THE FOREIGN EXCHANGE COMMITTEE

in association with

THE BRITISH BANKERS' ASSOCIATION

and

THE CANADIAN FOREIGN EXCHANGE COMMITTEE

and

THE TOKYO FOREIGN EXCHANGE MARKET PRACTICES COMMITTEE

THE 1997

INTERNATIONAL CURRENCY OPTIONS MARKET (ICOM)

MASTER AGREEMENT

GUIDE

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International Currency Options Market Master Agreement Guide (1997)

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INTERNATIONAL CURRENCY OPTIONS MARKET
MASTER AGREEMENT GUIDE (1997)

I. INTRODUCTION

Following the publication in August, 1985, of "LICOM Terms," which were intended to reflect and to encourage good market practice and to reduce the need for specific legal documentation between participants in the London interbank over-the-counter currency options market, the market continued to evolve internationally. By 1989, it became apparent that the original terms did not adequately reflect market practice. In particular, the number and diversity of market participants had increased substantially, and new practices had been adopted, such as volatility quoting, which were not envisaged in 1985.

Accordingly, in May, 1989, the British Bankers' Association ("BBA") re-established, through its Foreign Exchange Committee, a Working Party to liaise with market interests, including the Foreign Exchange and Currency Deposits Brokers' Association, with a view to updating the 1985 terms and to provide guidance as to market practice. The Working Party was comprised of members representing a broad spectrum of international financial institutions. In addition, emphasis was placed on the international acceptance of the revised terms, and a new title was developed: International Currency Options Market Terms and Conditions - "ICOM Terms." The Bank of England was represented as an observer on the Working Party.

During this same period, a similar effort was underway in the United States. In early 1986, the (U.S.) Foreign Exchange Committee issued draft Recommended Terms and Conditions for Dealing in the United States Market - "NYICOM Terms," which were drafted by the Financial Markets Lawyers Group. Both groups are sponsored by but independent of the Federal Reserve Bank of New York, and their members are from institutions which participate in the interdealer foreign exchange market. The NYICOM Terms, which were based upon, and substantially similar to, the original LICOM Terms, were intended to reflect general market practice in the United States. Over a period of time, the NYICOM Terms were retitled "USICOM Terms," for United States Interbank Currency Options Market Terms.

Although the USICOM Terms generally reflected market practices in the U.S., they did not address the increasingly important issue of counterparty credit risk and, in particular, the substantive rights and obligations of the parties upon (i) the nonperformance of an option by one of the parties, (ii) the insolvency of one of the parties or (iii) the occurrence of force majeure or some other event which makes it illegal or impossible for one of the parties to perform. The USICOM Terms also did not provide a method for closing out and liquidating options upon the occurrence of one of these events. In 1990, the USICOM Terms were revised into a draft form of master agreement, which attempted to reflect market practice with respect to the formation, exercise and settlement of options (including such matters as net cash settlement and automatic exercise), as well as set forth the substantive legal rights and obligations of the parties.

In the summer of 1990, representatives of the Working Party and the Financial Markets

Lawyers Group met to resolve the differences between the ICOM Terms and the USICOM Terms and to develop a single document for use in the international over-the-counter foreign currency options market. The result was the International Currency Options Market Master Agreement ("Original ICOM") which was published in the U.S. in April 1992 and in England in August 1992. Following publication of Original ICOM, the same representatives met to develop a master agreement for spot and forward foreign exchange. That agreement, the International Foreign Exchange Master Agreement ("IFEMA") was published in 1993.

Because the foreign exchange markets are continually evolving, and because IFEMA reflected new thinking about certain issues, IFEMA differed in certain respects from Original ICOM. For that reason, the two groups decided to revisit and update ICOM. The revised form (the "Master Agreement" or "ICOM") should be considered as reflective of normal market practice for international interdealer transactions and as appropriate for adoption by market participants as the standard agreement for dealing in this market.

At the same time they worked on the updated ICOM, the two groups decided to prepare a single form of agreement on which parties may document foreign exchange spot and forward transactions as well as currency options. That agreement, the Foreign Exchange and Options Master Agreement ("FEOMA") is being published at the same time as ICOM. Users of FEOMA may benefit not only from the ease of documenting multiple related transactions under a single agreement but also from an ability under the laws of many countries (including the U.K. capital adequacy requirements) to net exposures under their cash, forward and options transactions. Representatives of the Canadian Foreign Exchange Committee and the Tokyo Foreign Exchange Market Practices Committee assisted in these efforts.

The Working Party and the Financial Markets Lawyers Group have confined themselves to practices in the interbank and professional markets, and have not been directly concerned with the terms and conditions upon which individual institutions may choose to deal with their customers (although the Master Agreement could be used in such circumstances). Banks and other professional market participants are, of course, free to deal with each other on the basis of other terms or agreements if they wish, but should consider themselves under an obligation to make clear to each other in what way their terms or agreements differ from the Master Agreement.

It will be standard practice for market participants in the United States market to execute Original ICOM or ICOM in the form of a Master Agreement. In the London market, the Original ICOM Terms or new ICOM Terms are presumed to apply if one of the parties is acting through an office in the United Kingdom. Nevertheless, parties acting through such an office may wish to consider dealing under a Master Agreement, for the benefits derived from a master agreement under the terms of the U.K. capital adequacy requirements.

The following sections of this Guide to the Master Agreement are intended (i) to provide further clarification of normal market practice and (ii) to explain various provisions of the Master Agreement with respect to currency options covered thereby ("Options") and the significance of their inclusion in the Master Agreement. Therefore, this Guide should be read carefully. Although the Master Agreement does, and is intended to, stand on its own as a legal document, the Guide

provides important commentary on current market practice and the Master Agreement.

II. MARKET PRACTICE

A. Price Quotation

There are two generally accepted methods of price quotation - Premium and Volatility. In each case, the counterparties shall agree upon:

Option Style (American or European),
Call Currency and Amount,
Put Currency and Amount,
Expiration Date,
Expiration Time,
Premium Payment Date,
Settlement Date, and
Strike Price.

Counterparties should also agree upon whether they are entering into a contemporaneous foreign exchange transaction (commonly known as a delta hedge).

Price quotation should be in the form of either:

(a) a Premium, where the counterparties agree upon the above terms and on how the premium price should be expressed, e.g. as a percentage of either currency or as one currency in terms of the other (it is also necessary to agree upon a spot rate in the case of a Premium quotation where a delta hedge forms part of the trade); or

(b) Volatility, where the counterparties agree upon the above terms and that the Volatility be expressed as a percentage per annum. It is the factor which, when combined with the Spot Rate, interest factors of the Currency Pair concerned, the days to expiry of the Option and the Strike Price, is used to compute the Premium.

An Option is not a legally binding contract until, among other things, the Premium has been agreed.[1] Therefore, to ensure the ongoing viability of the Volatility method of dealing, it is incumbent on the counterparties to agree on the Premium as soon as possible, and it is imperative that the calculation of the Premium accurately reflect the agreed Volatility and market conditions at

[1]The Master Agreement contemplates, however, that an Option is a legally binding contract before the Premium is paid. See Section III.D, below.

the time Volatility was agreed. In the event of a dispute that cannot be resolved between the counterparties through good faith negotiation (or, in the first instance, by reference to recordings of conversations between the parties during which pricing was discussed), prompt reference to mutually acceptable third-party arbitration is suggested. Market participants should note that, as Premium calculation differences are more likely to occur in transactions involving American Style Options, due care should be exercised in entering into such Options.

In addition, when trading Volatility, it is necessary that a spot rate be agreed upon by the counterparties immediately upon entering into the Option. This forms the basis of the underlying foreign exchange transaction (delta hedge), if any.

B. Quotation of Expiration Dates

Generally, there are two methods for quotation of Expiration Dates - quotation of straight Expiration Dates and quotation of Expiration Dates by calendar month.

Straight Expiration Dates

An Option quoted for straight periods (such as 1 month, 2 months, etc.) has as its final Expiration Date the date preceding the equivalent forward date (as dealt in the interdealer foreign exchange market) that will result in settlement on the forward date, if it is exercised on the Expiration Date. If there is more than one solution, the furthest date from the Trade Date will be the Expiration Date.

Example:

Today's date: March 4
Spot date: March 6
1 month FX date: April 6

The Expiration Date for a one-month Option quoted on March 4 will be that date which will result in a Settlement Date of April 6, i.e., April 4, (assuming no weekends or holidays between). To avoid misunderstanding, in the case of periods under one month, it is recommended that the parties refer to an actual date.

Expiration Dates by Calendar Month

Currently, it is market practice to quote for expiration in a particular month without reference to the actual date. In these instances, it is generally understood that the Expiration Date of the Option is the Monday before the third Wednesday of that particular month.

