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MEMORANDUM

October 20, 2009

To Our Clients and Friends

Re: Gramm-Leach-Bliley Act Model Privacy Notice

The Federal financial institution Agencies¹ are adopting a model form that financial institutions may use to explain their privacy policies under the Gramm-Leach-Bliley Act (“GLB Act”) and provide consumers the opportunity to opt out of certain information sharing practices. Institutions that provide the model privacy form to their customers will be deemed in compliance with the privacy provisions of GLB Act. The rule is effective 30 days after publication in the *Federal Register*.

BACKGROUND

The privacy provisions of the GLB Act require financial institutions to provide initial and annual privacy notices to their customers which describe the institution’s policies and practices with respect to the disclosure of a consumer’s nonpublic personal information to both affiliated and nonaffiliated third parties. The notices must also provide consumers with a reasonable opportunity to direct the institution under certain circumstances not to share their nonpublic personal information with third parties.

The Financial Services Regulatory Relief Act of 2006 required the Agencies to jointly develop a model privacy form that institutions have the option of using. Institutions that use the model form are deemed to be in compliance with the privacy provisions of the GLB Act. The final model form consists of two pages. The Agencies do not mandate a specific paper size for the final model form, and financial institutions may include corporate logos.

¹ The Federal Deposit Insurance Corporation adopted the model form at its October 20, 2009, meeting. The other Agencies (the Office of the Comptroller of the Currency, Federal Reserve Board, Office of Thrift Supervision, National Credit Union Administration, Federal Trade Commission, Commodity Futures Trading Commission and Securities and Exchange Commission) are expected to announce adoption of the model form in the near future.

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The first page of the final model form has five parts:

- Title
- Introductory section
- Disclosure table that describes the types of sharing possible for all financial institutions, which of those types of sharing the institution providing the notice actually engages in, and whether the consumer can opt out of any of the institution's sharing
- Information for the consumer on how to opt out, if applicable
- Customer service contact information.

The second page provides supplemental information about the financial institution and what it does with personal information as well as key definitions. No additional information may be included in the model form in order to obtain the benefit of the compliance safe harbor.

The Agencies are also eliminating the safe harbor that applies to the sample clause currently in their privacy rules effective for notices that are delivered to consumers on or after January 1, 2011.

A copy of the Agencies' draft *Federal Register* notice can be found on our website 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.