1.   Is not regularly used for parking by users of the automated teller machine who are conducting automated teller machine transactions during the hours of darkness; or

2.   Is physically closed to access or is marked by conspicuous signs indicating that it is closed.

(9)   "Financial institution" has the meaning stated in § 1–101 of this title.

(10)   "Hours of darkness" means the period that begins 30 minutes after sunset and ends 30 minutes before sunrise.

(11)   "Operator" means a financial institution or other person that operates an automated teller machine.

(b)   (1)   (i)   This section does not apply to any person:

1.   Whose primary function is to provide for the exchange, transfer, or dissemination of electronic fund transfer data; and

2.   That is not otherwise an operator or person who controls an access area or designated parking area.

(ii)   A person described in item (i) of this paragraph shall have no liability to a customer or user of an automated teller machine for any claim relating to:

1.   Any provision of subsection (c), (d), or (e) of this section; or

2.   The use or attempted use of an automated teller machine.

(2)   Subsections (c), (d), and (e) of this section do not apply to an automated teller machine which:

(i)   Is located inside a building:

1.   Unless the building is a freestanding installation which exists solely to provide an enclosure for the automated teller machine; or

2.   Except to the extent that a transaction can be conducted from outside the building; or

(ii)   Is located in any area, including any access area, building, enclosed space, or parking area, which is not controlled by the operator.

(c)   (1)   An operator of an automated teller machine shall adopt procedures for evaluating the safety of the location of the automated teller machine before it is installed.

(2)   The procedures shall include a consideration of:

(i)   The extent to which the lighting for the automated teller machine complies or will comply with the standards described in this section; and