

EFMLG Sub-Group on Signing Authorities

The second meeting of the Sub-Group was held in Dublin on 25th February 2005.

The Sub-Group concluded that a Best Practice Statement should be drawn up, the aim of which would, inter alia,

- achieve a common approach in so far as practicable,
- establish at the outset satisfactory evidence of authority for each jurisdiction and dispense with the need for further enquiries,
- provide a clear and unambiguous description of the scope of the authority, and
- avoid externalisation of internal controls.

As a first step in the process, the Sub-Group has drawn up a draft Power of Attorney (Document A attached) which might constitute at least one acceptable authorisation procedure, subject, of course, to such amendments as may be necessary to comply with the laws in individual jurisdictions. The Sub-Group would appreciate the comments of the members of the EFMLG by ___ March, 2005. In addition to the general comments on the Power of Attorney, the Sub-Group would also appreciate the comments of the members on the following specific issues.

- necessity to obtain evidence of the donor's power to grant the Power of Attorney (paragraph 1 - "and being so empowered by its constitution")
- nomination of attorney(s) (jointly or severally) (paragraph 1)
- description of 'treasury/capital markets business' (paragraph 1(i))
- description of types of transactions (paragraph 1(i) (a) and (b))
- description of master agreements (paragraph 1 (ii) (a) and (b))
- reliance on power of attorney without further enquiry (paragraph 3)
- revocation and duration (paragraph 4)
- execution requirements of Power of Attorney in each jurisdiction.

Finally, it should be mentioned that the Sub-Group having again examined examples of inadequate and ambiguous authorisations concluded that copies of same should be circulated to the members to highlight the potential legal risk involved (Document B attached).

Helen Moran
Chairman of the Sub-Group