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MEMORANDUM

March 18, 2011

To Our Clients and Friends

Re: FSOC Proposal Regarding Systemically Important Financial Market Utilities

The Financial Stability Oversight Council (“FSOC”) is requesting public comment on a proposed rule which establishes the framework for designating a financial market utility (“FMU”) as systemically important under the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). Comments are due 60 days after publication in the *Federal Register*.

FMUs

An FMU is a person that manages or operates a multilateral system for transferring, clearing or settling payments, securities or other financial transactions with or among financial institutions. FSOC will designate an FMU as systemically important if its failure or disruption could create or increase the risk of significant liquidity or credit problems spreading among financial institutions or markets. A systemically important FMU will be subject to heightened prudential and supervisory scrutiny by the supervisory agency that has primary jurisdiction over it under banking, securities or commodity futures law. Designated FMUs will be required to implement risk management standards developed by the agencies designed to reduce systemic risk, and will be subject to examinations, enforcement actions and reporting requirements.

DESIGNATION CONSIDERATIONS

The considerations proposed by FSOC incorporate and elaborate on the considerations set forth in the Dodd-Frank Act. The FSOC proposes to consider:

- The aggregate monetary value of transactions processed by the FMU, including the number and value of transactions processed, cleared or settled
- The aggregate exposure of the FMU to its counterparties, including credit and liquidity exposures

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- The relationship, interdependencies or interactions with other FMUs or payment, clearing or settlement activities, and
- The effect that the failure or a disruption to the FMU would have on critical markets, financial institutions or the broader financial system, including the role the FMU serves, the availability of substitutes, concentration of participants, degree of tiering and potential impact in the event of a failure or disruption

FSOC proposes to provide an FMU with an opportunity to support or dispute a proposed designation. In addition, FSOC indicated that it intends to begin its assessment of FMUs shortly after adopting a final rule.

A copy of the proposed rule can be found at our website 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.