

Chapter DFI-Bkg 14

CUSTOMER BANK COMMUNICATIONS TERMINAL JOINT RULES

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Note: Chapter Bkg 14 was renumbered Chapter DFI-Bkg 14 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., *Register*, June, 1997, No. 498, eff. 7-1-97.

DFI-Bkg 14.01 Customer bank communications terminal, definitions. In this chapter:

(1) “Commissioner” means the commissioner of banking or authorized representative.

Note: 1995 Wis. Act 27 replaced the commissioner of banking with the division of banking in the department of financial institutions.

(2) “Days” means calendar days computed under s. 990.001 (4), Stats.

(3) “Financial institution” means a state or federal savings and loan association, a state or national bank, a state or federal credit union or a mutual savings bank.

(4) “Customer bank communications terminal” means a customer bank communications terminal as defined in s. 221.0303 (1), Stats., or a remote service unit as defined in s. 215.13 (46) (a), Stats., or a remote terminal as defined in s. 186.113 (15) (b), Stats.

(5) “Supplier” means any person furnishing equipment, goods or services used to complete any function performed through a given customer bank communications terminal.

History: Cr. *Register*, November, 1976, No. 251, eff. 12-1-76; am. (3) and (4), *Register*, February, 1978, No. 266, eff. 3-1-78; correction in (4) made under s. 13.93 (2m) (b) 7., Stats., *Register* October 2001 No. 550.

DFI-Bkg 14.02 Joint rules. This chapter is promulgated as a joint rule by the division of banking, office of credit unions and division of savings institutions pursuant to s. 221.0303, Stats.

Note: See chs. DFI-CU 63, DFI-SB 12 and DFI-SL 12, Wis. Adm. Code.

History: Cr. *Register*, November, 1976, No. 251, eff. 12-1-76; corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., *Register* October 2001 No. 550.

DFI-Bkg 14.03 Advance notice required. Each bank proposing to engage in an activity authorized under s. 221.0303, Stats., or proposing to change the place or manner in which it engages in such an activity, shall file with the administrator of the division of banking a written notice containing such information as the administrator of the division of banking may from time to time prescribe. If the administrator of the division of banking regularly receives information on additions, deletions or changes in locations of customer bank communications terminals from a supplier, a bank is excused from filing a written notice merely to change the place at which it offers the services. No bank may commence any such activity until the bank has filed the written notice under this section. A bank may not commence or continue to engage in any activity authorized under s. 221.0303, Stats., if, in the opinion of the administrator of the division of banking, the activity is beyond the financial or management capabilities of the bank, would result in unfair competition among financial institutions, or is otherwise in violation of this chapter.

History: Cr. *Register*, November, 1976, No. 251, eff. 12-1-76; am. *Register*, October, 1988, No. 394, eff. 11-1-88; corrections made under s. 13.93 (2m) (b) 7., Stats., *Register* October 2001 No. 550; 2015 Wis. Act 304; am. *Register* April 2016 No. 724, eff. 5-1-16.

DFI-Bkg 14.04 Restrictions on access prohibited.

(1) GENERAL PROVISIONS. Except as provided in sub.(2), no bank may directly or indirectly acquire, place or operate a customer

bank communications terminal, and no bank may participate in the acquisition, placement or operation of a customer bank communications terminal, unless the terminal is available on a nondiscriminatory basis to the following financial institutions and their designated customers:

(a) Any financial institution that has its home office in this state;

(b) Any other savings and loan association which is qualified to do business in this state and has obtained the written consent of a savings and loan association that has its home office in this state and is making use of the terminal;

(c) Any other bank which is qualified to do business in this state and has obtained the written approval of a bank that has its home office in this state and is making use of the terminal; and

(d) Any other credit union which is qualified to do business in this state and has obtained the written consent of a credit union that has its home office in this state and is making use of the terminal.

(2) EXCEPTIONS. The temporary limitation of access to a customer bank communications terminal to designated customers of designated financial institutions for reasonable test periods determined by the administrator of the division of banking will not be deemed in violation of this section if approved by the administrator of the division of banking in writing. The administrator of the division of banking may approve such limitations if:

(a) The administrator of the division of banking considers it necessary or desirable to permit restricted operation during periods of testing or experimentation; or,

(b) The administrator of the division of banking determines that the accommodation of additional users is beyond the capacity of existing equipment and a good faith effort is being made to accommodate them within a reasonable period of time determined by the administrator of the division of banking.

History: Cr. *Register*, November, 1976, No. 251, eff. 12-1-76; am. (1) (b) and (c), cr. (1) (d), *Register*, February, 1978, No. 266, eff. 3-1-78.

