NEW YORK STATE
DEPARTMENT of
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

July 9, 2014

TO THE INDIVIDUAL OR INSTITUTION ADDRESSED:

Re: Proposed Revised Part 301(6) of the General Regulations of the Superintendent, 3 NYCRR (Security at Automatic Teller Facilities)

The Superintendent of Financial Services had proposed for public comment attached revised Part 301(6) of the General Regulations of the Superintendent. Emergency regulations in identical form were most recently adopted effective July 1, 2014.

The ATM Safety Act (the "Act"), Article II-A of the Banking Law, is intended to protect members of the public by imposing lighting, security camera and other requirements on bank controlled ATM facilities operating in New York State. Section 75-n of the Banking Law grants the Superintendent with authority to adopt implementing regulations. Part 301 of the Superintendent's Regulations implements the Act.

Chapter 227 of the laws of 2013 became effective on July 31, 2013. It made amendments to Banking Law Sections 75-g and 75-j. The changes to Subsection 301(6) of Part 301 made herein are intended to make the statutory reporting process for banking institutions more efficient and less expensive, as well as to make the regulation consistent with the changes made to Section 75-g.

Chapter 227 made amendments to Subdivision 1 of Section 75-g of the Banking Law. It also added a new Subdivision 2 to the statute. The amendments to Subdivision 1 make clear that reporting by banking institutions with respect to the compliance of their ATM facilities with the requirements of the Act is to be on a semi-annual basis. The amendments also made clear that such reporting is to be done on an electronic basis.

New Section 75-g(2) provides that any institution filing a semi-annual compliance report that shows noncompliance shall thereafter submit an additional report to the Department indicating whether the failure has been corrected, the reason for any failure that has not been corrected and the expected date of correction. Finally, for any violation not corrected within ten business

days after the filing of the applicable compliance report, the institution also must report the date of completion of the corrective action.

Part 301 implements the Act. The following is a summary of the major changes to Section 301(6) to implement Chapter 227:

1. The numbering of the section is changed to make the regulation consistent with the intent of the statute.

2. Paragraph (a) has been changed to make clear that compliance reporting is to be done on a semi-annual basis.

3. Clause (iii) of subparagraph (2) of paragraph (a) has been changed to add a requirement that the banking institution indicate the expected date of completion of the corrective action.

4. Paragraph (b) has been modified to clarify that any banking institution that submitted a notice of violation in any semi-annual report or has otherwise been notified of any violation must file a report of corrective action no later than 10 business days following the filing of the semi-annual report or receipt of notice of a violation. This report must state whether the violation has been corrected or, if not, the expected date of completion. When the corrective action has been completed, Paragraph (b) also requires the banking institution to report the date of completion.

5. All reports must be certified.

The Notice of Proposed Rule Making was published in the July 9, 2014 issue of the State Register.

The Department will accept comments received before August 23, 2014, Comments should be sent to Sam L. Abram, Assistant Counsel, Department of Financial Services, One State Street, New York, NY 10004 or by email at sam.abram@dfs.ny.gov.

Very truly yours,

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