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MEMORANDUM

August 2, 2016

To Our Clients and Friends

Re: FDIC Proposed Guidance on Third-Party Lending

The Federal Deposit Insurance Corporation (FDIC) is requesting public comment on proposed guidance for banks that engage in third-party lending. The guidance supplements the FDIC's existing guidance for managing third-party risk. The proposed guidance defines third-party lending as an arrangement that relies on a third party to perform a significant aspect of the lending process. Third-party lending includes arrangements whereby the bank originates loans for third parties, through third parties, jointly with third parties, or through the use of platforms developed by third parties, even if the transaction does not result in a loan on the bank's balance sheet. The FDIC is seeking comments specifically pertaining to the scope and accuracy of this definition and potential risks of third party lending.

The FDIC states it will evaluate lending activities conducted through third parties as if the activities were performed by the bank itself. Institutions that engage in new or substantial lending activities through third parties can expect to receive increased supervisory attention.

The FDIC identifies several risks that may arise or be heightened from an institution's use of third parties in connection with lending activities. According to the FDIC, operational risks may include transaction risk, pipeline and liquidity risk and model risk. The FDIC also highlights credit, consumer compliance and Bank Secrecy Act/anti-money laundering risks. The proposed guidance reinforces that institutions should establish and implement a third-party lending risk management program and compliance management system that is appropriate for dealing with the complexity, risk profile, transaction volume, and number of third-party lending relationships. The FDIC is particularly interested in ensuring that these programs have included sound policies for strategic planning policy development, risk assessment, due diligence and oversight, risk management, vendor oversight, and contract structuring.

Comments on the proposed guidance may be submitted until September 12th.

A copy of the FDIC's Financial Institution Letter is available on 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.