DFI-Bkg 14.05 Discriminatory rates or services prohibited. A customer bank communications terminal will not be deemed available for use on a nondiscriminatory basis unless:

(1) USER FEES. The fees charged to a financial institution for the use of the terminal by the institution or its customers are equitably apportioned and reasonably reflect the cost of the services actually provided to the institution or customer. Such fees may provide for the amortization of development costs and capital expenditures over a reasonable period of time.

(2) CUSTOMER SERVICES. Each financial institution making use of the terminal may permit its customers to make use of all of the functions performed by the terminal at each location of the terminal or only those functions and locations that such institution elects to make available to its customers.

(3) TECHNICAL INFORMATION AND SPECIFICATIONS. Each supplier provides at reasonable cost such technical information and specifications as may be necessary to enable a financial institution that is eligible to use the terminal, or any data processor serving the accounts of such an institution, to obtain interface with the terminal.

(4) OTHER REQUIREMENTS. No financial institution eligible to use the terminal is required to purchase from any supplier any goods, equipment or services not reasonably necessary to complete a transaction through the terminal.

History: Cr. Register, November, 1976, No. 251, eff. 12-1-76.

DFI-Bkg 14.06 Confidentiality and security requirements. No bank may directly or indirectly acquire, place or operate a customer bank communications terminal, and no bank may participate in the acquisition, placement or operation of a customer bank communications terminal, unless precautions acceptable to the administrator of the division of banking are provided to:

(1) PRECAUTIONS AGAINST UNAUTHORIZED ACCESS. Prevent unauthorized access to, or use of, the terminal.

(2) PRECAUTIONS TO ASSURE CONFIDENTIALITY. Prevent information regarding a transaction conducted through the terminal from being disclosed to any person other than:

- (a) The customer making the transaction;
- (b) Any other person who is a party to the transaction or is necessary to effect the transaction, but only to the extent that the information disclosed is necessary to effect the transaction;
- (c) Those persons lawfully authorized to have access to the records of the bank or of parties to the transaction.

(3) UNSOLICITED ACCESS TO CUSTOMER BANK COMMUNICATIONS TERMINAL PROHIBITED. Ensure that the plastic card or other means providing its customers access to the terminal is issued only:

- (a) In response to a request or application therefor; or
- (b) As a renewal of, or in substitution for an accepted card or other means of access, whether issued by the initial issuer or a successor.

History: Cr. Register, November, 1976, No. 251, eff. 12-1-76.

DFI-Bkg 14.07 Allocation of liability. (1) BETWEEN BANK AND THIRD PARTIES. Each activity authorized under s. 221.0303, Stats., shall be conducted in accordance with a written agreement between the bank and any participating merchant, service center, data processor or other third party, setting out the manner in which liability from errors, malfunctions or the unauthorized use of a customer bank communications terminal will be allocated between the parties.

(2) LIMITED CUSTOMER LIABILITY FOR UNAUTHORIZED USE. (a) The liability of a customer of a bank for the unauthorized use of a plastic card or other access device to a customer bank communications terminal shall be determined as follows:

3. If the customer notifies the bank within 2 business days after learning of the unauthorized use or of loss or theft of the plastic card or other access device, the customer's liability may not exceed the lesser of \$50 or the amount of unauthorized transfers that occur before notice to the bank.

4. If the customer fails to notify the bank within 2 business days after learning of the unauthorized use or of loss or theft of the plastic card or other access device, the customer's liability may not exceed the lesser of \$500 or the sum of all of the following:

- a. \$50 or the amount of unauthorized transfers that occur within the 2 business days, whichever is less.
- b. The amount of unauthorized transfers that occur after the close of 2 business days and before notice to the bank, if the bank establishes that these transfers would not have occurred had the customer notified the bank within that 2-day period.

5. A customer must report an unauthorized transfer from the unauthorized use of a plastic card or other access device to a customer bank communications terminal that appears on a periodic statement within 60 days of the bank's transmittal of the statement to avoid liability for subsequent transfers. If the customer fails to do so, the customer's liability may not exceed the amount of the

unauthorized transfers that occur after the close of the 60 days and before notice to the bank and that the bank establishes would not have occurred had the customer notified the bank within the 60-day period. When a plastic card or other access device is involved in the unauthorized transfer, the customer may be liable for other amounts set forth in subd. 3. or 4., as applicable.

6. If the customer's delay in notifying the bank as provided in subd. 5. was due to extenuating circumstances, the bank shall extend the time specified in subd. 5. to a reasonable period.

7. a. Notice to a bank is given when a customer takes steps reasonably necessary to provide the bank with the pertinent information, whether or not a particular employee or agent of the bank actually receives the information.

b. A customer may notify the bank in person, by telephone, or in writing.

c. Written notice is considered given at the time the customer mails the notice or delivers it for transmission to the bank by any other usual means. Notice may be considered constructively given when the bank becomes aware of circumstances leading to the reasonable belief that an unauthorized transfer to or from the customer's account has been or may be made.

