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**MEMORANDUM**

November 29, 2012

To Our Clients and Friends

Re: FinCEN and Federal Reserve Proposal on BSA Definitions

The Financial Crimes Enforcement Network (“FinCEN”) and the Federal Reserve Board (“Board”) are proposing to revise the definitions of “funds transfer” and “transmittal of funds” under Bank Secrecy Act (“BSA”) regulations in light of the remittance transfer provider amendments to the Electronic Fund Transfer Act (“EFTA”) made by the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). Comments on the proposed rule are due January 25, 2013.

The Dodd-Frank Act extends the scope of the EFTA and Regulation E to cover remittance transfers sent by consumers through banks and money transmitters to recipients in foreign countries. Because existing BSA regulations exclude certain types of transactions subject to the EFTA and Regulation E from selected provisions of BSA regulations, the effect of the Dodd-Frank Act amendments would be to exempt certain transfers from the scope of provisions such as the BSA recordkeeping and travel rules. In order to avoid this result, the agencies propose to amend the definitions of “funds transfer” and “transmittal of funds” to limit the exclusion from coverage under BSA regulations.

As a result, remittance transfers that are not defined as electronic fund transfers under section 903(7) of the EFTA will continue to be covered by the travel and recordkeeping rules. Under that section, the term "electronic fund transfer" includes point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone. Consequently, wire or other similar transfers would be excluded from the definition and therefore will continue to be subject to BSA regulations.

A copy of the agencies’ proposal 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.