



2019 Washington, DC Fly-in Summary

Fly-in participants

The Washington, DC Fly-in is supported by the [U.S. Defense Fund](#).

David Tente, ATMIA
Kurt Helwig, EFTA
John Hagy, MetaBank
Leland Englebardt, Upshot Financial
Donna Embry, Evolve Bank & Trust

Objectives

The objectives of the 2019 fly-in were quite different than our fly-in event last year. Last year we had both a Republican House and Senate. And significant support for our primary issue, which was the continued closure of IAD cash settlement accounts. So we were very focused through seven meetings on support for Congressman Luetkemeyer's bill to permanently end such government interference in the payments and banking business. And were also able to secure a meeting with the CFPB's new leadership to discuss fraud in the Reg E claim process for cash dispense errors.

This year the environment was quite different. With a Democrat controlled House, our presumption was that there would be little interest in a permanent end to an Obama-era initiative that many of the current House leadership supported. Since we have not had as much contact with the Democrat side, our first objective was to introduce ATMIA and provide some education on our industry.

As discussed in many of the in-person committee meetings at the U.S. conference in February, ATMIA has taken up the need for bans on cashless retail establishments as our major advocacy issue for 2019. The closure of IAD bank accounts is still an important one that we continue to pursue. But continued growth of cashless retail establishments is a situation that could be a truly existential threat to the industry. And we thought that opposing the disenfranchisement of poor and unbanked consumers by cashless merchants would be an issue that Democrats would eagerly support.

Meetings

Setting up a full day of meetings this year proved to be very challenging. Capitol Hill was exceptionally busy while we were there – there is certainly an aspect of the “luck of the draw” involved, as we are there on a date of our choosing. A number of votes were scheduled, which also pulls away both members and staff. Focusing on the Dem side, it is hard to know if there may have been less interest in our issues. Time with regulators was also not available – the OCC was in Chicago for meetings. FDIC, CFPB, and FinCEN could not commit to appointment times.

Stephane Le Boulder

General Counsel, Subcommittee on Consumer Protections & Financial Institutions

Meeting held in the office of Congressman Greg Meeks (D), senior member of the U.S. House Committee on Financial Services and Chairman of the Subcommittee on Consumer Protections & Financial Institutions

Stephane’s arrival to our meeting was delayed, which cut down on the time available to us. We provided him with an introduction to ATMIA and our constituencies within the industry.

There has been some discussion of the movement toward cashless retail, but little familiarity with the issue. At this time, they want to move very cautiously. There is concern about whether enough Republicans would support a ban on cashless retail. We assured him that ATMIA is confident there would be support on the basis of a consumer’s right to payment choice. And the fact that every bank note states “This note is legal tender for all debts, public and private”.



Stephane said that the committee is also considering the state vs. federal issues involved. We informed him of the new law in New Jersey, which he was aware of, and interest expressed in New York, Pennsylvania, Oregon, Connecticut, and California. Considering that Philadelphia has enacted a ban on cashless retail – the first major city to do so – there may be additional justification for an effort at the federal level.

Potential interest was expressed in a study to determine how cashless bans might impact retailers. There is no known impact data that we are aware of. However, that begs the question of, “To what end?” Business lost due to going cashless would be hard to predict – as would any estimates of revenue or cost benefits.

Corey Frayer

General Counsel, Committee on Banking, Housing and Urban Affairs

Meeting held in the office of Senator Sherrod Brown (D), ranking member of the Senate Committee on Banking, Housing, and Urban Affairs

We introduced Corey to ATMIA and the ATM industry. The discussion turned very quickly to the growing number of cashless retail establishments and efforts at both the state and city level to ban cashless retail. He indicated that this was his second meeting that day on similar issues. Our group

reviewed the arguments for banning cashless retail – of which the key argument is the fact that it disenfranchises the poor and unbanked. Two of the Senator’s primary constituency groups.

Corey indicated that they have given it some thought and find it to be an interesting issue. He quickly made a proposal for a quid pro quo – the committee’s support for a ban on cashless retail in exchange for our support for some sort of legislation to regulate ATM fees. Corey was confident that a couple of the committee’s more progressive members would strongly support such an effort. As was mentioned in our previous meeting, there is some thought that new cannabis legislation could impact this issue.

We declined the offer and provided information about the availability of nearly 90,000 surcharge-free ATMs. And noted that many EBT programs require one or more surcharge-free withdrawals from benefit cards.

David also commented that ATMIA would welcome legislation to allow variable (discriminatory) surcharging at ATMs and give routing choice to ATM operators – which was ignored in the Durbin Amendment. Both of these changes would reduce operator transaction costs and, potentially, reduce surcharge fees. Both are impossible now due to network rules.

Lucas West

Senior Policy Advisor for Representative Blaine Luetkemeyer

Even Congressman Luetkemeyer, who is generally quite accommodating, was only available for a quick appearance at our meeting. We spoke with his new policy advisor in depth about our support for bans on cashless retail. This issue had not been on their radar, but Lucas quickly sized it up as a consumer choice issue, which Congressman Luetkemeyer is always very supportive of. Additional consideration would be required before they would be in a position to support such efforts. Lucas expressed interest in data regarding the costs of electronic payments versus cash.

Lucas, while not too familiar with the issue, quickly sized it up as a consumer choice issue and indicated the Congressman’s support for that kind of choice. We did not intend to discuss the account closure issue, as the Congressman is already very supportive and has reintroduced his bill to prevent another Operation Choke Point. And our time expired.

Conclusions

Although a ban on cashless retail is not an issue that has been well explored by legislators, it is getting some consideration. The rationale behind moves in cities and states to ban cashless retail businesses is understood, but common concerns over a federal ban on cashless are whether it should be done at the federal level rather than the states, and whether there is bipartisan support.

The immediate and clear offer of a quid pro quo clearly demonstrates that bank and ATM fees are on the minds of some lawmakers. It is not clear what group is lobbying for surcharge restrictions. But the industry needs to be prepared to vigorously oppose any attempt to eliminate or regulate any type of transaction fee. There is still a general lack of understanding of the cost of cash access and convenience.

Therefore, ATMIA USA will continue to support the idea of a federal ban on cashless retail businesses, but will focus its advocacy efforts at the state and city level. This will include offers to testify at public hearings and provide other supportive input.

Next year the fly-in date will be pushed to after Congress's Easter recess, later in the month of April. That would also get us past the Cherry-Blossom season, which might reduce our costs a bit.

Kurt Helwig is working to set up a series of meetings with regulators in the late May/early June timeframe. Our goal is to meet with OCC, FDIC, and FinCEN – key participants of the FFIEC – to discuss inaccuracies in the FFIEC bank examination manual.

U.S. Defense Fund

If you have not yet made a [contribution to the U.S. Defense Fund](#), please do so now. Those contributions help support the annual Fly-in and all of our other advocacy efforts. Contact USA & Americas Executive Director [David Tente](#) for more information about ATMIA advocacy.