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MEMORANDUM

March 7, 2011

To Our Clients and Friends

Re: Proposed Amendments to Regulation CC

The Federal Reserve Board (“Board”) is proposing revisions to Regulation CC (Availability of Funds and Collection of Checks) to, among other things, reflect the nation’s transition to electronic interbank check collection and return. The changes affect funds availability schedules, disclosures, requirements applicable to the forward collection and return of paper checks and check images, as well as certain aspects of the substitute check process. Comments are due by June 3, 2011.

These proposed amendments include the following:

- Revises funds availability requirements to reflect that all deposited checks are now local checks
- Increases the dollar amount that the bank of first deposit (“BOFD”) must make available to its customer on the next business day from \$100 to \$200 (This change is effective July 21, 2011)
- Requires the BOFD to include the total amount of the deposit, in addition to the amount of the deposit being held, and the date funds will be available in the customer notice when the BOFD relies upon an exception to the regular funds availability schedule
- Updates model disclosure forms
- Removes the forward collection test for an expeditious return of a presented item, and establishes a single two-day expeditious return requirement

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- Eliminates a paying bank's and returning bank's obligation to return a check expeditiously to the BOFD, unless the BOFD has agreed to receive electronic return of check images
- Permits a paying bank to require that same-day settlement items be presented to it electronically (and not in paper form) and establishes new transfer warranties for this type of item
- Eliminates the requirement on a paying bank to provide a notice of a high dollar return to the BOFD
- Prohibits a paying bank from using the return reason of "refer to maker" on a returned check unless a more specific return reason is also included
- Provides new transfer warranties for check images of items that never existed as paper items
- Extends the presenting bank's transfer warranty for remotely created checks to cover those items which never existed in paper form
- Clarifies the legal status of a substitute check that is created by a bank that operates an ATM

A copy of the proposed revisions to Regulation CC 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.