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**MEMORANDUM**

January 20, 2011

To Our Clients and Friends

Re: FSOC Approves Study and Recommendations on the Volcker Rule

The Financial Stability Oversight Council (“FSOC”) has issued its study on how the agencies should implement the Volcker Rule, which prohibits banking entities from engaging in proprietary trading and generally from investing in or sponsoring hedge funds and private equity funds. (The Volcker Rule, however, does not prohibit banking entities from engaging in activities such as certain types of market making, asset management, underwriting and transactions in government securities.) The study was required by the Dodd-Frank Act (“DFA”).

The FSOC recommended that the Federal agencies responsible for regulating banking entities consider the following actions to identify and eliminate prohibited proprietary trading and investments in or sponsorships of hedge funds and private equity funds:

- Require sale or wind down of impermissible proprietary trading
- Require implementation of a compliance regime, including CEO certification as to its effectiveness
- Require a quantitative analysis to detect potentially impermissible proprietary trading
- Perform supervisory review of trading activity
- Require implementation of a mechanism that identifies customer-initiated trades
- Require divestiture of impermissible proprietary trading positions and impose penalties when appropriate
- Prohibit investing in or sponsoring hedge funds or private equity funds
- Prohibit transactions that “bail out” hedge funds or private equity funds
- Identify similar funds that should be subject to the Volcker Rule
- Require public disclosure of permitted exposures to hedge funds and private equity funds

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The study also outlines criteria for determining permitted and prohibited activities. The agencies are required adopt rules implementing the Volcker Rule within nine months.

A copy of FSOC's study 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.