8. If an agreement between the customer and the bank imposes less liability than is provided by this section, the customer's liability may not exceed the amount imposed under the agreement.

(b) A customer furnishing another person with a plastic card or other access device to the customer's account through a customer bank communications terminal shall be deemed to authorize all transactions that may be accomplished by that means, until the customer has given actual notice to the bank that further transactions are unauthorized.

History: Cr. Register, November, 1976, No. 251, eff. 12-1-76; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register October 2001 No. 550; 2013 Wis. Act 136: am. (2) (a) (intro.), r. (2) (a) 1., 2., cr. (2) (a) 3. to 8., am. (2) (b) Register March 2014 No. 699, eff. 4-1-14.

DFI-Bkg 14.08 Customer service and disclosure requirements. (1) PERIODIC STATEMENTS. A bank shall provide each customer with a periodic statement of each account of the customer accessible through a customer bank communications terminal. The statement shall be provided on a monthly basis for each month in which a transaction occurs, or once every 3 months, whichever is more frequent. The statement shall identify the date, location, and nature of each transaction. An account statement issued under this subsection may include transactions made through a customer bank communications terminal or otherwise.

(2) TRANSACTION DOCUMENTATION. Except as provided in sub. (4), every transfer of funds through a customer bank communications terminal made by a customer of a bank shall be evidenced by a written document made available to the customer at the time of the transaction. The document shall indicate with reasonable specificity the identity of any third party to whom funds are electronically transferred, the identity of the customer's account, the amount of funds transferred, the type of transaction, and the date of the transaction. A customer may be required to re-enter an access device, such as a card, at a terminal in order to receive transaction documentation if all of the following conditions are met:

(a) The terminal simultaneously controls the distribution of products at several locations on the same site to more than one customer;

(b) Each customer must remove the access device from the terminal and move to another location in order to complete the transaction; and

(c) The terminal cannot produce transaction documentation for a particular transaction until the customer completes distribution of the product and the amount of the transaction is known.

Note: Paragraphs (a) to (c) apply, for example, to a terminal which monitors a series of gasoline pumps. Each customer must remove the card from the terminal in order to pump the gasoline and then re-enter the card in order to obtain a receipt.

(3) WRITTEN DISCLOSURE OF SERVICES AND CHARGES. Each customer of a bank whose account with the bank is accessible through a customer bank communications terminal shall be provided with a written statement of the terms and conditions governing the account. Such a statement shall be provided at the time that the customer is issued a card or other means affording access to the customer bank communications terminal, and whenever the terms and conditions governing the account are amended. The statement shall set out:

(a) Applicable limitations on the customer's liability for unauthorized use of the means providing access to the customer bank communications terminal, and the address and telephone number of the person to be notified in the event that the means affording the customer access to the customer bank communications terminal is lost or stolen or the customer otherwise believes that unauthorized access to the account may be obtained.

(b) The customer's right to a periodic statement of transactions affecting the account.

(c) An initial disclosure of the specific transactions which, subject to the capabilities of individual terminals, may be performed through the customer bank communications terminal.

(d) Any charges to the customer for account maintenance or for the use of the customer bank communications terminal.

(e) Any limitation imposed on the number of customer bank communications terminal transactions permitted within any given period of time.

(4) EXCEPTION FOR WRITTEN DOCUMENT IN SMALL-VALUE TRANSFERS. A bank is not subject to the requirement to make available a written document under sub. (2) if the amount of the transfer is \$15 or less.

History: Cr. Register, November, 1976, No. 251, eff. 12-1-76; renum. (2) to be (2) (intro.) and am., cr. (2) (a) to (c), Register, July, 1984, No. 343, eff. 8-1-84; am. (2) (intro.), Register, October, 1988, No. 394, eff. 11-1-88; 2013 Wis. Act 136: am. (2) (intro.), cr. (4) Register March 2014 No. 699, eff. 4-1-14.

DFI-Bkg 14.10 Advertising restrictions. If use of a customer bank communications terminal is restricted under s. DFI-Bkg 14.04 (2) to designated financial institutions, all advertisements regarding the terminal shall clearly state that use of the terminal will be available to customers of other financial institutions at the end of the period of restricted use authorized by the administrator of the division of banking.

History: Cr. Register, November, 1976, No. 251, eff. 12-1-76; am. Register, March, 1996, No 483, eff. 4-1-96.

DFI-Bkg 14.11 Filing of supplemental information. Each bank engaging in an activity authorized under s. 221.0303, Stats., shall file with the administrator of the division of banking such additional information regarding its activity as the administrator of the division of banking may from time to time require.

History: Cr. Register, November, 1976, No. 251, eff. 12-1-76; correction made under s. 13.93 (2m) (b) 7., Stats., Register October 2001 No. 550.