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M E M O R A N D U M

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To Our Clients and Friends

Re: OCC Guidance on Gift Card Disclosures

The Office of the Comptroller of the Currency (“OCC”) has issued guidance for national banks relating to disclosures for bank-issued gift cards. The purpose of the guidance is to ensure that purchasers and recipients of gift cards are fully informed of the terms and conditions of the product.¹

A gift card is a type of prepaid or stored value card that is designed to be purchased by one consumer and presented as a gift to a second consumer. The cards typically carry the logo of a payment card network and can be used at the various locations that accept cards from that network. The OCC’s guidance indicates that national bank gift card issuers must ensure that critical information is provided to recipients and purchasers of gift cards. Accordingly, the OCC expects to see the following disclosures:

- Disclosures on Gift Cards. National banks should provide the following information on the gift card or on a sticker or tape affixed to the card:
 - Card expiration date on the front of the card
 - The amount or the existence of any monthly maintenance, dormancy, usage, or similar fees
 - How to obtain additional information about the card or other customer service (*e.g.*, toll-free telephone number or website)

¹ The guidance applies only to bank-issued gift cards and does not apply to other types of pre-paid or stored value card products such as payroll cards, travel expense cards or other types of card products that are not marketed as a gift from one consumer to another.

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- Disclosures Accompanying Gift Cards. The following information, depending upon the terms of the card, should be provided in a form that is designed to be passed on with the card to the recipient:
 - The name of the bank issuer
 - Any other fees that may be applicable, such as card replacement or reissuance fees, balance inquiry fees, foreign currency conversion fees, and cash redemption fees, and how they will be collected (*e.g.*, by debits to the card balance)
 - Whether and how to receive a replacement card in the event that the card is lost or stolen
 - Responsibility for unauthorized transactions
 - Where the card can be used
 - The issuer's obligation to authorize transactions
 - The importance of tracking the balance remaining on the card
 - Whether and how the card may be used in "split payment" transactions (when the card is used in conjunction with another form of payment)
 - The process for redeeming *de minimis* remaining balances
 - How to resolve problems and complaints and receive balance and other information about the card
 - The issuer's ability to revoke or change the terms of the agreement.

The OCC also advises national banks to avoid practices that could mislead consumers about the terms, conditions, or limitations of gift cards. Banks should not advertise a gift card as having "no expiration date" if monthly service or maintenance fees, dormancy fees or similar charges can consume the balance, for such fees may have the same effect as an expiration date. Similarly, if fees may consume the balance before the expiration date, disclosures should explain that possibility.

A copy of the OCC's 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, Tom Fox or Heidi Wicker at (202) 776-0700.