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M E M O R A N D U M

March 18, 2005

To Our Clients and Friends

Re: Agency Guidance on Unauthorized Disclosures of Customer Information

The Office of the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision (the “Agencies”) are issuing guidance on programs that financial institutions will be required to implement to respond to instances involving unauthorized access to customer information. The Agencies’ guidance is in response to recent incidents involving identity theft in connection with the disclosure of confidential customer information to unauthorized parties.

The guidance is being issued by the Agencies as an interpretation of Section 501 of the Gramm-Leach-Bliley Act, which requires the agencies to adopt guidelines for financial institutions relating to standards for ensuring the security and confidentiality of customer information and to protect against unauthorized access to such information.

The Agencies’ interpretation provides that financial institutions should implement a risk-based response program to address incidents of unauthorized access to customer information, including access to customer information maintained by domestic and foreign service providers. A response program should contain procedures for identifying what customer information has been accessed or misused, notification of the institution’s federal regulator if the incident involves sensitive customer information, notifying law enforcement authorities and possibly filing a Suspicious Activity Report, taking steps to contain the incident by possibly monitoring or freezing accounts and notifying customers when warranted. The guidance indicates that customers should be notified when the unauthorized

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disclosure involves sensitive customer information that has been misused or when it is reasonably possible that it will be misused.

A copy of a draft of the guidance 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.

Unauthorized access (3/18/05)