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**M E M O R A N D U M**

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To Our Clients and Friends

Re: Proposed Rule Implementing Unlawful Internet Gambling Enforcement Act

The Department of the Treasury and the Federal Reserve Board (the “Agencies”) have issued a proposed joint rule to implement certain provisions of the Unlawful Internet Gambling Enforcement Act of 2006 (the “Act”). The proposal designates certain payment systems that could be used in connection with unlawful Internet gambling transactions and subjects them to special requirements for monitoring and blocking unlawful transactions. Comments must be received by December 12, 2007.

The proposed rule provides the following:

- Scope of Act and Regulation The proposed rule does not change the definition or scope of illegal or legal gambling activities in the United States. As a result, the proposal leaves such determination up to state and federal law.
- Designated Payment Systems The proposed rule designates ACH systems, check collection systems, wire transfer systems, card systems (including credit, debit, prepaid and stored value cards) and money transmitting businesses as payment systems that might be used by participants in connection with, or to facilitate, a restricted transaction.
- Exempted Entities Certain participants are exempted from the requirements of the proposed rule. These include check clearing houses, paying banks, collecting banks, operators of wire transfer and ACH systems, depository institutions that originate ACH credit transactions, depository institutions that receive ACH debit transactions and depository institutions that originate wire transfers, as well as intermediary banks.

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- Requirements for Identifying and Blocking Non-exempt participants in designated payment systems are required to establish and implement policies and procedures reasonably designed to prevent or prohibit restricted transactions.
- Examples of Policies and Procedures The proposal provides examples of policies and procedures that participants subject to the proposed rule may wish to consider adopting. In general, these examples focus on increased due diligence with respect to a bank's relationship with its customer to ensure that the customer does not submit payments that are restricted transactions.
- Protection From Liability A person that identifies and blocks a payment transaction will not be liable to any party for such action if one of the following conditions is met:
  - the transaction was a restricted transaction
  - the person reasonably believed the transaction was a restricted transaction, or
  - the person relied on the policies and procedures of the designated payment system.

The Agencies propose that the rule be effective six months after a final rule is adopted. However, comment is requested on whether or not this delayed effective period is reasonable.

A copy of the proposed rule can be found on our web site at [http://www.schwartzandballen.com/whats\\_new.html](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.