Expiration on Non-Business Days

Although the Master Agreement does not provide that the Expiration Date must be a Business Day (i.e., a Local Banking Day for the office of the Seller that has written the Option), this will customarily be the case. However, some dealers regularly sell Options with Expiration Dates that are not Local Banking Days for their applicable Designated Office. (Similarly, some dealers will accept Notice of Exercise of European Style Options on a non-Business Day.) If the Expiration Date is not a Local Banking Day for the Seller's Designated Office (or if the Seller is not willing to accept Notice of Exercise of a European Style Option on a non-Business Day), it is incumbent upon the Seller to make other arrangements (such as designating a different office or an agent for receipt) to enable the Buyer to exercise its Option. In these circumstances, the Seller should notify the Buyer of such arrangements as soon as possible and reconfirm them to the Buyer prior to the Expiration Date.

C. Confirmations

The significant terms of an Option should always be established by the parties at the time the Option is entered into. The agreement of the parties on those terms will be set forth in the Confirmation. However, there may be matters relating to an Option that are not required to be set forth in the Confirmation. Market participants are encouraged to include information as to such matters in the "Other Terms and Conditions" section of the Confirmation. The definition of "Confirmation" provides that a Confirmation may contain other matters that the parties may specify in a Confirmation. That may be particularly necessary for exotic types of Option, such as Barrier Options.

As in the spot and forward currency markets, the prompt exchange of Confirmations (preferably electronically) and their immediate and thorough checking upon receipt (and querying where necessary) is vital to the orderly functioning of the market place, as well as providing a principal defense against many types of fraud. The Option markets are more complex than the cash markets because of the greater number of parameters that need to be specified for each transaction and the different types of Options that may be transacted. This additional complexity reinforces the requirement for Confirmations to be issued promptly. Since, however, Confirmations with respect to Options often contain terms other than the economic terms of the Option, instead of the parties' exchanging confirmations, it is common for one party to send a Confirmation for the counter-signature of the other party. It is suggested that brokers also send to the counterparties Confirmations of any Options which they arrange. If there has been a misunderstanding between the parties as to the Option terms, this will usually be discovered upon the review of the Confirmation or Confirmations. The non-receipt of an expected Confirmation or any inconsistencies or inaccuracies should be queried or objected to within the time period recognized by local market practice.

A recommended form of Confirmation is included as an example in Appendix A to this Guide. Market participants (including brokers) are encouraged to follow the format and terminology suggested in order to reduce the risk of misunderstandings.

Market participants frequently enter into a contemporaneous delta hedge at the time they enter into an Option (either with the Option counterparty or a third party). It is market practice (and market participants are encouraged) to separately confirm such transactions. In addition, it is suggested that brokers send confirmations of any delta hedges which they arrange to the parties involved.

Finally, market participants should indicate at the beginning of negotiations, and prior to entering into an Option, in which way their dealings and the formation, exercise or settlement of the relevant Option will differ from established market practice. Similarly, brokers should be mindful of, and adhere to, market practice with respect to the formation of Options and their dealings with Option counterparties (including the issuance of Confirmations in the recommended form).

III. MASTER AGREEMENT PROVISIONS

A. Definitions

For the most part, the definitions used in the Master Agreement are those commonly used by currency options market participants. However, because of the nature of the document (i.e. the form of a master agreement) and because an attempt has been made to define some common terms and phrases which have not heretofore been defined, some of these definitions deserve comment.

1. "Base Currency" is defined as the currency specified by a party on the Schedule to the Master Agreement. Upon an Event of Default, or some other event, which results in the liquidation of outstanding Options, the Base Currency of the Non-Defaulting Party is the currency in which the payment will be calculated and, probably, paid. (See Section III.H.5 and III.H.8 hereof.) It is expected that each party will have a single currency in which it prefers to receive settlement: For example, for U.S. market participants, this will likely be U.S. dollars. U.K. market participants entering into Master Agreements should specify Pounds Sterling as their Base Currency as a U.K. liquidation of a company is conducted in Pounds Sterling (i.e., all claims must be made, and all debts and credits are determined, in Pounds Sterling). The U.K. Terms provide that, if there is no writing between the parties, the Base Currency will automatically be Pounds Sterling.

2. "Business Day" has alternate definitions depending upon the context in which it is used. The Working Party/Financial Markets Lawyers Group found that a single definition would have affected, rather than reflected, market practice.

3. The Buyer of an Option (sometimes referred to as the "purchaser" or "holder") is defined as the owner of the Option. The Buyer may be either the original buyer, an assignee thereof or a subsequent assignee. In any event, for Options between counterparties to be subject to the

Master Agreement, the parties must have executed the Master Agreement. If an Option is assigned by a Buyer to a party who has not entered into the Master Agreement with the Seller, the assignee will not have the rights and obligations with respect to automatic exercise, net cash settlement, set-off and termination, and liquidation and close-out set out in the Master Agreement. (Section 11.2 of the Master Agreement provides that neither party may assign nor delegate its rights or obligations, respectively, to a third party without the prior written consent of the non-assigning party.)

4. Counterparties are expected to specify their Designated Offices in Part II of the Schedule attached to the Master Agreement. These are the respective offices of the parties that will deal Options and whose transactions will be subject to the provisions of the Master Agreement.

5. The Effective Date of the Master Agreement is the date the Master Agreement is dated. The Working Party/Financial Markets Lawyers Group recommend that the parties date the Master Agreement the date the Agreement is signed. This date may be important in the event one of the parties becomes insolvent, as some jurisdictions will not give effect to an agreement entered into within a "suspect period" prior to the date of any insolvency proceeding. If the parties wish the Master Agreement to cover transactions entered into before the Effective Date of the Agreement, they should do so in Part I of the Schedule pursuant to Section 2.1 (Scope of the Agreement).

6. The definition of "European Style Option" provides that it is an Option which may be exercised only on its Expiration Date. After considerable discussion among the Working Party/Financial Markets Lawyers Group it was agreed that few European Style Options are exercised prior to this time and that operational problems could result from the earlier exercise of European Options (although this problem was not considered significant). However, the definition does provide that the parties may agree on the acceptability of earlier delivery of Notice of Exercise of these Options. One transaction in which earlier delivery may be contemplated is a Barrier Option.

7. The Events of Default are generally credit-related events, including insolvency, non-payment and the disaffirmation or repudiation of an Option.

Involuntary bankruptcy proceedings are addressed in clauses (iii) and (iv). Clause (iii) covers such proceedings brought by a governmental authority or self-regulatory organization in the country of a party's organization or principal office; in this case, there is no grace period. Clause (iv) covers such proceedings brought by any other party (including a governmental authority or self-regulatory organization in a country other than that of a party's organization or principal office); in such a case, there is a grace period in which the defaulting party may attempt to have the proceeding dismissed. A breach of either clause (in the case of clause (iv), when matured) will result in automatic termination unless the parties have specified in Part X of the Schedule that "automatic termination" will not apply. The Working Party/Financial Markets Lawyers Group believed that this extreme remedy was appropriate only for proceedings brought by a party's principal regulator.

If the parties are using the ICOM Master Agreement, they may elect in Part XI of the Schedule to have Section 11.14 apply. If Section 11.14 applies, a party may request adequate assurances from its counterparty as to the counterparty's ability to perform an Option. If no such

assurances are forthcoming, or the relevant assurances are not, in the good faith opinion of the party requesting the assurances, adequate, then two Business Days after the request for adequate assurances has been given that party may close out and liquidate all outstanding Options. Such a provision protects a party when it has genuine and valid concerns with respect to the ability of its counterparty to perform, even though no other Event of Default has occurred. The concern may be triggered by, for instance, unconfirmed information about the counterparty circulating in the market, the action of a rating agency or the acknowledged credit problems (such as the filing of a petition for bankruptcy or the occurrence of some other insolvency proceeding) of a parent, affiliate or subsidiary of the counterparty.

This provision requires that the request for adequate assurances must be reasonable given all the facts and circumstances. If, for example, shortly before the Expiration Date of an Option, the Seller of an Option had defaulted on an obligation to the Buyer which arose out of a transaction not covered by the provisions of the Master Agreement (for example, a securities transaction), it might be reasonable for the Buyer to request adequate assurances of the Seller's ability to perform the Option should the Buyer exercise the Option. On the other hand, it would probably be unreasonable of the Seller to request adequate assurances of a Buyer's ability to perform an unexercised Option which is deep out-of-the-money and has an Expiration Date two months in the future. Similarly, what constitutes adequate assurances in any given situation will depend upon a number of factors, including the reason for the requesting party's concern and request, and whether the party from whom adequate assurances are requested is a Buyer or Seller (or both). For example, if the party which is requested to provide adequate assurances is a Seller of in-the-money Options who has already defaulted on other obligations, adequate assurances may be the delivery of a guarantee or letter of credit to support such party's obligations or the deposit into an escrow account of the currency (or currencies) required to be delivered by the Seller upon exercise of the Option(s). If, on the other hand, a party's concern is triggered by unconfirmed rumors about the financial position of its counterparty, it may be sufficient for the counterparty to provide information to the requesting party proving those rumors to be false. In all cases, the determination of both the reasonableness of the request and the adequacy of the assurances should be fact intensive.

