

CHAPTER 13-02-06

ESTABLISHMENT OF CUSTOMER ELECTRONIC FUNDS TRANSFER CENTERS

Section

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13-02-06-01. Authorization of electronic funds transfer centers.

The commissioner shall authorize the establishment of customer electronic funds transfer centers by state-chartered banks.

History: Amended effective October 1, 1991.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-01.1. Notification.

Upon notification to the commissioner, a bank may establish a customer electronic funds transfer center that dispenses cash, items of cash value, transfers between accounts, or allows customer account inquiry.

History: Effective August 1, 1995.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-02. Criteria for approval.

The criteria for approval of customer electronic funds transfer centers shall be whether or not the establishment of such centers would impair the applicant bank's capital structure. There will be no population or distance criteria applied to such centers.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-03. Operations, transactions, verification, and insurance.

A bank may receive and act upon communications from its customers transmitted through customer electronic funds transfer centers requesting the withdrawal of funds either from the customer's deposit account or from a previously authorized line of credit, or instructing the bank to receive funds to the credit of the customer's accounts or to transfer funds for the customer's benefit. The customer electronic funds transfer center may be established by the bank and operated by the customer or by a third party. In accordance with the customer's request or instruction and subject to

verification by the bank, cash or checks may be received and cash may be dispensed at the location of the customer electronic funds transfer center. A customer electronic funds transfer center may be manned or unmanned. A manned customer electronic funds transfer center may not be staffed by a bank employee, except that the bank for a reasonable period of time, not to exceed thirty days initially, and not more than three additional days per month thereafter when necessitated by the employment of new personnel at the customer electronic funds transfer center, may provide an employee to instruct and assist in the operation of the customer electronic funds transfer center. Any transactions initiated at such customer electronic funds transfer center shall be subject to verification by the bank either by direct wire transmission or otherwise. A bank shall provide insurance protection under its bonding program for transactions involving such customer electronic funds transfer center.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-04. Application for electronic funds transfer center to commissioner required - Contents of application.

A customer electronic funds transfer center that accepts deposits may not be established, used, or shared by a bank until thirty days after the bank has sent to the commissioner written application for the proposed establishment or use of such center. The application shall describe with regard to such center:

1. The location.
2. A general description of the area where located, e.g., shopping center, supermarket, department store, etc., and the manner of installation at that location.
3. The manner of operation, including whether the center is on direct line, or indirect by other procedures, and describing such procedures.
4. The kinds of transactions that will be performed.
5. Whether the center will be manned, and if so, by whose employee.
6. The manufacturer of the equipment to be used and, if owned, the purchase price or, if leased, the lease terms and payments and the name of the lessor.
7. Consumer protection procedures, including the disclosure of rights and liabilities of consumers and protection against wrongful or accidental disclosure of confidential information.
8. The distance from the nearest banking house, paying and receiving station, or facility, and from the nearest similar center of the applicant bank.
9. The distance from the nearest banking house, paying and receiving station, or facility, and the nearest similar center of another bank, and the name of such other bank or banks within the city or town in which the center is to be established.
10. Insurance and the security provisions protecting the center and its users.

History: Amended effective October 1, 1991; August 1, 1995.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-05. Certified copy of directors' resolution required - Evidence of no impairment of capital required.

In addition to the information required by section 13-02-06-04, the application shall be accompanied by a certified copy of the resolution by the bank's board of directors authorizing

establishment of the proposed customer electronic funds transfer center and evidence showing that such establishment will not impair the bank's capital.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-03(8)

13-02-06-06. Approval by commissioner required - Investigation.

Before establishing a customer electronic funds transfer center that accepts deposits, the establishing bank must receive the approval of the commissioner. The commissioner's investigation upon an application to establish a customer electronic funds transfer center shall include a review of the applicant bank's capital structure.

History: Amended effective October 1, 1991; August 1, 1995.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-07. Notice of change in operations.

Written notice must be given to the commissioner and to all sharing banks thirty days before changing any of the operations described in an application previously submitted pursuant to section 13-02-06-04.

History: Amended effective October 1, 1991.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-08. Joint application - Reporting procedures.

A corporation organized by banks or contracting with banks or one or more banks sharing one or more centers may make a joint application to the commissioner, provided that the application includes the information listed in sections 13-02-06-04 and 13-02-06-05. The commissioner reserves the right to adopt different reporting procedures as warranted by the circumstances of a particular network of centers.

History: Amended effective October 1, 1991.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-09. When no notice required.

No notice need be given for any center, device, or machine which:

1. Is used solely to verify a customer's credit for purposes of check cashing; or
2. Is a part of a bank's authorized main banking house, paying and receiving station, or facility approved by the state banking board.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-10. Limitation of services to existing accounts.

Electronic funds transfer services at a customer electronic funds transfer center may be provided only to existing customers of the establishing or sharing bank or banks. No new accounts may be established or solicited at such customer electronic funds transfer center.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-11. Advertising limitation.

No establishing or sharing bank may advertise a shared customer electronic funds transfer center in such a manner as to make it appear that the advertising bank is the only bank offering electronic funds transfer service at the advertised customer electronic funds transfer center.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-12. Applicant bank to give notice of intent to apply.

In order to facilitate sharing of customer electronic funds transfer centers, any bank intending to apply for authorization to establish such a center must, at least thirty days prior to establishing such center, give written notice of such intention to all banks in this state within a fifty-mile [80.47-kilometer] radius of the proposed center.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)

13-02-06-13. Pro rata cost sharing criteria and requirements.

In order to further facilitate sharing of customer electronic funds transfer centers, the following requirements and criteria shall apply:

1. The establishing bank shall file a report with the commissioner of all costs of establishing the center and the projected costs of operation.
2. The establishing bank shall be prohibited from requiring that other participating banks maintain an account with the establishing bank in order to share the customer electronic funds transfer center.
3. Any bank may apply to join an existing customer electronic funds transfer center at anytime upon compliance with the provisions of this chapter.
4. The pro rata costs of the initial installation and the first year of operation of a customer electronic funds transfer center shall be determined by the respective sizes of the participating banks, based upon deposits at the end of the prior fiscal year. The pro rata costs for subsequent years shall be determined by the relative number of transactions handled for each bank sharing the center.

History: Amended effective October 1, 1991.

General Authority: NDCC 6-01-04, 6-03-02(8)

Law Implemented: NDCC 6-03-02(8)