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**MEMORANDUM**

November 20, 2015

To Our Clients and Friends

Re: FTC Amends Telemarketing Rule to Ban Certain Payment Methods

The Federal Trade Commission has amended the Telemarketing Sales Rule (TSR) to ban telemarketers from using four payment methods, that are often used by sellers and telemarketers. The four payment methods being banned are remotely created checks, remotely created payment orders, cash-to-cash money transfers and cash reload mechanisms.

The rule defines “remotely created checks” as including any payment instruction or order drawn on a person’s account that is created by the payee and cleared through the check clearing system. Under the FTC’s rule, a “remotely created payment order” is an electronic version of a remotely created check, but which never exists in paper form.

The third payment method banned by the FTC was “cash-to-cash money transfers,” where a consumer brings cash to a money transfer provider who then transfers the value to another person who picks up the cash in person. The FTC stated it is concerned that if the funds are picked up by the wrong person, it can be difficult for the sender to get a refund.

The fourth payment method prohibited is “cash reload mechanisms,” whereby a customer pays cash to a retailer that sells cash reload mechanisms. The customer obtains a PIN authorization code that can be used to transfer funds over the telephone or the Internet to another general purpose reloadable card within the same network. The FTC is concerned with telemarketing fraud associated with this payment method.

The FTC’s TSR amendments also require that a verification recording of the customer’s agreement include a description of the goods or services being purchased. Additionally, the FTC amended the TSR’s Do Not Call requirements to place the burden on the seller or telemarketer to demonstrate the existence of an established business relationship with the consumer or that there is an express written agreement with the consumer.

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A copy of the FTC's rule can be found on 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 Ben Gray at (202) 776-0700.