In addition, market participants may want to limit the circumstances that may give rise to a reasonable request for adequate assurances. Some market participants may want to use a side letter for this purpose. Such a side letter is neither required nor encouraged, and the provision described in Section 11.14 should be considered the standard language.

The failure to provide adequate assurances becomes an Event of Default only after two Business Days following the written request therefor. (Pursuant to the provisions of Section 8.5 of the Master Agreement, the party requesting such adequate assurances is entitled to suspend performance of its obligations with respect to any Option during the pendency of such request.)

Clause (viii) of the definition of "Event of Default" provides that it is an Event of Default with respect to a party if the representations and warranties made by such party in Section 7 shall have been false or misleading at the time they were made, provided that the counterparty has given one Business Day's notice of such fact. The representations and warranties made by a party pursuant to Section 7 are considered crucial to the validity and enforceability of an Option and a party's

obligations thereunder. Therefore, if the representations and warranties are incorrect, it is deemed a material breach of the Master Agreement thereby allowing the counterparty to effect the close-out and liquidation of all Options pursuant to Section 8.

8. "Expiration Date" (sometimes referred to as the "maturity date" or "expiry date") is defined as the date agreed to as such by the parties. The two methods commonly used for determining the Expiration Date are explained in Section II.B above. Section II.B also contains a discussion of non-Business Day Expiration Dates.

9. "Expiration Time" (sometimes referred to as the "cut-off time") is defined as the time agreed to as such by the parties. It is expected that, in keeping with current market practice, the Expiration Time specified will generally be either 10:00 a.m. (New York time) or, for transactions entered into in the Pacific rim, 3:00 p.m. (Tokyo time).

10. The definition of FX Transaction which appears in FEOMA includes not only transactions where the parties exchange the underlying currencies, but, if the parties so choose in Part VI of the Schedule to FEOMA, cash-settled transactions. These are usually forward transactions involving a currency where there is no local forward currency market. Where the parties decide to make cash-settled forward transactions subject to FEOMA, they must also determine how the close-out provisions should apply to such transactions, since the determination of a Close-Out Amount under Section 8.1(b)(i)(A) depends on knowing the amount of the forward Currency Obligation, and cash-settled forward transactions often provide that the amount of the forward Currency Obligation is not determined until two business days prior to the Value Date (using spot rates in effect at that time). Since cash-settled forward transactions often involve currencies for which there is no forward market, use of publicly available forward rates often will not be a viable alternative. Since the specific method may vary, Part VI of the Schedule adopts a general approach which allows the Non-Defaulting Party to choose its own method of valuing such FX Transactions for the purpose of close-out and liquidation so long as it is commercially reasonable. Used might be replacement cost, the loss incurred by the Non-Defaulting Party as a result of the default (including loss of bargain, cost of funding and loss incurred as a result of terminating or re-establishing a hedge), or a forward yield curve constructed by the Non-Defaulting Party in good faith using such factors as it may deem reasonable, such as interbank cash deposit rates, interest rate futures prices and interest rate swap rates. Of course, the Parties are free to adopt their own provisions in Part VI relating to close-out and liquidation of cash-settled transactions.

11. "LIBOR" is used throughout the Master Agreement to determine the rate of interest that is due on late payments, or the rate at which payments not yet due are discounted in the event of that Options are terminated and closed out. In Original ICOM, certain of these payments were based on the funding rate of the Non-Defaulting Party. The Working Party and the Financial Markets Lawyers Group determined to recommend the use of a market based rate, rather than a cost-of-funds rate, since market based rates are easier to prove, and LIBOR is a widely recognized rate. Where a LIBOR rate does not exist, the agreement looks to the average rate at which deposits in the applicable Currency are offered in the "relevant foreign exchange market." This will normally be the country of issuance of the relevant currency, other than in the case of the Ecu.

12. Notice of Exercise of an Option may be given by either telex, telephonic or other electronic means. However, in keeping with market practice, facsimile transmission is specifically excluded as an acceptable method of delivering a Notice of Exercise because of difficulties in ascertaining receipt. In order to avoid confusion, a Notice of Exercise is defined as being irrevocable. Section 5.1 contains the provisions regarding effectiveness of notices of exercise. Clause (i) of that section requires provides that a Notice of Exercise is effective only on a Business Day. Clause (ii) of that section recognizes that a Notice of Exercise is effective only on its Expiration Date, which is the date agreed upon in a Confirmation. Some Sellers will write European Style Options that expire on a non-Business Day. Since they know the date when the Option will be exercised, if at all, they can prepare for this eventually. In this regard, see the discussion under "Expiration on Non-Business Days" in Section II.B above. An American Style Option, on the other hand, is not limited to exercise on a specified day and the Working Party/Financial Markets Lawyers Group does not believe that market participants normally accept exercise of such Options on non-Business Days.

13. "Premium Payment Date" is defined as the date agreed to as such by the parties. Generally, the Premium Payment Date will be the Spot Date for the Currency Pair (i.e. the currencies which will be exchanged upon the exercise of an Option). However, for some Options, the Premium will be payable in a currency other that the Put Currency or the Call Currency. In addition, certain Options (such as those commonly referred to as "Boston Options") call for payment of the Premium at a later date (in the case of Boston Options, on the Exercise Date of the Option). In these situations, it is imperative that market participants specifically agree on the Premium Payment Date. Market practice is that the Premium Payment Date is always specified in the Confirmation.

14. The term "Seller" has been used to describe the party that grants an Option. This is the term commonly used for such purpose, although the Seller is sometimes referred to as the "grantor" or the "writer."

15. Generally, the Spot Date will be the second Business Day after a transaction is entered into. However, this general rule is affected by domestic holidays and, at times, the respective principal financial centers of the currencies involved may be dealing for different Spot Dates. In addition, spot transactions in certain currencies, for example Canadian dollars and Mexican pesos, generally settle on the business day succeeding the date of the transaction. Therefore, the term "Spot Date" has been defined by reference to general usage by foreign exchange market participants.

16. "Spot Price" is used in two Sections of the Master Agreement: (i) Section 5, where it is used for purposes of determining the In-the-Money Amount, or intrinsic value, of an Option for purposes of automatic exercise (Section 5.3) and net cash settlement (Section 5.5), and (ii) Section 8, where it is used for the purpose of converting the settlement amount calculated upon the liquidation of an Option into the Non-Defaulting Party's Base Currency. In Section 5, the determination of Spot Price is made by the Seller, and in Section 8 it is made by the Non-Defaulting Party. In either case, the definition requires that such determination be made in good faith.

17. The term "Currency" is defined in ICOM to include not only the lawful currency of any country, but also any composite currency, such as the European Currency Unit or Ecu. The Working Party/Foreign Exchange Committee recognize that under the Treaty on European Union and the second stage of European monetary union, many European currencies and the Ecu would be replaced by a new currency, sometimes referred to as the "Euro." Plans for introducing the Euro are described in the *Green Paper on the Practical Arrangements for the Introduction of the Single Currency*, which was published by the European Commission on May 31, 1995. Under current proposals, there will be a period when existing national currencies and the new single currency will operate in tandem. Thereafter, national currencies in countries that have adopted the new currency will be replaced by the Euro. These proposals raise numerous issues of public international law which are beyond the scope of ICOM or this Guide. See generally, U.K. Financial Law Panel, *Response to the European Commission's Green Paper dated 31 May 1995 on the Practical Arrangements for the Introduction of the Single Currency*, October 1995. The parties to an Option under ICOM should be aware of developments which may affect Options settling after January 1, 1999 and should arrange their affairs accordingly.

B. General

1. ICOM governs all Options between two Designated Offices of the parties entered into on or after the Effective Date. Before using ICOM, the parties should agree in writing which Options then outstanding between any two Designated Offices are to be subject to the provisions of ICOM. In the case of the ICOM Master Agreement, the parties will complete Part I of the Schedule; in the case of the ICOM Terms, the parties will agree in a separate writing.

2. Section 2.2 states the general intention of the parties that the Master Agreement, the terms agreed between the parties with respect to each Option, and all Confirmations be considered a single agreement. It further states that the parties enter into Options under the Master Agreement in reliance upon these facts. The intent of these provisions is to provide a legal basis in some jurisdictions for the close-out, liquidation and netting of all Options (as provided by Section 8) upon the occurrence of an Event of Default with respect to one of the parties. These provisions are considered crucial in those jurisdictions to avoid the possibility that a trustee, receiver or conservator of an insolvent party would be upheld by a court in affirming and enforcing some Options (e.g. those which it holds as Buyer which are In-the-money) and rejecting and repudiating others (e.g. those as to which it is Seller), the practice commonly known as "cherry-picking."

3. An Option becomes a legally binding contract when the essential terms of the Option (Buyer and Seller, Premium, style, type, Strike Price, Put Currency and amount, Call Currency and amount, Expiration Date, Expiration Time and Premium Payment Date) are agreed by the parties. The Option will usually be concluded orally by the traders, in which case the Confirmation will be evidence of the contract.

