

DEPARTMENT OF JUSTICE FINALIZES NEW ATM ACCESSIBILITY STANDARDS



Requirements include updated voice guidance and keypad input controls for visually-impaired individuals



The U.S. Department of Justice (DOJ) has issued a final ruling on new accessibility standards under the Americans with Disabilities Act (ADA), which pertains to automated teller machines (ATMs). The Final Rule imposes new standards for ATMs that include, but are not limited to a voice guidance requirement, Braille signage and input controls for visually-impaired individuals.

Diebold continually monitors these types of standards and has designed and engineered the Opteva® ATM line to comply with these new standards.

Effective dates for the new standards

The Final Rule was published in the Federal Register on Sept. 15, 2010; the 2010 ADA Standards take effect March 15, 2011, and have a March 15, 2012, compliance date. During the interim period, on or after Sept. 15, 2010, and before March 15, 2012, an ATM owner must comply with either the 1991 ADA Standards or the 2010 ADA Standards for new construction and alterations. On and after March 15, 2012, an ATM owner must comply with the 2010 ADA Standards for new construction and alterations.

Compliance assistance for financial institutions (FIs)

Prior to implementing any upgrades, institutions should consult with their Diebold sales representative to identify all applicable hardware and software upgrades required by the new standards.

In December 2010, the DOJ clarified that it will not require the replacement of keypads featuring the "I" symbol for the clear key. It is important to note that the DOJ's keypad position is relevant to DOJ enforcement action but may not effect private action by a visually-impaired individual.

We recommend newly installed ATMs comply with 2010 ADA Standards requiring keypads to have the "<" symbol on the clear function key.

Diebold also recommends that each institution carefully evaluate its installed base, consult with its legal advisors and develop a compliance plan based on their own unique situation, financial position and tolerance for risk.

Additionally, since upgrades require a site visit, institutions are advised to consider upgrading network software to Agilis 91x® XV 2.4, which is required of all entities that store, process or transmit cardholder data under the Payment Card Industry Data Security Standard (PCI DSS). For comprehensive support, Diebold Professional Services can assist institutions in modifications ranging from supplementary to network-wide upgrades, providing the expertise required to design and install the correct blend of software, hardware and services to become compliant.

How the new rule affects ATMs

The DOJ's new ruling focuses on the accessibility of the input and output controls at the ATM, including:

- **Voice guidance** – All affected ATMs must be speech enabled for banking and non-banking to service visually-impaired individuals. Because voice guidance is considered by the ADA to be an Auxiliary Aid or Service, implementation is required. All units in the Opteva product line are designed to include headphone jacks to facilitate voice guidance. Diebold Professional Services can ensure voice guidance is activated on Opteva ATMs. Diebold offers several languages, including English, Spanish, French, German and Chinese, which could enhance service to consumers in various geographic regions across the United States.
- **Height and reach** – To ensure consumers can easily access input controls, an ATM's reach must be between 15 and 48 inches. The majority of Opteva ATMs can comply with this requirement, with the exception of the Opteva 740 and 750 drive-up units, which are exempt and the Opteva 760 with After Hour® Depository. It is important to note that if the live touch-command areas on the ATM screen are higher than the function keys, the graphic area containing the touch commands must be lowered to the required height for the unit to be compliant.
- **Input device** – Input device controls must be tactilely discernible, which means key surfaces must be raised above surrounding surfaces to serve visually-impaired individuals.
- **Numeric keypads** – The ATM's keypad must be arranged in a 12-key ascending layout, such as telephone keys, or descending, such as a computer number pad layout.

- **Function keys** – Function keys must be designed to contrast visually from their background surfaces. The 2010 Standards require a left arrow symbol "<" on the clear function key.
- **Display screen** – For visibility from a point located 40 inches above the center of the floor in front of the ATM, characters on the screen must be in sans serif font, a minimum of 3/16 inch high, and contrast with the background. The Opteva product line complies with this guideline; however, FIs must ensure their ATMs are programmed to comply with these requirements.
- **Braille instructions** – Braille instructions to initiate the voice guidance feature must also be provided. Diebold can provide Braille labels with compliance instructions that can be applied on the fascia beside the headphone jack and comply with local Braille standards.
- **Privacy screen** – Voice guidance users must have the option to render the ATM screen blank for greater security and privacy.
- **Equal services** – all banking and non-banking services offered at a location through an institution's ATMs must also be offered on ADA-compliant "accessible" ATMs. For example, if postage stamps or theater tickets are offered at a location through an institution's non-accessible ATMs, they must also be offered at that location on the institution's ADA-compliant "accessible" ATMs.
- **Separate locations** – when an FI offers both interior and exterior ATMs, such as a branch lobby and drive-up, each installation is considered a separate location and each must be ADA compliant.

Items to note

The 2010 Standards set out detailed requirements to make ATMs usable by visually-impaired individuals. The DOJ stated it considers an ATM's communication-related elements to be Auxiliary Aids and Services, rather than structural elements, to which safe harbor does not apply. No specific list was provided that defines which ATM components are considered communication-related elements. While voice guidance and Braille signage may easily be understood as communication-related elements, it is uncertain which other ATM components may also be considered communication-related elements.

Additionally, the new rule states, "the safe harbor provided does not apply to those elements in existing facilities that are subject to supplemental requirements,



[those are] elements for which there are neither technical nor scoping specifications in the 1991 Standards, and therefore those elements must be modified to the extent readily achievable to comply with the 2010 Standards.” We are uncertain exactly which ATM components would be subject to this provision.

Diebold recommends ATM owners consult with their Legal Counsel for their review and recommended approach. It has always been Diebold’s position that each institution should evaluate the applicable laws and regulations and rely on the advice of its own Legal Counsel when making decisions on what the institution should do to meet ADA requirements.

American Bankers Association (ABA) recommendations for achieving compliance

The ABA suggests five key steps to consider in creating a compliance plan:

- 1. Inventory your existing ATMs, including drive-up ATMs.** Record the manufacturer, the model number and year of manufacture, if available; or, alternatively, the year the ATM was installed. Also, note the software operating system, and speech output capabilities. If you do not have evidence or documentation of compliance with the access, height and reach requirements of the 1991 ADA Standards, you should also note the access route, height and reach range of each ATM.
- 2. Compare each ATM’s specifications to the 1991 ADA Standards and the 2010 ADA Standards.** Compare the speech output capabilities to the new 2010 ADA Standards. If any of your ATMs do not comply with the specifications of section 707, work with your ATM vendor to determine the feasibility of upgrading those ATMs to comply with the new communication requirements of the 2010 standard. Whether the ATM can be upgraded and the cost of any upgrade will depend on the model and age of the ATM. Your ATM vendor should be able to help with this process.
- 3. Consult with your ATM vendor to determine the cost of each upgrade.** Remember to include all employee hours spent installing new software or hardware and any employee training costs.

4. Establish a budget, strategic plan and schedule for achieving ATM accessibility.

As part of this determination, consider the test for undue burden. Communicative elements must be modified unless doing so would be an undue burden. Under ADA, an undue burden is subjective and will be determined on a case-by-case basis. In creating the strategic plan, include:

- the nature and cost of the upgrades;
- alternative methods to serve the disabled; and
- the overall financial resources of the FIs and those of the institutions’ holding company, if applicable.

5. Revisit your strategic plan annually.

ADA compliance is not static, and imposes continuing and changing responsibilities that require institutions to annually review the accessibility requirements, emerging technologies and its own resources.

VMS does not offer legal advice. Customers are encouraged to consult with their own legal departments to review the new regulations and make their own determination regarding compliance dates and requirements.

