Branches or Remote Service Units

## *Statutory Background*

Section 18(d) of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. § 1828(d)) requires a state nonmember bank to obtain the FDIC's consent before establishing a domestic branch. Section 3(o) of the FDI Act (12 U.S.C. § 1813(o)) specifically excludes automated teller machines (ATMs) and remote service units (RSUs) from the definition of domestic branch.<sup>1</sup>

## *Recent Developments Regarding Interactive Teller Machines*

Interactive Teller Machine (ITM) technology has become increasingly sophisticated in recent years. State nonmember banks have sought guidance from the FDIC regarding whether the proposed use of an ITM at a location other than an established branch facility would require the filing of a domestic branch application, or would qualify for the RSU exclusion to the definition of domestic branch (meaning no branch application would be necessary).<sup>2</sup> ITMs generally resemble ATMs but allow customers to interact with live remote tellers to complete a variety of banking transactions.

## *FDIC Approach to ITMs*

The FDIC would not consider an ITM established by a state nonmember bank to be a "domestic branch" subject to FDIC approval under section 18(d) of the FDI Act under the following circumstances:

- The ITM is an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank, which is equipped to enable existing customers<sup>3</sup> to initiate an interactive session with remotely located bank personnel; and
- To the extent that bank personnel have the ability to remotely assist the customer with the operation of the ITM to perform core banking functions,<sup>4</sup> customers must also be able to perform such transactions without the involvement of bank personnel and must have the sole discretion to initiate and terminate interactive sessions with bank personnel.

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<sup>1</sup> The term "domestic branch" includes any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State of the United States or in any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands at which deposits are received or checks paid or money lent. The term "domestic branch" does not include an ATM or a RSU. 12 U.S.C. § 1813(o).

<sup>2</sup> With respect to national banks, the Office of the Comptroller of the Currency defines an RSU at 12 CFR 7.1027.

<sup>3</sup> State nonmember banks may also provide access to ITM facilities to non- customers as long as the ITM services available to non- customers are limited to the same functionality typically provided by an ATM to non-customers (e.g., withdrawal of cash) and such users are unable to engage a live remote teller to remotely perform core banking functions.

<sup>4</sup> The core banking functions are those set forth in 12 U.S.C. § 1813(o) and include receiving deposits, paying checks, and lending money.

FDIC staff would advise that state nonmember banks that establish ITMs within these parameters would not be subject to a branch application under section 18(d) of the FDI Act. An ITM established at an approved branch location could operate beyond these parameters. However, state nonmember banks that seek to operate an ITM with functionality beyond these parameters at a location that is not already an approved branch location may be required to file a branch application.

This FIL relates exclusively to the applicability of section 18(d)'s branch establishment requirements to state nonmember banks.