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MEMORANDUM

April 10, 2013

To Our Clients and Friends

Re: SEC and CFTC Rules on Red Flags and Identity Theft

The Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) have adopted rules requiring broker-dealers, mutual funds, investment advisers, and CFTC-regulated entities that qualify as financial institutions or creditors under the Fair Credit Reporting Act (FCRA) to establish programs to detect red flags and prevent identity theft. The rules become effective 30 days after publication in the Federal Register. Covered entities are required to comply with the rules six months after the effective date.

The rules require covered entities to develop and implement a written program designed to detect, prevent and mitigate identity theft in connection with certain existing accounts or when establishing new accounts. The rules are very similar to those of the Federal Trade Commission and federal banking agencies.

A covered entity's program should include policies and procedures designed to:

- Identify relevant types of identity theft red flags
- Detect the occurrence of red flags
- Respond appropriately to the detected red flags
- Periodically update the identity theft program

The rules require covered entities to provide staff training and oversight of service providers. They also require credit and debit card issuers that are subject to the agencies' enforcement authorities to assess the validity of notifications of changes of address under certain circumstances.

The SEC and CFTC rules 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 or Heidi Wicker, at (202) 776-0700.