

ATMIA establishes a presence in Washington as organization becomes politically active

The [ATM Industry Association](#) (ATMIA) will establish a permanent presence in the nation's capital, a move that reflects the organization's decision to become politically active to protect its livelihood.

The decision follows an unsuccessful attempt last year by U.S. Sen. Tom Harkin (D., Iowa) to pass federal legislation that would have significantly cut ATM surcharge fees, a key source of revenue for independent ATM deployers ([IADs](#)). Although the legislation failed, it succeeded in frightening ATMIA members.

The association will work through Manatt, Phelps & Phillips LLC, a Los Angeles-based law firm, which has a Washington, D.C., office, said Haze Lancaster, chairman of ATMIA IAD committee.

Manatt, Phelps & Phillips will monitor proposed legislation that could affect the ATM industry through regular contacts with congressmen, senators and their staffs. Some of the association's members will travel to Washington either quarterly, semiannually or annually to confer with lawmakers through meetings arranged by Manatt, Phelps & Phillips, said Lancaster.

Members of ATMIA will explain how the industry operates to lawmakers. They also will explain what an ATM is to members who have never used one of the machines. Sen. Ben Nelson, a Nebraska Democrat, said last year he had never used an ATM.

ATMIA in United States wants to raise funds for legal fees

To pay the legal fees of Manatt, Phelps & Phillips and another law firm ATMIA has employed, the association needs to raise \$300,000 to \$400,000 from its 279-member companies in the United States.

A member company would donate funds to ATMIA based on the firm's annual revenue, said Lancaster. For example, a company with \$2.5 million in annual revenues would donate \$1,000, but a company with \$50 million and more in annual revenues would donate \$50,000.

Cardtronics Inc., the world's largest ATM independent ATM deployer, based on machines owned and operated, has donated to ATMIA. The global ATM Industry Association, which has accumulated a surplus after many difficult years financially, has donated \$100,000 to the U.S. organization to help pay legal fees, Lancaster said during a presentation at the ATMIA 2011 conference and expo. The presentation was titled, "Rebranding & Realigning IADs for the New Era."

Sen. Harkin's wake-up call

The decision to establish a Washington, D.C., presence comes in the wake of the Harkin Amendment, which was sponsored by Sen. Harkin. His proposal would have significantly limited ATM surcharge fees.

Harkin's amendment would have required the new Consumer Financial Protection Bureau to ensure that fees charged to consumers at ATMs bear a reasonable relation to the cost of processing the transaction. The best data available suggests that the cost of processing a transaction is no more than 36 cents today, Harkin said. For this reason, the amendment also sets a reasonable upper limit of 50 cents per transaction - ensuring that banks can continue to offer this service while protecting consumers from unfair fees, Harkin said.

"Consumers are being charged ATM fees that are well in excess of the cost of providing services, in some instances, as much as \$5 per withdrawal. These fees are outrageous, are anti-consumer, and they need to be reigned in," Harkin said.

The members of ATMIA marshaled their forces and beat back the legislation before it reached the Senate floor for a vote. The close call, however, sent shivers down the spines of IADs who believe similar measures are lurking in the wings.

"We are faced with a deteriorating interchange environment, and we want to ensure that Harkin does not happen again," said Jeffrey B. Keith, co-chair of ATMIA's IAD committee. Keith is executive vice president for business development at EDC, an IAD with offices in Houston.

Lancaster added: "Most of the IADs had their heads in the sand running our businesses, not realizing that the Harkin Amendment and deteriorating interchange would change their entire business model."

Prior to establishing a relationship with Manatt, Phelps, ATMIA employed the Electronic Funds Transfer Association (EFTA) to keep tabs on legislation that would affect the industry. The EFTA, which is based in Fairfax, Va., alerted ATMIA to the Harkin amendment, which Lancaster praised. The two organizations disagree on a number of issues. ATMIA's leadership now feels it is important to concentrate on matters that affect the organization.

Mike Lee, CEO of ATMIA, said, however, the two organizations will continue to work together. "We both find the partnership useful and enlightening and there is reservoir of mutual respect," Lee said. "I am sure it will continue to be productive for a long time to come."

The role of Manatt, Phelps & Phillips

Manatt, Phelps & Phillips composed ATMIA's comments to the Federal Reserve Board about the [Durbin Amendment](#), which is contained in the Dodd-Frank Wall Street Reform and Consumer Protection Act, a federal statute President Barack Obama signed into law July 21, 2010. The comments were due February 21, the day before the ATMIA's three-day conference and expo in Miami.

The Federal Reserve Board will write the final rules to implement the Dodd-Frank Wall Street Reform and Consumer Protection Act. "Whether those [final] regulations will affect the ATM industry is at the discretion of the Federal Reserve Board, and it is up to ATMIA to influence the Federal Reserve Board by working with them, members of Congress and their staffs," said Mike Keller, chairman of ATMIA's Government Relations Committee, said during the webinar "Proposed Rules: Durbin Amendment Applied to ATMs." Keller also is general counsel for Cardtronics, which is based in Houston.

The Durbin Amendment, submitted by Sen. Dick Durbin (D., IL), limits debit card interchange. It does not mention ATM interchange, but ATMIA officials worry that it could change.

Barrie VanBrackle, corporate and finance partner in the Washington, D.C., office of Manatt, Phelps & Phillips, said the Durbin Amendment's restrictions on debit card interchange could easily be dealt with or dismissed because of the nature of ATM interchange. "Interchange from the ATM flows in the opposite direction from the point-of-sale terminal," VanBrackle said during an ATMIA-sponsored webinar.

The Federal Reserve Board has defined an interchange transaction fee as a fee charged for the purpose of compensating the issuer. The board said the interchange fee for ATM transactions is paid by the issuer and flows to the ATM operator.