

LEGAL INITIATIVES

The Financial Markets Lawyers Group (FMLG) plays an important role in the foreign exchange market by encouraging a greater understanding of the legal environment and recommending sound business practices. The group functions as a prime legal advisor to the Foreign Exchange Committee, and FMLG members actively participate in the Committee's projects. Especially noteworthy in 1999 were the FMLG's efforts to clarify force majeure provisions for the Committee and to provide guidance on Y2K contingency planning.

FMLG members include in-house lawyers who are specialists in foreign exchange at their commercial and investment banking institutions as well as legal staff from the Federal Reserve Bank of New York. An FMLG member from the Bank's legal staff attends all Committee meetings.

In addition to working with the Committee, the FMLG has maintained close working relationships with other industry associations and frequently joins with them on projects that have an impact on the foreign exchange market. In February, the group held a joint meeting in London with the British Bankers' Association. It has also collaborated with the International Swaps and Derivatives Association and the Emerging Markets Traders Association on projects relating to industry documentation. Recently, the FMLG has been supportive of the efforts of the European Central Bank to set up a financial markets legal group.

In 1999, the FMLG undertook a number of specialized projects, often in collaboration with the Committee. These efforts are summarized below.

- **FORCE MAJEURE**

An effort to update the force majeure provisions of international currency trading agreements was led by a working group of the FMLG. The purpose of the project was to clear up inconsistencies in the agreements that became apparent during the financial market disruptions of 1998. The recommendations transmitted to the foreign exchange market were to (a) shorten the waiting period before a party may liquidate affected transactions, (b) clarify the types of events that are covered, and (c) more precisely specify the party or parties entitled to liquidate transactions and make the necessary calculations.

- **Y2K: BEST PRACTICE**

The FMLG also initiated a project to develop Y2K best practice recommendations. This effort, which involved the assistance of representatives from the Committee and the Operations Managers Working Group, was designed to help market participants resolve contract settlement problems stemming from the century date change. The document that emerged from this initiative—*Y2K: Best Practices in the Foreign Exchange Market*—is reprinted on page 39.

- **REGULATORY MATTERS**

Both the Committee and the FMLG are sensitive to any legislative or other changes that might alter the regulatory treatment accorded the foreign exchange market under the Treasury Amendment. Throughout the year, the FMLG monitored events in Congress that might affect the market's regulatory status and provided the Committee with important guidance on legislative issues. When necessary, the FMLG helped write testimony for the Committee's use. The group also recommended that the Committee join coalitions with other industry groups and routinely provide written responses to questions of legislators and their staff—strategies that might help the Committee disseminate its views more broadly.

- **OPINIONS**

In 1999, the FMLG gathered legal opinions establishing the enforceability of the settlement and closeout netting provisions of the Committee's Master Agreements under local insolvency laws. The Master Agreements include the International Foreign Exchange Master Agreement (IFEMA), the International Foreign Exchange and Options Master Agreement (FEOMA), and the International Currency Options Market Master Agreement (ICOM). The FMLG also updated previously

received opinions on this issue. A list of opinions is available on the FMLG's web site, www.ny.frb.org/fmlg.

- **CROSS-PRODUCT NETTING AGREEMENT**

The FMLG, along with several other organizations, developed a form of agreement meant to permit cross-product netting. The agreement, published in February 2000, provides a tool that may be useful in managing counterparty risk across different financial product types and widely used master agreements.

- **COLLATERAL ANNEX**

The FMLG continues to work on a collateral annex, which is meant to provide market participants with documentation that they can use for collateral arrangements supporting obligations arising from Master Agreements. The annex is designed to be adaptable to the needs of individual users.

- **OTHER ISSUES**

The FMLG plans to pursue a number of other projects begun in 1999. The group is participating in an effort organized by the United Nations Committee on International Trade Law (UNCITRAL) to write a draft convention on the assignment of receivables. The FMLG has been offering suggestions intended to harmonize the draft with existing law. The group is also reviewing how a proposal to shorten the settlement schedule in the securities market will affect the foreign exchange market. Finally, technology issues remain an important concern for the FMLG even after the successful start of Y2K. Together with the Committee, the FMLG plans to follow the evolution of e-commerce very closely to determine whether participants in the foreign exchange market would benefit from best practice recommendations in this area.