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M E M O R A N D U M

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To Our Clients and Friends

Re: Federal Unlawful Internet Gambling Enforcement Act

Congress has passed and sent to the President the Unlawful Internet Gambling Enforcement Act of 2006 (the “Act”), which prohibits a person engaged in the business of betting or wagering from knowingly accepting financial instruments in connection with unlawful Internet gambling. The instruments prohibited include credit cards, checks, electronic fund transfers, funds transferred via money transmission services, or other types of financial transactions identified in regulations jointly promulgated by the U.S. Treasury Secretary and the Federal Reserve Board. The Act was enacted as Title VIII of the Security and Accountability for Every Port Act.

The Act requires payment systems and participating institutions to establish policies and procedures reasonably designed to identify and block restricted transactions. The U.S. Treasury Secretary and the Federal Reserve Board, in consultation with the U.S. Attorney General, are to promulgate regulations regarding these policies and procedures within 270 days of enactment. The Act specifies that these policies and procedures may use codes in authorization messages to identify restricted transactions and require blocking of restricted transactions identified as a result. Alternatively, payment systems and their participants may establish policies and procedures to prevent or prohibit acceptance of the payment system’s services in connection with restricted transactions.

Providers of financial transactions will be in compliance with the regulations if they comply with the policies of payment systems of which they are a member or participant. The Act provides a safe harbor from liability for persons who refuse to honor transactions that are restricted or reasonably believed to be restricted and persons who refuse to honor transactions in reliance on the policies and procedures of a payment system.

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The Act is enforced by the federal functional regulators (e.g., federal banking agencies and the SEC) and by the Federal Trade Commission for entities not regulated by a federal functional regulator. The U.S. Attorney General and state attorneys general may seek injunctive relief to prevent restricted transactions, although the Act specifies that neither may initiate civil proceedings against financial transaction providers. Criminal penalties for a violation of the Act include fines, imprisonment for up to five years and injunctions prohibiting a convicted person from participating in gambling activities.

A copy of the 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.