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M E M O R A N D U M

January 9, 2004

To Our Clients and Friends

Re: Customer Identification Programs – FAQs

The Federal Reserve Board, the Federal Deposit Insurance Corporation, the Financial Crimes Enforcement Network ("FinCEN"), the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision and the Treasury Department (the "Agencies"), have issued a list of frequently asked questions to provide interpretive guidance on the implementation of Section 326 of the USA Patriot Act that requires banks, savings associations, credit unions and certain non-federally regulated banks ("bank") to have a Customer Identification Program ("CIP"). The frequently asked questions cover such areas as definition of terms, verification procedures, record requirements including retention, and customer notice. Below is a summary of the more significant FAQs.

FREQUENTLY ASKED QUESTIONS

- The CIP rule does not apply to any part of the bank located outside of the United States although a bank is encouraged to implement an effective CIP throughout its operations, including in its foreign offices, to the extent it does not conflict with local law.
- Although the renewal of a loan or the rollover of a certificate of deposit is treated under the CIP rule as establishing a new account, the customer is also treated as having an existing account and a bank does not have to perform its CIP provided that the bank has a reasonable belief that it knows the person's true identity. However, if a new person is added to the loan or deposit account, the bank would need to satisfy the CIP rule with respect to the new account relationship.

- A person who has an existing account with a bank affiliate does not qualify as "a person who has an existing account with the bank." However, the bank may be able to rely on its affiliate to perform elements of its CIP.
- A bank need not establish the accuracy of every element of identifying information obtained to verify the identity of the customer but must do so for enough information so that it is able to form a reasonable belief that it knows the true identity of the customer.
- A bank must retain the identifying information obtained about the customer at the time of account opening for five years after the date the account is closed or, in the case of credit cards, five years after the account is closed or becomes dormant. Retaining updated information (such as a customer's current address) in lieu of the original information does not satisfy the recordkeeping requirements of the CIP rule. In addition, if the bank obtains identifying information other than the minimal information required at account opening, the bank must also retain this information.
- If a bank engages in indirect lending through a third party (e.g., mortgage broker or car dealer), it may delegate to the third party its obligation to perform the requirements of the bank's CIP rule, including customer notice. However, the bank retains responsibility for the third party's compliance with the rule.
- The reliance provisions of the CIP rule permit a bank to rely on another financial institution to perform any of the procedures of the bank's CIP. The provision does not impose on the other financial institution the obligation to duplicate the procedures in the bank's CIP. Moreover, a bank that is subject to the CIP rule may rely on another financial institution's verification of the identity of the customer if the requirements of the reliance provision are satisfied. The bank would have to be able to demonstrate that such reliance upon the other financial institution's verification of the identity of the customer is reasonable under the circumstances.

The complete list of FAQs can be found on our web site at http://www.schwartzandballen.com/whats_new.html.

If you have any questions concerning the FAQs, please call Gilbert Schwartz, Robert Ballen or Tom Fox at (202) 776-0700.