

SCHWARTZ & BALLEN LLP
1990 M STREET, N.W. • SUITE 500
WASHINGTON, DC 20036-3418

(202) 776-0700

FACSIMILE
(202) 776-0720

WWW.SCHWARTZANDBALLEN.COM

MEMORANDUM

December 4, 2008

To Our Clients and Friends

Re: FinCEN CTR Exemptions

The Treasury Department's Financial Crimes Enforcement Network ("FinCEN") has adopted a final rule that allows depository institutions to exempt transactions of certain persons from the requirement of filing Currency Transaction Reports ("CTRs") in connection with transactions in excess of \$10,000. The new rule is effective in approximately 30 days.

BACKGROUND

Under the Bank Secrecy Act, depository institutions are required to file CTRs in connection with certain currency transactions in excess of \$10,000. To further reduce the reporting burden on depository institutions, FinCEN has expanded the exemptions that are available to depository institutions. The additional exemptions include the following:

- Depository institutions will no longer be required to review annually or make a designation of exempt person filing for customers who are depository institutions, U.S. or State governments, or entities acting with governmental authority.
- Depository institutions may designate an otherwise eligible non-listed company or a payroll customer (1) after two months (previously twelve months), or (2) after conducting a risk-based analysis of the legitimacy of the customer's transactions.
- The definition of "frequent" transactions will be changed to five transactions per year instead of the current eight transactions per year.
- Depository institutions will no longer be required to biennially renew designations of certain exempt customers, but an annual review of such customers is required.

- Depository institutions will no longer be required to record and report a change of control in a designated non-listed or payroll customer.

A copy of the final rule can be found on our website at 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.