

17 December 2008

Dear Sir/Madam,

### **Recommendations on Best Practices in Relation to Dealing Mandates**

We are aware that many participants in the over-the-counter (OTC) derivatives market still send their dealing mandates to dealing firms. These dealing mandates serve to limit the authority of the sender's own individual employees to trade, invest and authorise settlement-related instructions on the sender's behalf.

These limitations may take a wide variety of forms. For example, the dealing mandate may specify, amongst others, that the authority of particular employees is limited to specific types of derivative products; or to particular currencies; or to certain maximum notional amounts. The dealing mandate may also require that the receiving firm indicate its acceptance of these limitations by returning a signed acknowledgment.

The SFEMC is of the view that the best practices require each market participant to take responsibility for ensuring that its own staff adheres to its own internal policies and controls. Such dealing mandates attempt to shift the burden of enforcing compliance with internal policies and controls from the mandate issuer to the recipient dealing firm. This is inconsistent with best practices in the OTC derivatives market. Further it may raise legal issues in relation to enforceability.

The view of the SFEMC on this matter is consistent with (1) the views of the New York-based Foreign Exchange Committee as expressed in its letter dated July 14, 2005, and (2) Recommendation No. 3 of the Foreign Exchange Transaction Processing: Execution to Settlement Recommendations for Non-dealer Participants. Please refer to the attachments for further details.

A market participant receiving a dealing mandate from another market participant, may wish to promptly return the dealing mandate and respond in writing to the sender stating that:

(1) it is inconsistent with best practices in the OTC derivatives market for dealing firms to accept and retain such dealing mandates from its trading counterparties;

(2) the recipient does not accept or assume any obligation to monitor compliance with the restrictions or limitations set out in the sender's dealing mandate; and

(3) the recipient will not be liable or responsible in any way for any failure to monitor or ensure such compliance.

This recommendation is not intended to constitute a set of prescriptive requirements or recommendations, nor is it intended to have any contractual or legal effect. The SFEMC, its member firms and the representatives of such member firms on the SFEMC, expressly disclaim liability for any negligence errors or omissions in such recommendation and gives no warranty of any kind, whether implied, express or statutory in respect of such recommendation. Market participants are encouraged to obtain their own compliance and specialist advice, and to conduct their own assessment to determine the conduct they will adopt to satisfy their obligations under the law and to accord with market best practices.

Yours sincerely