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MEMORANDUM

June 1, 2009

To Our Clients and Friends

Re: Final Rule on Procedures to Enhance the Accuracy and Integrity
of Information Furnished to Consumer Reporting Agencies

SUMMARY

The Federal Deposit Insurance Corporation (the “FDIC”) and the National Credit Union Administration (the “NCUA”) have approved a final rule implementing the accuracy and integrity and direct dispute provisions of Section 312 of the Fair and Accurate Credit Transactions Act of 2003 (“FACT Act”) that amended the Fair Credit Reporting Act (“FCRA”). It is expected that the other Federal banking Agencies¹ and the Federal Trade Commission will approve similar final rules in the near future, after which a joint Federal Register notice will be issued.

The rule will be effective one year from date of publication in the Federal Register.

FINAL RULE

- Defines the terms “accuracy” and “integrity”
 - With regard to the information that the furnisher provides to a consumer reporting agency (“CRA”) about an account or relationship with a consumer, “accuracy” means that the information correctly reflects the terms of and liability for the account, the consumer’s identity, the consumer’s performance and other conduct with respect to the account.
 - The definition of “integrity,” among other things, requires that a credit limit, if applicable to the information reported to a CRA by a furnisher, be furnished. It also requires furnishing information listed in the guidelines,

¹ Federal Reserve Board, Office of the Comptroller of the Currency and Office of Thrift Supervision.

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the absence of which from a report to a CRA would be likely materially misleading.

- Requires financial institutions to establish reasonable policies and procedures to ensure the accuracy and integrity of consumer information that they furnish to a CRA
- Includes guidelines that financial institutions must consider when developing their policies and procedures for ensuring the accuracy and integrity of information that they report to CRAs
- Identifies the circumstances under which a furnisher must reinvestigate disputes about the accuracy of information contained in a consumer report upon the request of the consumer (e.g., disputes regarding the consumer's liability, performance and terms of a credit account)

The FDIC also approved the issuance of an advance notice of proposed rulemaking (ANPR) under Section 312 of the FACT Act. Among other items, this notice seeks to obtain information to assist the FDIC and other Agencies in determining whether to issue revisions to the guidelines for accuracy and integrity of furnished information to delineate circumstances under which the furnisher would be expected to provide an account opening date to promote the integrity of the furnished information.

A copy of the final rule and the notice of proposed rulemaking, as issued by the FDIC, 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.