4. Section 11.15 provides that Confirmations shall be deemed correct absent manifest error three Business Days after receipt by a party. Such manifest error may be evidenced by a tape

recording of the conversation of the traders who entered into a disputed Option or their back office personnel. Section 11.3 specifically provides for the tape recording of conversations between the parties and for the use of any such recordings as evidence in any court or in any proceeding. The User's Guide previously stated in Section III.B.3 that manifest error might be evidenced by the tape recording of the conversation of the traders who entered into a disputed Option. This statement was somewhat at odds with Section III.K.2, which stated that all tape recordings between the parties "are usually the best evidence of the essential terms of an Option." Upon further reflection, the Working Party/Financial Markets Lawyers Group believe that all tape recordings are some evidence of the agreement between the parties, and that no single piece of evidence should be deemed the "best evidence." The trier of fact is in the best position to give all evidence its proper weight.

C. The Premium

Section 3.2 provides for alternative courses of action in the event that a Premium is not received on the Premium Payment Date. As Premiums are sometimes paid late (due primarily to operational problems or mistakes), under appropriate circumstances a Seller should generally be willing to accept a late payment, and it is common practice in the market for a Seller to do so. However, where the failure to pay the Premium has not been remedied after a short period of time or is credit-related, the Seller may choose either to void the Option or to take the more drastic step of declaring an Event of Default. Regardless of the course of action chosen by the Seller, the Seller is entitled to recover its out-of-pocket costs and actual damages incurred, specifically including interest on the amount of any Premium (which would be calculated in the same manner as any other late payment) and any costs or expenses in covering its obligations (including a delta hedge). Section 3.2 provides for such recovery in the case of either a late payment or the decision to treat the related Option as void. Where the Seller chooses to declare an Event of Default, such amounts are recoverable under the provisions of Section 8.1(b)(i).

The fact that clause (ii) of Section 3.2 allows the Seller to declare an Option void for failure of the Buyer to pay the Premium does not indicate that an Option only comes into being when the Premium has been paid (e.g., that it is otherwise unenforceable for failure of consideration). The consideration for each Option is the mutual promises of the counterparties and the fact that the Seller relies on the existence of a contract in making its hedging determinations. Such mutual promises and reliance also justify a contractual agreement that the Premium will be paid in installments, or on a deferred payment date, such as the Exercise Date.

D. Discharge and Termination of Options

Section 4 of the Master Agreement provides (if the parties have so provided in Part V of the Schedule) for the automatic discharge and termination of Call Options written by both parties and Put Options written by both parties, provided that (i) the material terms of such Options are the same, (ii) Premiums with respect to such Options have been paid, and (iii) such Options have not been exercised. The effect of this Section is to net Options in the limited circumstances in which

Options can effectively be netted. The sole remaining rights and obligations of the parties with respect to Options discharged and terminated under Section 4, are to exercise that portion, if any, of the one of the Options that is not discharged and terminated and to settle such portion upon the exercise thereof, respectively. Section 4 effectively allows counterparties to close out existing Options or to reduce their exposure to each other by entering into offsetting Options. Nevertheless, counterparties are encouraged to close out existing Options or to reduce their exposure to each other primarily by terminating existing Options, rather than entering into new Options, since entering into new Options may, depending upon the enforceability of the netting provisions, double credit exposure and capital usage.

Many Option dealers do not currently terminate offsetting Options, primarily because they do not have the operational capability to do so. Presumably, such parties will agree with their counterparties in Part V of the Schedule that offsetting Options will not be discharged or terminated.

E. Exercise and Settlement of Options

1. Section 5.1 states that the Buyer may exercise an Option by delivery to the Seller of a timely Notice of Exercise and that, subject to the automatic exercise provisions contained in Section 5.3, an Option which has not been exercised by its Expiration Time shall expire and become void. Accordingly, market participants should exercise particular care when clocks worldwide are changed seasonally. In addition, it is the Buyer's responsibility to ensure that a Notice of Exercise is addressed to, and received by, the department or area specified by the Seller in Part III of the Schedule to the Master Agreement.

2. Section 5.1(i) reflects the general market practice that the close of business occurs at 3:00 p.m. (local time of the Seller) and that a Notice of Exercise received after that time is deemed received on the next Business Day. In accordance with the definition of "Notice of Exercise," such Notice should be given by telephone or other electronic means, but may not be given by facsimile transmission.

3. Options may be entered into on the understanding that physical delivery of the Put Currency and the Call Currency will not take place and that the Option will be net cash settled by a payment to the Buyer of the Option's In-the-Money Amount (or intrinsic value) if the Option is exercised. The intrinsic value of an Option will be equal to the difference between the Spot Price and the Strike Price multiplied by the amount of the Put or Call Currency, as appropriate, to be exchanged upon exercise of the Option. Examples of the calculation of the intrinsic value of a United States Dollar/Deutsche Mark Call and Put are as follows:

For Calls:

Intrinsic value = (Spot Price - Strike Price) x Call Currency Amount

If Put Currency and Amount = DEM 1,600,000
Call Currency and Amount = USD 1,000,000
Strike Price = 1.60 DEM/USD[2]
Spot Price = 1.6850 DEM/USD

Then intrinsic value is:

(1.6850 DEM/USD - 1.60 DEM/USD) x USD 1,000,000
= .0850 DEM/USD x USD 1,000,000
= DEM 85,000

For Puts:

Intrinsic value = (Strike Price - Spot Price) x Put Currency Amount

If Put Currency and Amount = DEM 1,600,000
Call Currency and Amount = USD 1,000,000
Strike Price = .625 USD/DEM
Spot Price = .60 USD/DEM

Then intrinsic value is:

(.625 USD/DEM - .60 USD/DEM) x DEM 1,600,000
= .0250 USD/DEM x DEM 1,600,000
= USD 40,000

The level of the Spot Price at the time of exercise is, therefore, crucial to the ultimate value of the net cash settlement. As the Spot Price that is used for such purposes is determined in good faith by the Seller, the Buyer should ascertain at the outset how the Seller will determine the Spot Price.

4. If the parties agree in Part VI of the Schedule, Section 5.3 provides for automatic exercise of Options which are in-the-money at the Expiration Time and have not been exercised by delivery of a Notice of Exercise. This provision is not meant to be a substitute for the delivery of a Notice of Exercise by the Buyer, which is good market practice and is encouraged. For this reason, (a) an Option will be deemed exercised under this Section only if, at its Expiration Time, it has an In-the-Money Amount that equals or exceeds the product of (x) 1% of the Strike Price and (y) the amount of the Call or Put Currency, as appropriate, (b) the Seller determines the Spot Price that is used to calculate the In-the-Money Amount, and (c) the Seller may choose to settle an automatically exercised Option either by physical delivery (in accordance with Section 5.4) or net cash settlement (in accordance with Section 5.5). In certain countries, automatic exercise of Options may have

[2]In a Call, the Strike Price and Spot Price are quoted in terms of the amount of the Put Currency per unit of the Call Currency. In a Put, the Strike Price and Spot Price are quoted in terms of the amount of the Call Currency per unit of the Put Currency.

adverse tax consequences or may be deemed to affect the "optionality" of an Option transaction, which, in turn, may affect the characterization of the Option under local gaming laws. Parties should consult their counsel before determining whether automatic exercise should apply to them.

5. Because an exercised Option settles on the Spot Date for the Currency Pair, it is common practice for market participants to process an Option which is to be settled by physical delivery as if it were a spot foreign exchange contract, including the exchange of settlement instructions and confirmations. (If confirmations are issued upon the exercise of an Option, it is desirable that such confirmations indicate that the spot foreign exchange transaction relates to an Option exercise.) Notwithstanding such treatment, unless otherwise specified by the parties, an exercised Option remains an Option and the parties' rights and obligations with respect thereto will continue to be governed by the Master Agreement. For example, should an Event of Default occur with respect to a party between the Exercise Date and the Settlement Date for an Option, the counterparty's rights to close out and liquidate such Option (and other Options entered into by the parties) are those set forth in Section 8. Parties wishing to have settlement of an exercised Option be governed by an IFEMA Master Agreement between them may wish to amend Section 2.1 to the following effect: "In the case of exercised Options where settlement will occur by delivery of the Currency Pair, settlement will be governed by the International Foreign Exchange Master Agreement dated [date] between the parties." In this case, Options settled at their In-the-Money Amount would continue to be governed by ICOM.

6. Section 5.2 provides that, unless otherwise agreed by the parties, an Option may be exercised only in whole and not in part.

7. Options are settled by payment of the Put Currency amount by the Buyer to the Seller and by the payment of the Call Currency amount by the Seller to the Buyer. In each case, such payments shall be made in immediately available and freely transferable funds to the bank and account number specified by the recipient of the payment in Part IV of the Schedule attached to the Master Agreement. See Section 11.11.

