

Required ADA Compliance of ATMs

On September 15, 2010, the United States Department of Justice published revised rules implementing the portions of the Americans with Disabilities Act ("ADA") which address the accessibility of automated teller machines ("ATMs"). Specifically, these final rules require a voice guidance system and input controls for use by visually-impaired customers, as well as new accessibility standards to assist consumers with mobility challenges.

While the regulations officially become effective on **March 15, 2011**, a safe harbor clause delays compliance for new construction and existing ATM alterations until **March 15, 2012**, if implementing the 2011 upgrades would result in an undue financial burden and if the ATMs are compliant with 1991 ADA accessibility standards. This safe harbor provision does not apply if the existing ATM is otherwise altered after March 15, 2012. It also only applies to the accessibility standard provisions of the new regulations.

These include making sure an ATM's reach is between 15 and 48 inches from the ground or "finish floor" of the ATM. (Drive-up *only* ATMs are exempt from these reach requirements. Note, however, that drive-up only ATMs must be accessible to blind or visually-impaired users who are passengers in vehicles.) If the ATM has touch-command keys on both a screen and control pad, all keys must be no more than 48 inches from the ground. That is, if the live touch-command areas on the screen are higher than the control pad function keys, the screen area containing the touch commands must be lowered to the required height to ensure compliance. Further, ATMs must be installed for either parallel or forward approach.

The new regulations also address function and numeric keys, Braille instructions, input controls, display monitors, and privacy, as well as specifying font type and size requirements, background contrast levels, and keypad arrangement for ATMs.

In addition to these new accessibility requirements, the new regulations also provide that ATMs must be speech-enabled to aid visually-impaired consumers. As such, a speech output system is required, either through a standard audio mini-jack or a telephone headset, and Braille instructions regarding the activation of this voice guidance system also must be provided. Finally, the method of initiating the speech output system must be easily discernable and must not require training.

Again, these communication-related elements must be in place by the **March 15, 2011** effective date regardless of the financial burden necessitated by the same (i.e., the safe harbor described above regarding accessibility standards does not apply to these new communication-related elements).

Notably, only one ATM at each location need be in compliance with the new regulations; however, interior and exterior machines at the same branch are considered separate locations. Also, if the financial institution offers additional functions on its ATMs, such as selling theater tickets or providing financial statements, all such functions must be available to customers via the speech output system on an ADA-compliant ATM.

Finally, the ADA requires all financial institutions to implement **a compliance plan** regarding these new regulations by **March 15, 2011**. Such a plan should include an

inventory of the institution's existing ATMs, comparing each ATM's specifications to both the 1991 and these new 2010 ADA standards, and consulting with ATM vendors to figure the cost of any upgrades necessary for compliance with the same. Institutions should then establish a budget, plan, and schedule for achieving ATM accessibility. Further, due to the ever-changing nature of ADA regulations, this plan should be revisited annually to ensure continued compliance.

If you have any questions or need further information regarding this alert, please feel free to contact [Sarah Maxwell](#), [Wayne Hood](#) or your [Miller & Martin attorney](#).

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