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M E M O R A N D U M

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To Our Clients and Friends

Re: Court Upholds Preemption of State Investigations of National Banks

The U.S. Court of Appeals for the Second Circuit has upheld the Office of the Comptroller's ("OCC") regulation which prevents state officials from investigating and enforcing national banks' and their operating subsidiaries' compliance with state and federal laws.¹

The OCC sued to enjoin the New York Attorney General from investigating residential real estate lending practices of national banks and their operating subsidiaries. The Clearing House Association filed a similar suit. The Court deferred to the OCC's interpretation of its visitorial powers under the National Bank Act as precluding investigations or enforcement by state officials of federal or state laws concerning activities authorized or permitted under the National Bank Act.

A copy of the decision can be found on our web site 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.

¹ The Clearing House Association, LLC v. Cuomo, Nos. 05-5996-cv (L), 05-6001-cv (CON) (2d Cir. Dec. 4, 2007).