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Contact person: Mrs. C. Bhargarvan
E-mail: secretariat@efmlg.org

FX TRANSACTIONS NOT GOVERNED BY A MASTER AGREEMENT - ISSUES NOTE

Whilst it is ideal for foreign exchange forward and spot transactions to be made subject to master agreement like the ISDA, there are a good number of FX trades which may not fall under any master agreement. This could be because for example the counterparty has no interest in executing an ISDA master.

The IFEMA agreement may be an alternative. Until the IFEMA is signed upto, one could incorporate the printed form of the IFEMA into the confirmation. This is where it become more difficult. As the confirmation issuance procedure becomes automatised, there will be less and less scope to incorporate anything more than the economic terms into the confirmations.

At the same time, there is no market practice established for EU banks.
If you look at page 2 to the Guide to the IFEMA, it mentions that "It is standard practice for market participants in the United States market to execute the IFEMA in the form of a Master Agreement, and participants in the London market will also frequently execute the IFEMA in the form of a Master Agreement. In the London market, however, in the absence of such execution, the IFEMA Terms (in the form currently published by the BBA) will be presumed to apply if one of the Parties is acting through an office in the United Kingdom unless there is a netting agrement between the Parties applicbale to FX Transactions......"
If a European bank does not book its FX trades in its London office, then it is not entirely clear whether we can rely on the presumption that the IFEMA terms apply.