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M E M O R A N D U M

July 17, 2008

To Our Clients and Friends

Re: **FDIC Interim Rule on Deposit Sweep Account Disclosures
and Deposit Account Processing in Bank Failures**

The Federal Deposit Insurance Corporation (“FDIC”) has issued an interim rule which requires all insured depository institutions to disclose to customers to whom they provide sweep account arrangements whether swept funds are deposits and, if not, the status of such funds if the institution fails. The interim rule also sets out the FDIC’s practices as receiver of a failed depository institution for determining the value and nature of claims for insurance coverage of deposit and other liability account balances. The sweep account disclosure rule is effective July 1, 2009. The provisions relating to determination of the value and nature of claims for deposit insurance are effective August 18, 2008. The FDIC is also accepting comments on the interim rule until September 15, 2008.

SWEEP ACCOUNTS

The rule provides that accounts that automatically sweep funds from a deposit account to a non-deposit account or investment vehicle at the failed institution scheduled to occur prior to the final calculation of end-of-day ledger balances will be completed on the day of failure. Given that many sweeps arrangements transfer funds from insured deposit accounts to non-deposit investment vehicles, effective July 1, 2009, all insured institutions will be required to prominently disclose to customers whether the swept funds are deposits and, if not, the status of the swept funds if the institution fails (*e.g.*, general or secured creditor).

DEPOSIT BALANCE DETERMINATION

In determining the total FDIC-insured amount for each depositor of a failed depository institution, the FDIC will use the cutoff time established by the institution

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for the deposit account balance, which will be the end-of-day ledger balance on the day of failure. Checks deposited into and posted to a deposit account by the applicable cutoff time will be treated as part of the depositor's end-of-day ledger deposit balance for insurance purposes. The interim rule also indicates that the FDIC will use its best efforts to prevent generation of new liabilities or to extinguish existing liabilities for the failed institution.

A copy of the interim rule can be found on our website at http://www.schwartzandballen.com/whats_new.html

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