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MEMORANDUM

May 23, 2019

To Our Clients and Friends

Re: Agencies Resolve Payday Lender Lawsuit

The Federal Deposit Insurance Corporation (“FDIC”) and the Office of the Comptroller of the Currency have settled litigation concerning termination of payday lender bank accounts.¹ In 2014, payday lenders sued the agencies for their practices in connection with “Operation Choke Point,” a Department of Justice initiative in 2013 to investigate banks servicing a variety of businesses, including payday lenders. The plaintiffs alleged that certain agency informal guidance and other unlawful regulatory actions exceeded their statutory authority. Accordingly, the plaintiffs sought declaratory and injunctive relief to prevent the agencies from abusing their regulatory authority over financial institutions to enforce a *de facto* bank boycott of plaintiffs’ businesses.

In connection with the settlement, the FDIC issued a statement summarizing its internal policies for situations in which the FDIC will recommend that a financial institution terminate a customer’s deposit account. The agency indicated the statement does not establish any new regulatory requirements nor alter existing regulatory requirements. The FDIC also issued a letter to plaintiffs’ counsel acknowledging that certain FDIC employees acted in a manner inconsistent with FDIC policies with respect to payday lenders during Operation Choke Point.

A copy of the FDIC’s statement is available on our website at <http://schwartzandballen.com/news.html>.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Heidi Wicker, or Victor Razon at (202) 776-0700.

¹ *Advance America, Cash Advance Centers, Inc., et al. v. Federal Deposit Insurance Corporation, et al.*, No. 14-cv-953 (D.D.C.).