

AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY RULING FAQ



What are the high-level requirements resulting from the ruling?

- **Height and Reach:** Includes a 48-inch maximum height for operable components to assist customers in wheelchairs
- **Voice Guidance:** Includes a requirement for speech output
- **Input Device:** Includes requirements for tactilely discernable input controls
- **Display Screen:** Must be visible from a point located 40 inches above the center of the floor in front of the machine
- **Braille Instructions:** Requires Braille instructions to initiate voice guidance

When does the final ruling begin?

According to the Department of Justice (DOJ), the final rules are legally enforceable and binding six months after the date they are published in the Federal Register, which was September 15, 2010, making the compliance date March 15, 2011. However, under a safe harbor clause, compliance is not required for new construction and alterations until March 15, 2012, 18 months after the date of publication, if implementing the upgrades would result in an undue financial burden. During the 18 month period, the DOJ offers financial institutions (FIs) the choice to comply with either the updated 2010 regulations or the 1991 or 2004 regulations. However, the ADA requires each institution to implement a compliance plan by the effective date of the rule.

What is the definition of an undue burden?

The rules as published by the U.S. Department of Justice indicate that if the institution can show it's enduring an undue burden—meaning the investment made to meet the regulation results in an adverse impact to the profitability of the institution that is severe—by making a deployed machine compliant with the new rules, it can be delayed. However, the actual definition of an undue burden is not provided in the rules, allowing for various interpretations.

The ADA requires each institution to implement a compliance plan by the effective date of the rule. According to the American Bankers Association, steps to consider taking include:

1. Inventory your institution's existing ATMs.

For each ATM, including drive-up ATMs, record the manufacturer, the model number and year the machine was manufactured, if available, or alternatively, the year the ATM was installed. Also, make note of 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 might 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 communications-related elements—i.e., 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 or not the ATM can be upgraded, and the cost of the upgrade, will depend on the model and age of the ATM. If you do not otherwise have evidence or documentation of compliance with the physical access elements of the 1991 ADA Standards, compare physical access elements—i.e., height, reach range, and ground space access—to determine whether the physical access elements comply with the 1991 ADA Standards and are subject to the safe harbor provision.

3. Consult with your ATM vendor(s) to determine the cost of each upgrade. Remember to factor into these costs 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. What is considered an undue burden is subjective and will be determined on a case-by-case basis. Factors to consider in creating the strategic plan include:

- a. The nature and cost of the upgrades;
- b. Alternative methods to serve the disabled; and
- c. The overall financial resources of the bank and those of the bank holding company, if applicable.

Remember that existing ATMs need only be modified to comply with the physical access requirements if they did not comply with the 1991 ADA Standards and it is “readily achievable” to do so, based on the same factors enumerated above. For example, lowering an ATM to comply with the revised reach range of the 2010 ADA Standard may not be readily achievable. In addition, it is not necessary to upgrade keyboard configurations as there were no specific keyboard requirements in the 1991 ADA Standard, and ATMs compliant with the 1991 ADA Standards are subject to the safe harbor clause. New ATMs, however, should comply with the keyboard requirements of the 2010 ADA Standard.

Note, that if an institution has multiple ATMs at one location, only one of those ATMs must be accessible. Also, recognize that if sued, the bank must demonstrate that it took readily achievable barrier removal efforts and provided auxiliary aids and services when doing so did not create an undue burden.

5. Revisit the strategic plan annually. ADA compliance is not static. Much like the Community Reinvestment Act, the ADA imposes continuing and changing responsibilities that require banks to annually review the accessibility requirements, bank resources and emerging technologies. Accessibility measures that previously were deemed too costly may now be affordable. Measures that may have been impractical may be made possible by new technology. In light of the continuing obligation to make facilities, products and services accessible to the disabled, banks are required to annually review and modify their strategic plan for achieving ADA compliance.

What is new in the rulings?

As recently announced, the guidelines in the final ruling are the same guidelines that had been proposed in 2004. They have not changed since that time.

If I have the necessary hardware and software, what are my options for implementing voice guidance?

Choose one of the following options:

- Use a network-supplied solution
- Contact your Diebold sales rep or Diebold professional services for more information about implementation using:
 - Agilis® Campaign Office™
 - Standard voice guidance implementation

Is speech output mandatory on every unit?

The guidelines state that machines shall be voice-enabled. Where multiple machines exist at the same location, at least one must be compliant. At least one drive-thru ATM must be speech-enabled, assuming that making the upgrade would not be an “undue burden.” A similar rule would apply for an ATM located outside. Assuming that making the upgrade is not an undue burden, the ATM that is outside should be upgraded even if an interior ATM is accessible because the one inside the branch is not available during nights and weekends.

I have multiple languages on my screens, do I need voice guidance to support all of the languages?

The ruling does not specify a specific language, nor the number of languages to be supported on the ATM screens. Institutions that have supported multiple-language text screens often implement voice guidance in those languages.

The guideline has changed the symbols on the clear key from I to <. Does this mean I have to upgrade the EPP keyboards to match? Can I just swap the keys out?

The answer is unclear. It is quite extensive to replace the keyboards and this could possibly fall under the undue burden category. Individual keys have been designed to not be replaceable so as to avoid vandalism risks. It should be part of the accessibility plan as part of any future renovation. EPP keyboards also fall under the category of Payment Card Industry (PCI) compliance. Consideration to both ADA and PCI requirements and upgrading to the Encrypted PIN Pad 5 (EPP5) with PCI firmware should be well thought-out in the planning process.

What is the minimum software requirement for Opteva®?

There are many dependencies involved. Who has built the system – Diebold or the network? What type of voice guidance is being used? Any Agilis® software will provide some form of support. The premium multi-language text-to-speech engines are available in 2.0 or higher.

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