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MEMORANDUM

March 14, 2016

To Our Clients and Friends

Re: FinCEN Proposes Changes to Foreign Financial Account Reports

The Financial Crimes Enforcement Network (“FinCEN”) is proposing to revise its regulations regarding Reports of Foreign Bank and Financial Accounts (“FBAR”)¹ required under its Bank Secrecy Act (“BSA”) regulations. The proposed rule expands and clarifies the exemptions for certain U.S. persons with authority over foreign financial accounts. In addition, the proposal eliminates the rule permitting limited account information to be reported when a U.S. person has financial interest in or signature authority over 25 or more foreign financial accounts. Comments on FinCEN’s proposal are due by May 9th.

BSA regulations generally require a U.S. person having a financial interest in or signature or other authority over a bank, securities, or other financial account in a foreign country exceeding \$10,000 to report the relationship to the Internal Revenue Service. However, persons are exempt from FBAR reporting if they are employed by certain institutions (e.g., banks and securities firms) and who do not have a financial interest in the foreign accounts. The form must be filed electronically on or before June 30th of each calendar year for accounts maintained during the previous calendar year.

FinCEN proposes to eliminate the requirement that employees of U.S. entities report accounts owned by the entity over which the employee has signature authority solely due to his or her employment when those accounts are already required to be reported by the employer, or its U.S. affiliate. However, FinCEN also proposes to now require persons who have a financial interest in or signature authority over 25 or more foreign financial accounts to report detailed account information on all the foreign accounts, unless an exemption otherwise applies. This will eliminate the current provision that does not require reporting of account information under these circumstances.

The proposed rule also changes the filing date for 2016 FBAR to April 15, 2017. However, FinCEN advises an extension to October 15th is available upon request.

A copy of FinCEN’s proposed rule 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.

¹ FinCEN Form 114.