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MEMORANDUM

November 17, 2011

To Our Clients and Friends

Re: Clarification of Supervisory and Enforcement Responsibilities
for Consumer Financial Laws

The federal financial supervisory agencies (the “Agencies”)¹ have clarified how they will determine the total assets of an insured bank, thrift or credit union (“depository institution”) for purposes of determining supervisory and enforcement responsibilities under the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”).

Under the Dodd-Frank Act, the Consumer Financial Protection Bureau (“CFPB”) has exclusive supervisory authority and primary enforcement authority with respect to depository institutions with total assets of more than \$10 billion for purposes of Federal consumer financial law. The Dodd-Frank Act also provides that the Federal Reserve Board, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency retain supervisory and enforcement authority with respect to all other depository institutions.

The Agencies indicate that a depository institution’s Call Report data will be used to determine its asset size for determining whether the CFPB will possess supervisory and enforcement responsibility. Initially, the size determination will be based upon the institution’s assets as reflected in its June 30, 2011 Call Report. Thereafter, an institution will become subject to the CFPB’s jurisdiction if it has reported total assets of greater than \$10 billion for four consecutive quarters. A depository institution will cease to be a large depository institution if it reports total assets of \$10 billion or less in its Call Report for four consecutive quarters.

A copy of the Agencies’ statement 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.

¹ The federal financial supervisory agencies include the Federal Deposit Insurance Corporation, Federal Reserve Board, Office of the Comptroller of the Currency, the National Credit Union Administration, and the Bureau of Consumer Financial Protection.