8. Section 5.5 covers Options that are to be settled at their In-the-Money Amount. The In-the-Money Amount is determined based upon the Spot Price at the time of exercise, or as soon as practicable thereafter. Both traders ideally should agree on the Spot Price. Since Options may be exercised by electronic communication before the opening of business at the Seller's Designated Office, courtesy requires that the Spot Price by determined when the Seller's trader actually receives the Notice of Exercise.

F. Payment Netting

Section 6 contains two separate payment netting provisions. If agreed in Part V of the Schedule, Section 6.1 provides for the netting of any Premium payments that would otherwise be made by the parties in the same currency on the same date. If agreed in Part V of the Schedule, Section 6.2 provides for the netting of any payments, other than Premium payments, to be made by

the parties to each other in the same currency on the same date. These provisions do not alter the parties' legal rights and obligations with respect to the underlying Options (as Section 4 does). The intent of Section 6 is to reduce the number and size of payments required to be made by the parties in connection with their Options transactions.

G. Representations and Warranties: Contractual Status

1. The representations and warranties contained in Section 7 are made by each of the counterparties and are intended to satisfy each of the parties that (i) the Master Agreement and each of the Options entered into pursuant thereto are valid and enforceable obligations of its counterparty, (ii) no event which calls into question the credit of its counterparty (i.e. an Event of Default) has occurred, and (iii) the counterparty with which it is dealing is the party that is obligated to perform the Option and the terms of the Master Agreement.

2. Part XV of the Schedule contains four other representations that the parties may wish to add to their Master Agreement where one of the parties is subject to U.S. law or the law of any U.S. state.

(a) The FDICIA representation is designed to ensure that the Non-Defaulting Party may take advantage of the provision of the (U.S.) Federal Deposit Insurance Corporation Improvement Act ("FDICIA"), which ensures the validity of close-out netting agreements with a "financial institution" as defined in FDICIA or in regulations adopted by the Board of Governors of the Federal Reserve System.

(b) The ERISA representation is designed to ensure that Options do not violate the provisions of the (U.S.) Employee Retirement Income Security Act ("ERISA"), by ensuring that the counterparty is not, and is not acting for, an employee benefit plan as defined in ERISA.

(c) The third and fourth additional representations are designed to ensure that transactions do not violate the (U.S.) Commodity Exchange Act (the "CEA"), which is administered by the Commodity Futures Trading Commission (the "CFTC"), and governs the trading of futures contracts and options on futures contracts on U.S. commodity exchanges. The CEA also applies to the off-exchange trading of certain products and instruments. Section 2(a)(1)(A) of the Act, the so-called "Treasury Amendment," was adopted in 1974 and provides an exclusion from the Act for certain products as follows: "Nothing in this Act shall be deemed to govern or in any way be applicable to transactions in foreign currency . . . unless such transactions involve the sale thereof for future delivery conducted on a board of trade."

In 1986, the U.S. Court of Appeals for the Second Circuit held that an option on a foreign currency did not fall within this exclusion because it was not a transaction "in" a foreign currency until it was exercised. Commodity Futures Trading Commission v. The American Board of Trade. Inc. et al., 803 F. 2d 1242 (2d Cir. 1986). The Second Circuit followed this ruling in Dunn v. Commodity Futures Trading Commission, 58 F. 3d 50 (2d Cir. 1995), despite a contrary ruling by

the U.S. Court of Appeals for the Fourth Circuit in Salomon Forex, Inc. v. Tauber, 8 F.3d 966 (4th Cir. 1993) which held that the CEA did not apply to off-exchange foreign currency options with institutional customers. Unless the U.S. Supreme Court rules on this subject, there will continue to be uncertainty over whether currency options are subject to the provisions of the CEA.

If currency options are subject to that Act, then they may be offered in the U.S. only pursuant to a regulatory exemption from the general ban on the trading of such options contained in Section 4c(b) of the Act. The exemption most commonly relied upon for currency options is the so-called "Trade Option Exemption" contained in CFTC regulation Section 32.4. The Trade Option Exemption provides an exemption from the general ban for commodity options offered to a "producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products or byproducts thereof" where such party is offered or enters into the option transaction solely for purposes related to its business as such. As the Master Agreement has been drafted for use by the professional market, a representation addressing the status of the parties for purposes of assuring compliance with the Trade Option Exemption was believed to be unnecessary in the main body of the Agreement. However, in those cases in which the Master Agreement is made subject to the laws of the State of New York (or any other state in the United States) and either of the parties is not a professional market participant, the parties should consider the propriety of including in Part XV of the Schedule a representation as to the commercial status of the parties.

Another exemption which may be relied upon is the so-called Eligible Swap Participant Exemption contained in CFTC regulation Part 35. The Eligible Swap Participant Exemption provides an exemption from the off-exchange trading ban of the CEA for "swap agreements," including currency option agreements, entered into by "eligible swap participants."

3. Section 7.2 allows to the parties to add, in Part XVI of the Schedule, covenants that will apply to one or both parties. Other master agreement forms contain tax representations and covenants. The drafters of the ICOM Agreement determined that such representations and covenants are not standard in agreements covering FX Options. In many countries, the option premium and the exchange of currencies in connection with a foreign exchange transaction are not the type of payments that are subject to withholding tax. Parties should, however, consult with their own advisers to determine whether tax or other covenants are appropriate.

H. Default

1. The provisions of Section 8 should be read carefully and understood as they set forth the rights and obligations of counterparties upon the occurrence of an Event of Default with respect to either of them. (In addition, the close-out and liquidation procedures set forth in Section 8.1 will also be followed in the event that it becomes illegal or impossible for a party to perform its obligations under an Option under the provisions of Section 9 of ICOM.)

2. Section 8.1 sets forth the steps that a Non-Defaulting Party must take in closing out

and liquidating Options. It requires that the Non-Defaulting Party close out and liquidate all outstanding Options, except to the extent that such party believes in good faith that applicable law prohibits the close-out and liquidation of certain Options. This requirement is intended to support the statement made in Section 2.2 that the Master Agreement and all Confirmations (and, therefore, the Options which they evidence), Schedules and amendments to the Master Agreement constitute a single agreement between the parties. The single agreement concept is intended to prevent cherry-picking by a trustee, receiver or conservator of an insolvent Defaulting Party. Close-out means that Options are terminated. Liquidation means that a settlement amount is calculated in accordance with Section 8.1. It does not require the Non-Defaulting Party to enter into replacement transactions for the terminated transactions. The decision whether to enter into replacement transactions is left to the Non-Defaulting Party. If the Non-Defaulting Party determines to enter into replacement transactions, the settlement amount would be based on the cost of such transactions. If the Non-Defaulting Party determines not to enter into replacement transactions, the settlement amount would be based on market prices, as reflected in quotations from brokers or dealers or reports or other evidence of actual trades.

Section 8.1 further provides that, in the case of specified Events of Default relating to the insolvency of the Defaulting Party, unless "automatic termination" is specified as not applying to the Defaulting Party in Part X of the Schedule, close-out shall be automatic with respect to all outstanding Options. Where the law governing the insolvency proceedings of the Defaulting Party does not expressly allow close-out to take place after the occurrence of the relevant Event of Default, automatic termination is considered preferable as it is less likely to be challenged in the insolvency proceedings of the Defaulting Party. The parties may wish to use Part IX of the Schedule to add other automatic Events of Default if deemed desirable under the bankruptcy laws of any country. Such events might include dissolution, a general assignment or composition for the benefit of creditors, a resolution for winding-up, seeking or becoming subject to the appointment of an administrator, liquidator, conservator, receivers, trustee or custodian, analogous events, and other events recommended by local counsel.

3. An Event of Default may occur at several stages in the life of an Option:

(a) An Event of Default may occur with respect to Buyer after it has paid the Premium for an Option. If the only Options outstanding are those purchased by Buyer for which the Premium has been paid, an argument may be made that the Options should not be terminated. However, (1) the Seller is still subject to the Buyer's credit risk on the underlying foreign exchange transaction, and (2) since the Buyer will be entitled to receive the market premium, it will not suffer any loss. (The Buyer is not entitled also to receive restitution of any Premium previously paid with respect to a terminated Option.) If the Buyer is both the writer and purchaser of Options, it is also fitting that all Options are closed out and netted.

(b) An Event of Default may occur with respect to Buyer before it has paid the Premium with respect to one or more Options. Failure to pay the Premium is covered by Section 3.2 of the Agreement, which allows the Seller to treat the non-payment as an Event of Default or to treat the Option as void. If the Option is void, no Premium is due. If it is treated as a defaulted Option, Seller

is entitled to receive the unpaid Premium.

(c) An Event of Default may occur with respect to Seller before Seller has received the Premium. The Buyer should have the right under contract law to cancel the Option for anticipatory breach. If the Buyer does not cancel the Option, the Seller should have that right under Section 3.2.

(d) An Event of Default may occur with respect to Seller after it has received the Premium. Liquidation in this situation is covered in Section 8.1(b)(i)(A).

(e) An Event of Default may occur after an Option has been exercised but before settlement date for the Option. Under Section 8.1(b)(i)(C), each party is entitled to receive any unpaid amount due in settlement of the Option, with interest from the due date.

