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MEMORANDUM

March 2, 2004

To Our Clients and Friends

Re: FACT Act: Study of Biometrics and Identity Theft

Among the more unusual provisions of the Fair and Accurate Credit Transactions Act of 2003 (the “FACT Act”) (Pub. L. No. 108-159) is the requirement that the Secretary of the Treasury (“Secretary”) conduct a study of the use of biometrics and other similar technologies to reduce the incidence and costs to society of identity theft by providing convincing evidence of who actually performed a given transaction. The Secretary is to submit a report this summer to Congress containing the findings and conclusions of the study and recommendations for legislative or administrative actions.

The Secretary is required to consult with Federal banking agencies, the Federal Trade Commission, financial institutions, consumer reporting agencies, and the general public, among others, in conducting the study. Accordingly, the Secretary is requesting comments on a number of issues including:

- The range of biometric solutions the private sector could use to reduce identity theft
- The rate of adoption of biometric solutions by the financial services industry
- The benefits and tradeoffs of the use of biometrics to consumers
- Industry experience in using biometrics
- Costs and risks of using biometrics.

Comments are due by April 1.

The *Federal Register* notice can be found at
http://www.schwartzandballen.com/whats_new.html.

If you have any questions, please call Gilbert Schwartz, Robert Ballen or Tom Fox at (202) 776-0700.