§ 9-u. ATM transactions by persons using foreign bank accounts. 1. Subject to the requirements of section three hundred ninety-nine-y of the general business law, as added by chapter four hundred ninety-five of the laws of nineteen hundred ninety-nine, an agreement to operate or share an automated teller machine shall not have the effect of prohibiting, limiting or restricting the right of the operator or owner of the automated teller machine to charge a customer who is conducting a transaction using an account from a financial institution that is located outside the United States an access fee or surcharge not otherwise prohibited under state or federal law.

2. Nothing in this section shall be construed to prohibit or otherwise limit the ability of an operator or owner of an automated teller machine to voluntarily enter into an agreement regarding participation in a surcharge free network.