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MEMORANDUM

June 6, 2007

To Our Clients and Friends

Re: Federal Reserve Guidance on Retail Deposit Sweep Accounts

The Federal Reserve Board staff has issued guidance regarding the requirements for a retail deposit sweep program to comply with Regulation D, Reserve Requirements of Depository Institutions. In a retail sweep program, a depository institution transfers funds between a customer's transaction account and the customer's Money Market Deposit Account ("MMDA") up to six times per month by means of preauthorized or automatic transfers. The arrangement results in a reduction in the institution's reserve requirements. The Federal Reserve staff guidance summarizes previously issued staff opinions and letters.

The guidance indicates that there are three key criteria for retail sweep programs to comply with Regulation D:

- (1) A depository institution must establish by agreement with its customer two legally separate accounts: a transaction account (a NOW account or demand deposit account) and a nontransaction account (usually an MMDA). The distinct accounts may be referred to as "subaccounts" provided that there are legally two distinct accounts and not just one account "subdivided" in name only.
- (2) The swept funds must actually be moved from the customer's transaction account to the customer's MMDA on the institution's books as of the close of business. A valid retail sweep program may not exist solely in records or on systems that do not constitute official books and records of the depository institution and that are not used for any purpose other than generating "reclassified" deposit reports. In addition, the institution's close of business for its retail sweep program cannot be after the institution's close of business for its general ledger.

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(3) The maximum number of preauthorized or automatic transfers from the MMDA into the transaction account is limited to no more than six per month.

A copy of the staff 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.