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MEMORANDUM

November 29, 2010

To Our Clients and Friends

Re: FinCEN Rule and Guidance Regarding Confidentiality of SARs

The Treasury Department's Financial Crimes Enforcement Network ("FinCEN") has issued a rule and guidance to clarify the scope of the confidentiality of Suspicious Activity Reports ("SARs") and to expand the ability of financial institutions to share SAR information with affiliates.

Under the Bank Secrecy Act ("BSA"), a filer of a SAR is prohibited from informing any person involved in a suspicious transaction that the transaction has been reported. FinCEN also prohibits a financial institution from disclosing a SAR or that a SAR has been filed.

FinCEN has clarified its rules to indicate that financial institutions may provide information supporting a SAR to Federal, state and local law enforcement agencies, Federal and state agencies and self-regulatory organizations that examine institutions for BSA compliance, state agencies that administer state laws that require institutions to comply with the BSA and, for broker-dealers, the Securities and Exchange Commission.

FinCEN indicates that the prohibition on disclosure does not apply to:

- The disclosure of the underlying facts, transactions and documents upon which a SAR is based
- The sharing of a SAR, or any information that would reveal the existence of a SAR, with a financial institution's domestic affiliate, provided that the affiliate itself is subject to a SAR regulation

The rule and related guidance become effective 30 days after publication in the Federal Register.

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A copy of the final rule and related guidance can be found on our web site at <http://www.schwartzandballen.com/news.html>.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox, Heidi Wicker, or Lauren Bianchini at (202) 776-0700.