In the event that the close-out formula does not compensate the Non-Defaulting Party for all its costs and losses, including its cost of funding, its cost of terminating or re-establishing a hedge or the loss of its bargain, paragraph (D) of Section 8.1(b)(i) allows it to add the amount of such loss as determined by it reasonably and in good faith.

4. Clause (i) of Section 8.1(b) provides for the calculation and aggregation of settlement amounts for each party for each Option closed out. The Non-Defaulting Party should endeavor to value all outstanding Options on a single day. However, if this is impracticable, the calculation of the settlement amount should be completed as soon as practicable. With respect to Options purchased by a party, the settlement amount will be the current market premium (or replacement cost) for such Options. With respect to Options sold by a party, the only settlement amount will be any unpaid Premium and any interest on such unpaid Premium. With respect to exercised, but unsettled, Options, the settlement amount will be the unpaid settlement amount plus interest thereon. In addition, the Non-Defaulting Party is entitled to include any costs or expenses incurred in covering its obligations related to such liquidated Options, such as the obligations on a delta hedge. The determination of a settlement amount for each party in each instance must be made in good faith. Attached as Appendix B to this Guide is an example of a close-out under ICOM.

5. After calculation of each party's settlement amount, clause (ii) of Section 8.1(b) provides for the conversion of such amount into the Non-Defaulting Party's Base Currency. As such settlement amount may be in different currencies (corresponding to the different currencies in which Premiums and unpaid settlement amounts with respect to exercised Options were paid or payable), it is necessary to convert all such settlement amounts into a single currency if such amounts are to be aggregated (and netted pursuant to the provisions of clause (iii) of Section 8.1(b)). In addition, the Non-Defaulting Party is given the benefit of converting this settlement amount into its Base Currency (rather than the Defaulting Party's Base Currency). For purposes of this conversion, the Non-Defaulting Party should use the applicable Spot Rate.

6. Following the conversion and aggregation of each party's settlement amount, clause (iii) of Section 8.1(b) provides that such settlement amount will be netted, resulting in a single liquidated amount in the Non-Defaulting Party's Base Currency that will be due and payable as a settlement payment to the party having the larger aggregated settlement amount.

7. If one or both of the parties are holding any cash or non-cash collateral as margin or security for their respective obligations under outstanding Options or the Master Agreement generally, Section 8.2 allows the parties to set off the value thereof (following any necessary conversion into the Non-Defaulting Party's Base Currency) against the liquidated damage amount calculated under the preceding clauses.

8. Section 8.4 provides for the payment of the net amount calculated pursuant to Section 8.1 and Section 8.3. The Non-Defaulting Party is to send the Defaulting Party a notice of its close-out calculation as of the Close-out Date or as soon as reasonably practicable thereafter. Payment by the Defaulting Party of the settlement amount, with interest, is due by the close of business on the Business Day following receipt of such notice. In some countries, a judgment can only be rendered in the currency of that country. Therefore, Section 8.4 provides that, if required by applicable law, the net amount payable by one party to the other will be converted into a currency other than the Non-Defaulting Party's Base Currency. Any costs of such conversion will be borne by the Defaulting Party. If this amount is not paid when due, Section 8.4 provides for the payment of interest at overnight LIBOR in the Non-Defaulting Party's Base Currency for each day for which the amount remains unpaid. Section 8.8 also provides that Section 8 is not intended to limit, but rather that the rights provided for therein shall be in addition to, any other rights which the Non-Defaulting Party may have under applicable law, by agreement or otherwise, and that the Non-Defaulting Party is granted a general right of set-off with respect to all amounts owed by either party to the other, whether due or not due.

9. Section 8.5 establishes the right of one party to suspend performance of its obligations under any Option or the Master Agreement (i) if the counterparty is currently in default in the payment or performance of any of its obligations under an Option or the Master Agreement or (ii) during the pendency of a reasonable request to the counterparty to provide adequate assurances of its ability to perform such obligations. The default need not constitute an Event of Default. Therefore, if a Buyer has not paid a Premium on the applicable Premium Payment Date, even though the Seller has not sent written notice of non-receipt (or, if such notice has been sent, but two Business Days have not elapsed), the Seller is, nonetheless, entitled to suspend its performance with respect to other Options between the parties until receipt of such Premium.

I. Force Majeure, Act of State, Illegality, and Impossibility

Section 9.1 provides that, if either party is unable to perform, or is hindered or delayed in performing, its obligations in respect of any Option due to force majeure or act of state, or if it otherwise becomes illegal or impossible for either party to perform its obligations in respect of any Option, then either party may, after notice of the occurrence of such event, close-out and liquidate all affected Options. Although such events do not constitute Events of Default, the close-out and liquidation procedures to be followed are those provided for in Section 8. Either of the parties may take such action promptly upon notice to the other. Due to the volatile nature of the Option markets, it is important that the parties have the ability to liquidate positions promptly in order to limit their

exposure to transactions which one of the parties may be unable to perform. If Section 9 is applicable to the obligations of both parties, the parties should mutually agree upon the close-out and liquidation of Options.

Section 9.2 provides that, if Section 9.1 becomes applicable, the party which is unable to perform must use all reasonable efforts to transfer the affected Options to another of its Designated Offices, unless prohibited by law. Such transfer requires the consent of the other party. Such transfer will not be required if the party unable to perform would incur a loss other than immaterial, incidental expenses or the transfer would cause the other party to incur a material tax or other cost.

J. Parties to Rely on Their Own Expertise

Section 10 establishes that each of the parties has relied on its own expertise and judgment in entering into each Option and as to all other subsequent actions or matters related thereto or any other currency option or transaction. The intent of this provision is to protect each of the parties from a claim or action by the other party wherein it is alleged that one of the parties exercised influence or control over the decisions or actions of the other to the extent that it is, therefore, liable for losses, costs, expenses or damages suffered or incurred as a result of such decisions or actions.

K. Miscellaneous

1. The intent of Section 11.1 is to insure that any settlement payment to a party resulting from the termination and liquidation of Options arising either as a result of an Event of Default or force majeure, act of state or an event of illegality or impossibility, and whether pursuant to the operation of Section 8 or the judgment of a court, is made in the currency due. If payment is made in some other currency, such payment is deemed to discharge the obligation of the payor only to the extent that the payee could purchase the full amount of the currency due with the amount of the currency received on the business day following the date of receipt. If the amount of the currency received is insufficient to purchase the full amount of the currency due, the payor indemnifies the payee against any loss and, in any event, the payor indemnifies the payee against any costs incurred in purchasing the currency due.

2. Pursuant to Section 11.3, the parties agree to the tape recording of any telephone conversations between them and agree that such tape recordings can be submitted in evidence in any proceeding relating to any Option transaction. It is standard market practice that conversations between traders and between traders and brokers are recorded. This practice is encouraged, as such recordings can substantially reduce the number of disputes that arise between market participants and the time which it takes to resolve such disputes.

3. Under Section 11.12, amendments to the Agreement are normally effective only if in writing executed by each of the parties. The parties may, however, agree in a Confirmation to amend the Agreement solely with respect to the Option that is the subject of the Confirmation. Such

a Confirmation is effective if sent by mail, telex, facsimile or other electronic means from which it is possible to produce a hard copy, even if not signed. Section 11.12 is consistent with Section 2.4, which provides that, in the event of an inconsistency between the Agreement and a Confirmation, the Confirmation prevails. The only subjects that cannot be changed in a Confirmation are the method of confirming Options and whether Options may be discharged under Section 4.

4. Some parties may choose to deal Options with each other on a margined or secured basis. Section 11.13 provides that, if the parties have entered into an agreement providing for such dealings, then such agreement is incorporated into the Master Agreement and is subject to the terms thereof. The possibility of such an arrangement is also addressed in Section 8.2, which provides for the set-off of any collateral held as margin or security against the settlement payment otherwise calculated pursuant to Section 8.1. If the margin or security agreement conflicts with the Master Agreement, the Master Agreement would govern.

L. Law and Jurisdiction

1. Counsel has opined with respect to Old ICOM that the form of Master Agreement is valid and enforceable under the laws of the State of New York, England and Japan. The Working Party, the Financial Markets Lawyers Group and participating groups in other jurisdictions expect to obtain updated or new enforceability opinions on both versions of ICOM in these and other jurisdictions. It is expected that counterparties, and especially those physically located in the U.S.A, U.K. or Japan, will choose one of these systems of law to govern the Master Agreement and all Options entered into by the parties. It is also expected that parties will submit to the jurisdiction of either the courts in the State of New York, England or Japan consistent with their choice of governing law. However, as such submission to jurisdiction is non-exclusive, parties will be free to bring actions, suits or proceedings in other jurisdictions.

2. Pursuant to Section 12.4, each party explicitly waives any sovereign immunity it may be entitled to assert in any legal proceeding arising out of the Master Agreement.

