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MEMORANDUM

December 2, 2004

To Our Clients and Friends

Re: FACT Act: Agencies' General Counsel Letter

The general counsels of the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision and the National Credit Union Administration, and the Federal Trade Commission Bureau of Consumer Protection (the "Agencies") have responded to a request from several trade associations¹ requesting the Agencies to announce that compliance with Fair and Accurate Credit Transactions Act ("FACT Act") provisions that are subject to agency rule writing is not required until the compliance date specified in final regulations adopted by the Agencies. The letter outlines when various provisions of the FACT Act will become effective and whether or not compliance with the provision depends on agency rulemaking.

The letter indicates that the following provisions must be implemented by regulations or guidance and therefore the effective date for these provisions will be determined when final action is taken by the Agencies:

- Procedures for identification of possible instances of identity theft (§ 114)
- Disposal of consumer information and records (§ 216)²
- Accuracy and integrity guidelines for furnishers of information (§ 312(a))
- Ability of consumers to dispute information with furnishers (§ 312(c))
- Discrepancy of addresses in consumer reports (§ 315)

¹ The American Bankers Association, Consumer Bankers Association, Credit Union National Association, Financial Services Roundtable, Independent Community Bankers of America, Mortgage Bankers Association and the National Association of Federal Credit Unions.

² The Federal Trade Commission and the National Credit Union Administration have issued final rules regarding § 216. The remaining agencies are expected to issue final rules by year-end 2004.

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While § 311, relating to risk-based pricing notices, is effective December 1, 2004, the Agencies indicated that the compliance date will be determined when the FTC and the Federal Reserve issue final rules.

Compliance with the following provisions that do not depend on rulemaking by the Agencies is expected beginning December 1, 2004:

- Blocking of information resulting from identity theft (§ 152)
- Prevention of repollution of consumer reports (§ 154(a)-(b))
- Disclosure of credit scores (§ 212(c))

A copy of the Agencies' letter and our chart detailing the effective dates of additional provisions of the FACT Act can be found on our web site at http://www.schwartzandballen.com/whats_new.html.

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