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**MEMORANDUM**

December 22, 2020

To Our Clients and Friends

Re: Agencies Propose Requirement for Computer-Security Incident Notification

The Comptroller of the Currency, the Federal Reserve Board, and the Federal Deposit Insurance Corporation are proposing a rule to require banking organizations to provide their primary federal regulators with prompt notification of any “computer-security incident” that rises to the level of a “notification incident,” as defined in the proposal. Comments are due within 90 days after publication in the *Federal Register*.

The proposed rule requires the following:

- A banking organization must notify its primary federal regulator of a notification incident as soon as possible and no later than 36 hours after the banking organization believes in good faith that a notification incident has occurred.
- A bank service provider must notify at least two individuals at each affected banking organization customer immediately after the bank service provider experiences a computer-security incident that it believes in good faith could disrupt, degrade, or impair services for four or more hours.

The proposed rule requires general information about what is known at the time and does not require a detailed assessment of the incident or any specific information. A “computer-security incident” is an occurrence that (i) results in actual or potential harm to the confidentiality, integrity, or availability of an information system or the information that the system processes, stores, or transmits; or (ii) constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies. A “notification incident” is a computer-security incident that could materially disrupt, degrade, or impair (i) the ability to carry out banking operations or deliver services to a material portion of customer; (ii) any business line and result in a material loss of revenue, profit, or franchise value; or (iii) operations, the failure or discontinuance of which would pose a threat to the financial stability of the United States.

A copy of the proposed rule is available on our website at <http://schwartzandballen.com/news.html>

For more information, please call Gilbert Schwartz, Robert Ballen, Heidi Wicker, or Victor Razon at (202) 776-0700.