

**SCHWARTZ & BALLEN LLP**

1990 M STREET, N.W. • SUITE 500  
WASHINGTON, DC 20036-3465

(202) 776-0700

FACSIMILE  
(202) 776-0720

www.schwartzandballen.com

**M E M O R A N D U M**

July 19, 2007

To Our Clients and Friends

Re: Agencies' Statement on Enforcement of BSA/AML Requirements

The federal financial regulatory agencies (the "Agencies")<sup>1</sup> have issued a statement regarding the Agencies' policy on the circumstances under which they will issue cease and desist orders to address noncompliance with certain Bank Secrecy Act/Anti-Money Laundering ("BSA/AML") requirements. The purpose of the statement is to provide greater consistency among the Agencies in enforcement decisions in BSA matters.

An Agency is required by law to issue a cease and desist order if the institution has failed to establish and maintain a BSA compliance program or has failed to correct any previously reported problem. When an Agency identifies a supervisory concern relating to an institution's BSA compliance program, the Agency may communicate its concern by various means, depending upon the seriousness of the concern. These methods include informal discussions by examiners with management, formal discussions by examiners with the board of directors, supervisory letters or a finding in the report of examination or in other formal communications from the Agency.

The Agencies advise that, in order for a deficiency to be a "problem" that will result in a cease and desist order if not corrected by the institution, the deficiency must be identified in a report of examination or other written document communicated to an institution's board of directors or senior management as a matter that must be corrected. After a review of all the relevant facts and circumstances, an Agency will issue a cease and desist order for noncompliance with BSA compliance program requirements if the institution:

---

<sup>1</sup> Federal Reserve Board, Federal Deposit Insurance Corporation, Comptroller of the Currency, Office of Thrift Supervision, and National Credit Union Administration.

## **SCHWARTZ & BALLEN LLP**

- Fails to establish and maintain a reasonably designed BSA compliance program; or
- Fails to correct a previously reported problem with its BSA compliance program.

The Agencies also state that an Agency may issue a cease and desist order, enter into a formal written agreement or take informal enforcement action against an institution for other types of BSA/AML concerns based on unsafe and unsound practices or violations of law. In addition, the Agencies state that they will cite a violation of the Suspicious Activity Report regulations, and they will take appropriate supervisory action if an organization's failure to file a SAR evidences a systemic breakdown in its policies, procedures or processes to identify and research suspicious activity, involves a pattern or practice of noncompliance with the filing requirement, or represents a significant or egregious situation.

A copy of the Agencies' statement can be found on our web site at [http://www.schwartzandballen.com/whats\\_new.html](http://www.schwartzandballen.com/whats_new.html).

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