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M E M O R A N D U M

December 1, 2003

To Our Clients and Friends

Re: Expiration of Conditional Exception to FinCEN Bank Secrecy Act Travel Rule

FinCEN has announced that on July 1, 2004, financial institutions will no longer be able to use coded information or pseudonyms for the names of customers in funds transmittal orders under the Travel Rule.¹ In addition, FinCEN has revoked its prior guidance regarding the meaning of the term “address,” and will permit financial institutions to use a customer’s mailing address in a funds transmittal order rather than the customer’s street address.

BACKGROUND

FinCEN’s Travel Rule requires a financial institution to include certain information in transmittal orders relating to transmittals of funds of \$3,000 or more, including the requirement that the transmitting customer’s true name and address be included in a funds transmittal order and “travel” with the payment order throughout the funds transmittal process. Because of operational problems involving the type of information maintained in financial institutions’ central information files, FinCEN permitted financial institutions to use coded names or pseudonyms so long as certain conditions were satisfied, including the ability to link the coded name or pseudonym back to the customer’s real name.

Because of law enforcement consideration, FinCEN is now terminating the exception to the Travel Rule regarding coded names and pseudonyms used in place of customer names in payment orders subject to the Travel Rule. FinCEN indicated

¹ The Travel Rule can be found at 31 C.F.R. § 103.33(g).

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that the use of coded names and pseudonyms is primarily related to private banking customers and is used infrequently. FinCEN concluded that there is not a substantial cost involved in changing an institution's central information file to reflect true names.

NAME AND ADDRESS REQUIREMENT

Beginning July 1, 2004, financial institutions must use the transmitter's true name in a transmittal order that is subject to the Travel Rule. Financial institutions will, however, be permitted to use abbreviated names, names reflecting different accounts of a corporation (*e.g.*, "XYZ Payroll Account"), as well as trade and assumed names of businesses ("DBA"), and the names of unincorporated divisions or departments of businesses.

FinCEN will permit financial institutions to use customer mailing addresses (including post office boxes) rather than street addresses in connection with the Travel Rule. This represents a reversal of prior FinCEN guidance.² Consequently, the term address will mean either the customer's street address or the address maintained in the financial institution's customer information file so long as the institution maintains the transmitter's address on file and such address information is retrievable upon request by law enforcement authorities. For an individual, an address is the person's residential or business address. For all others, an address is the entity's principal place of business, local address or other physical location. A financial institution may not use its own address or another financial institution's address in place of the customer's address.

The text of FinCEN's notice can be found at www.schwartzandballen.com/Whats_New.htm.

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

² See Q&A no. 18 contained in FinCEN Advisory Issue 3 (June 1996) and Q&A no.16 contained in FinCEN Advisory Issue 7 (January 1997).