M. Currency Option Confirmation

1. The recommended form of Confirmation, which is attached to this Guide as Appendix A, is substantially the same as the form of confirmation generally used by market participants to evidence options. All of the material terms of an Option are to be set forth in the Confirmation. Material terms which are not otherwise required to be specified in the Confirmation should be included in the "Other Terms and Conditions" section.

2. There are three headings in the form of Confirmation which are not used or defined in the Master Agreement - Trade Date, Expiration Settlement Date and Price.

The Trade Date is the day on which the parties agree to enter into an Option.

The Expiration Settlement Date is the last possible day on which an exercised Option could settle. In keeping with market practice, this will generally be the Spot Date for the Currency Pair as determined on the Expiration Date.

Price is the currency exchange rate or the percentage (of one of the Currency Pair) upon which the Premium of an Option is determined. See Section II.A above for an explanation of market practice with respect to price quotation.

3. Where dates are to be specified in the Confirmation (e.g. Trade Date), the market convention is to specify the day first (using two numbers), the month second (using three letters) and, finally, the year (using two numbers, being the last two numbers of the applicable year). For example, the date December 1, 1996 would be specified as "01/DEC/96."

N. Schedule

Each of the parties will complete a Schedule in the form attached to the Master Agreement. The Schedule contains particulars concerning each party, such as the address, telephone, telex and facsimile number, and contact person for notices and other communications, and each party's Base Currency. In addition, in Part II of the Schedule, the parties should designate their branches or offices whose transactions and dealings are intended to be covered by the Master Agreement. Either because of concerns with respect to applicable law or operational capabilities (which, for instance, may make the settlement, payment netting or set-off of Options between certain offices of the counterparties difficult), counterparties may choose to limit the number of Designated Offices covered by a particular Master Agreement and may choose to put in place more than one Master Agreement between them, each covering a different set of Designated Offices.

ICOM contains a number of new Schedule Parts, to enable the parties to tailor the Agreement to their particular needs. For example, Part V allows the parties to determine whether exactly offsetting Options will be discharged pursuant to Section 4 of the Agreement. Part VI allows the parties to determine if they wish Options to be exercised automatically if they are in-the-money by a specific amount or percentage. Part VIII enables the parties to choose a Threshold Amount for cross-defaults. Part IX allows the parties to add additional Events of Default Part X allows them to determine whether automatic termination will not apply to one or both of the parties under Section 8. The parties may determine in Part XI whether they will be obligated to give "adequate assurances" of their ability to perform. Part XIV allows a party whose residence is not the same as its counterparty's to designate an agent for service of process, Part XV allows them to add additional representations with respect to certain U.S. regulatory matters and Part XVI allows them to add additional covenants.

O. The Barrier Option Addendum ("Barrier Addendum")

1. A Barrier Options Subcommittee of the Working Committee/Financial Markets Lawyers Group has developed forms which are recommended for use with Barrier Options. There is a Barrier Option Addendum to a Master Agreement Schedule, a short-form Confirmation for use with such Addendum, and a long-form confirmation for use where the parties have not executed such a Barrier Option Addendum. The Barrier Addendum should be executed where the parties intend to enter into Barrier Options (e.g. Knock-In and Knock-Out Options). It contains definitions and other provisions which set forth the rights of the parties in relation to such Options. The Barrier Addendum has been prepared as an appendix to ICOM, although it could clearly be modified to serve as an appendix or schedule to another form of Master Agreement.

2. In each Barrier Option, the parties are expected to name a "Barrier Determination Agent," which will usually be either the Buyer or Seller. Some market participants suggested that the Barrier Determination Agent be the "non-aggressor" or the "market maker," i.e. the party which provided the price quotation for the Option. The Barrier Option Subcommittee believed that these terms were vague, since the "market maker" may change from transaction to transaction between the same two parties. Consequently, good practice demands that the Barrier Determination Agent for each Option be designated in the Confirmation.

3. It is the responsibility of the Barrier Determination Agent to determine whether a barrier has been breached, which determination must be made in good faith and in a commercially reasonable manner. There are a number of prerequisites for transactions which will be deemed to breach a barrier:

(a) They must be actual transactions in the foreign exchange markets. Quotations, whether firm or indicative, obtained from a foreign exchange broker or dealer or a quotation screen or other information source which does not provide evidence of an actual transaction, are not acceptable evidence that a barrier has been breached. The Barrier Option Subcommittee rejected a suggestion that an independent source of price quotations (e.g. three independent dealers) be used, because time is of the essence to both parties, so that they may avoid economic losses related to purchasing or selling hedges in rapidly moving and sometimes whipsawing spot markets, and obtaining independent price quotations is often time-consuming.

(b) Transactions known to be at off-market prices are not evidence that a barrier has been breached.

(c) Transactions must occur between 6:00 a.m. Sydney time on Monday and 5:00 p.m. New York time on Friday. Trades occurring outside those hours are never included, even if there is an active foreign exchange market outside of those hours (for example, because of a particular world event). Trades are considered valid even if they occur on a holiday in the country where the trade takes place.

(d) Transactions must of commercial size (the amount which is generally accepted by foreign exchange dealers for the applicable currency). The parties may wish, in the case of large transactions, to specify a larger minimum size for the breaching transaction, since Options may be exercised only in whole and not in part, and the existence of a single trade of commercial size may not indicate the ability to cover the exercise of the entire Option.

(e) Breaching transactions may include transactions of the Barrier Determination Agent with third parties, but not with its affiliates or other parties who are not dealing at arm's length or otherwise are not providing good faith fair market prices.

4. The Barrier Addendum provides that a Knock-In Event or Knock-Out Event has occurred if the Spot Exchange Rate is equal to or "beyond" the In-Strike or Out-Strike Price. The direction indicated by the term "beyond" will depend upon (a) the Initial Spot Rate (i.e. the Spot Rate at the time the Option was entered into), and (b) whether the Option is an "up and in," "up and out," "down and in" or "down and out" Barrier Option.

5. The Barrier Addendum contains a definition of the term "Initial Spot Rate." The Initial Spot Rate is not an operational term which is necessary for a Barrier Option. Nonetheless, the members of the Barrier Option Subcommittee believe the term should be included in Barrier Option Confirmations, since it is helpful for potential dispute resolution and risk management purposes. For example, to determine whether two Options with the same trade details (i.e. same strike, same type, same maturity and same out-strike or in-strike) are down-and-out calls or up-and-out calls, the parties must either specify the exact nature in the confirmation or indicate the level of spot rates at the time the Option was transacted. However, simply identifying the nature of the Option can be misleading. For example, a 1.40 DEM put that was transacted when the spot rate was 1.48 and knocks out when spot gets to or through 1.47 would usually be described as an up-and-out USD/DEM put, despite the fact that 1.47 is lower than 1.48. Good practice therefore suggests that the Initial Spot Rate at the time of the transaction be provided.

6. Under the Barrier Addendum, the Barrier Determination Agent is required to inform the other party (or the parties, if the Barrier Determination Agent is not one of the parties) of the occurrence of a Knock-In or Knock-Out Event. Good practice requires that, upon request of one of the parties, the Barrier Determination Agent provide evidence of the trade which breaches the barrier. Such evidence may include a taped telephone conversation, a written confirmation of a transaction, a printout of a trading screen or a quotation in writing, and may include evidence provided by the counterparty. The existence of a dispute between the parties over whether a barrier has indeed been breached does not affect the validity of the Barrier Determination Agent's determination that a barrier has been breached unless the Barrier Determination Agent itself decides, based upon a re-assessment of the available price information and information provided by the counterparty, that it is no longer able to conclude in good faith that the barrier has been breached.

7. The Barrier Addendum provides that Knock-In Options may be either American or European Style Options, as specified in the applicable Confirmation. Knock-Out Options must be European Options; they may be exercised only on the Expiration Date at the Expiration Time and

provided that no Knock-Out Event has occurred at or prior to the time of exercise. In the case of Knock-Out Options, the parties may choose to use an Exercise Time Window. If there is no Exercise Time Window, a Buyer may give notice of exercise prior to the Expiration Time, but such notice will not be effective if a Knock-Out Event occurs thereafter prior to the Expiration Time. If the parties have chosen to use an Exercise Time Window, then the Buyer may give notice of exercise up to one hour prior to the Expiration Time, and such notice will be effective even if the barrier is breached between the time of the notice and the Expiration Time. Nevertheless, a Notice of Exercise is irrevocable once given, notwithstanding the existence of an Exercise Time Window. An Exercise Time Window is sometimes considered to be desirable operationally.

8. The Barrier Addendum definition of "Spot Exchange Rate" includes cross rates. A cross rate is determined from two other exchange rates, e.g. the DEM/JPY rate may be derived from the USD/JPY rate and the USD/DEM rate. If the parties do not wish cross rates to be used to determine if a barrier has been breached (but instead to use only actual trades in the relevant currencies), it will be necessary to amend the definition of Spot Exchange Rate in the Schedule or to so specify in a Confirmation. It is the intention of the Barrier Option Subcommittee that a party using one or more cross rates to determine if a barrier has been breached must comply with a standard of "good faith" and must act in a "commercially reasonable manner."

