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M E M O R A N D U M

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To Our Clients and Friends

Re: Check Scanning Terminals at Nonbank Locations

The Office of the Comptroller of the Currency (“OCC”) has published a new interpretive letter regarding check scanning terminals at nonbank locations.

Bank customers use check scanning terminals located on the customer’s premises to transmit electronic images of checks to the bank for deposit in a process known as “remote deposit capture.” In certain cases, the customer may use these scanning terminals to transmit images for deposit even when the depository bank does not have a branch in the customer’s state.

The OCC concludes in the interpretive letter that a check scanning terminal at a nonbank location is not a “branch” under the federal McFadden Act, regardless of whether the check scanning terminal is owned by the customer or the bank. The OCC based this decision on the rationale that (1) if the activity is viewed as a deposit activity, then the terminal would fall within the definition of a remote service unit and therefore would not be a “branch,” and (2) if the terminal is viewed as not receiving a deposit, then the terminal also would not be a “branch.” The OCC did not express an opinion on where the deposit is “made” or “received” when a check scanning terminal is used.

A copy of the letter 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.