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MEMORANDUM

July 26, 2011

To Our Clients and Friends

Re: FinCEN Issues Prepaid Access (Stored Value) Rule

The Financial Crimes Enforcement Network (“FinCEN”) has issued a final rule to apply Bank Secrecy Act requirements to providers and sellers of certain types of stored value products, which FinCEN has renamed “prepaid access.” The rule establishes suspicious activity reporting, and customer and transactional information collection requirements on providers and sellers of certain types of prepaid access products.

Under the rule, providers of prepaid access are required to register with FinCEN. Providers can be designated by agreement among the participants in the program, or will be determined by the degree of its oversight and control over the prepaid access program. While not required to register with FinCEN, sellers (*i.e.*, retailers) of prepaid access are required to maintain an anti-money laundering program if they offer a prepaid access product:

- That is covered by the rule and can be used without a later activation process that includes customer identification, or
- That provides access to more than \$10,000 to any person during any one day
- The final rule also provides the following:
 - Exempts prepaid access products of \$1,000 or less and payroll products if they cannot be used internationally, do not permit transfers among users, and cannot be reloaded from a non-depository source
 - Exempts closed loop prepaid access products sold in amounts of \$2,000 or less
 - Excludes government funded and pre-tax flexible spending for health and dependent care funded prepaid access programs

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The rule is effective 60 days after publication in the *Federal Register*.
Registration with FinCEN is required six months after the publication date.

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