9. The Barrier Addendum states that, unless otherwise agreed, a purchase and sale of the identical Barrier Option will not be discharged and terminated under Section 4 of the Master Agreement. Parties wishing Barrier Options to be offset under Section 4 should select the appropriate text in Section 4 of the Addendum that makes such offset applicable to such Options. It should be noted that, in addition to the factors listed in Section 4 of the Agreement that must be present in both Options, two Barrier Options may be discharged only if they have the same Barrier Determination Agent.

10. A user of the Barrier Addendum may wish to consider whether it would be appropriate to disclose to its counterparty that its ordinary course foreign exchange transactions and its activities in hedging or de-hedging its position under a Barrier Option may increase the probability that a Knock-In or Knock-Out Event will occur. Such disclosure might be added to the Barrier Addendum or to Confirmations for particular transactions, or might be provided in a separate disclosure statement sent to the counterparty before the commencement of transactions in Barrier Options, so that the disclosure may be tailored to the level of sophistication of the counterparty. Such disclosure might include all of part of the following:

(a) As part of its business, it regularly trades in the foreign exchange spot, forward, futures and options markets for its own account and for the accounts of other customers. Such trading may affect spot prices in the Currency Pair.

(b) It generally hedges its Barrier Option positions by buying or selling a quantity of the relevant currency, and may adjust (increase or decrease) its hedge as market conditions change during the life of the Options and it believes that it is more or less likely that a barrier will be breached. Such hedging and de-hedging activity may affect spot prices and may thus affect the probability of a barrier being breached.

All Option counterparties are expected to act honestly and in good faith. Use of such disclosure language does not justify foreign exchange transactions that are undertaken to manipulate the Spot Exchange Rate and not as part of bona fide, good-faith foreign exchange transactions, hedging or de-hedging.

February 6, 1997

APPENDIX A

EXAMPLE OF CURRENCY OPTION CONFIRMATION

To:_________

_____________ hereby confirms the following terms of a currency option:

Reference:
Trade Date (DD/MMM/YY):
Buyer:
Seller:
Option Style (European or American):
Option Type (Put or Call):
Call Currency and Amount:
Put Currency and Amount:
Strike Price:
Expiration Date (DD/MMM/YY):
Expiration Time:
Expiration Settlement Date (DD/MMM/YY):
Premium:
Price:
Premium Payment Date (DD/MMM/YY):
Premium Payment Instructions:
Other Terms and Conditions:

This Option is subject to the International Currency Options Market Master Agreement between __________ and ___________, dated as of __________,____.

Please confirm to us by return telex, mail, facsimile or other electronic transmission that the above details are correct.

APPENDIX B

ICOM Close-Out Example

Bank A, a U.S. bank ("Party A"), and Corporation B, a French corporation ("Party B"), have signed a New ICOM Agreement or otherwise have an agreement subject to New ICOM terms (in either case, the "Agreement"). Party A's Base Currency is the U.S. Dollar.

Party B files for bankruptcy on September 1, 1995 (a Friday). Party A learns of the bankruptcy on Tuesday, September 5. (Monday, September 4, was Labor Day, a U.S. bank holiday). In Part X of the Schedule to the Agreement, the Parties have not elected to disapply the automatic termination provision in Section 8 upon an Event of Default.

At the time of the bankruptcy filing, the parties had six unexercised Options and one partly performed exercised Option as follows (the FMV amounts in parentheses represent the current bid-ask spread for an equivalent Option on September 5, 1995):

1 B sold to A for 100 (premium due 12/1/95)(FMV 90-95 bid-ask)
2 B sold to A for 100 (FMV 90-95)
3 B sold to A for 100 (FMV 110-115)
4 A sold to B for 100 (premium due 8/15/95 and is past due)(FMV 110-115)
5 A sold to B for 100 (premium due 12/1/95)(FMV 105-110)
6 A sold to B for 100 (FMV 95-100)
7 B sold to A for 100. A exercised the option (JPY/DEM) on August 25. Resulting trade should have closed on August 29 [the 27th was a Sunday]. A delivered 730,900,000 yen in Tokyo on August 29, but the 10 million DEM were never delivered.

Termination

Because the Parties did not elect to disapply automatic termination under Section 8.1, all Options were terminated automatically on September 1 as of the time immediately preceding the institution of the bankruptcy proceeding. Section 8.1(b) requires Party A (the Non-Defaulting Party) to calculate in good faith, as of the Close-Out Date or as soon as reasonably practicable thereafter, a settlement amount for each Party. Although the Close-out Date was September 1, it probably will not be practicable for Party A to do its close-out calculations as of September 1, because (a) option prices as of September 1 may not be available on September 5, and (b) the market may have moved between September 1 and September 5 (since September 4 was a Business Day outside the U.S.), and September 5 prices will be a more accurate reflection of the cost to Party A of replacing the terminated Options.

Determining the Settlement Amount for Party A's Options

Party A bought the first three Options. Section 8.1(b)(i)(A) states that the settlement amount for each Option is the current market premium for the Option (in the case of an Option purchase, the offer side).

Option 1. Party A is entitled to the current market premium = 95. [8.1(b)(i)(A)].

Option 2. Party A is entitled to the current market premium = 95. [8.1(b)(i)(A)].

Option 3. Party A is entitled to the current market premium = 115. [8.1(b)(i)(A)].

Party A sold the next three options. Section 8.1(b)(i)(B) states that the settlement amount of each Option is any unpaid Premium.

Option 4. The Premium was due on August 15. Is there an Option? Under Section 3.2(ii), Party A had the right, within 48 hours after the Premium Payment Date, to terminate the Option or declare an Event of Default. It apparently did not terminate the Option, so it must have decided to accept late payment. Accordingly, there is an Option, and Party A is entitled to the overdue Premium ($100) with interest from August 15 to but excluding September 1 at overnight LIBOR. [8.1(b)(i)(B)].

Option 5. There is $100 in unpaid Premium, which is not due until December 1. Party A is entitled to $100 discounted from December 1 to but not including September 1 at LIBOR. [8.1(b)(i)(B)]

Option 6. Premium has been paid. Party A is entitled to 0.

Option 7. Party A is owed the DEM 10 million plus interest from August 29 to September 1 at a rate equal to overnight LIBOR, which will be it's cost to fund that amount of DEM. [8.1(b)(i)(C)].

Party A is entitled to any additional losses determined under Section 8.1(b)(i)(D).

The Premium payments owed to Party A are apparently already denominated in U.S. Dollars. Thus there is no need to convert the aggregate Premium amounts set forth above into dollars, which is Party's A's Base Currency, in accordance with Section 8.1(b)(ii). However, Party B owes Party A DEM 10 million, which must be converted into Party A's Base Currency of USD. At the exchange rate at which Party A could have bought USD with DEM on September 5, 1995, this amount is approximately $7,028,889.

Determining the Settlement Amount for Party B's Options

Party B sold the first three options. It is entitled to any unpaid Premium, with interest to the payment date if the Premium is overdue, or discounted from the Premium Payment Date, if the Premium is not yet due.

Option 1. The Premium is not due until December 1. Party B is owed $100 Premium, discounted from December 1 to but not including September 1, at LIBOR on September 1. [8.1(b)(i)(B)].

Option 2. Party B has already received the Premium, so the settlement amount = 0.

Option 3. Party B has already received the Premium, so the settlement amount = 0.

Party B purchased the next three Options, and is entitled to the current market premium.

Option 4. Party B is entitled to the current market premium for the Option = 115.

Option 5. Party B is entitled to the current market premium for the Option = 110

Option 6. Party B is entitled to the current market premium for the Option = 100

Option 7. Party B has already been paid with respect to the FX Transaction that resulted from the Option exercise, so settlement amount = 0

No currency amounts need to be converted to Party A's Base Currency.

Netting of Settlement Amounts

After settlement amounts are calculated for each Option, a net amounts must be derived. The net amount in the above example is shown on the following chart:

	Party A	Party B
Option 1	$95	$100 discounted
Option 2	$95	0
Option 3	$115	0
Option 4	$100 plus interest	$115
Option 5	$100 discounted	$110
Option 6	0	$100
Option 7	$7,028,889	0
Total	$505 + $7,028,889	$425
Total	$7,108,889	

Set off against Credit Support

If there were a Credit Support Agreement between the Parties, Party A would be entitled to set off the amount owed it against the amount of any collateral held by it. There is no such collateral in this case.

Notice of Settlement Calculation

Under Section 8.4, Party A should send Party B a notice of its calculation of the settlement amount. If Party B received such notice on September 5, it would be obligated to pay to Party A, on September 6, the net settlement amount with interest at overnight LIBOR from September 1 to but excluding September 6. To the extent such amount were not paid on September 6, it would bear interest at overnight LIBOR (or, if conversion is required by applicable law into some other Currency, either overnight LIBOR for such Currency or such other rate prescribed by applicable law).