

FROM :

FAX NO. :

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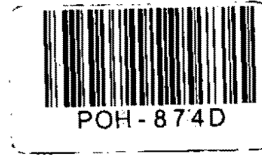
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1 March 2000

Our reference  
**RAM/MXB**  
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TO Tony Oppenheim FROM Myles Blewett  
COMPANY ICL Pathway FAX NUMBER **GRO**  
SUBJECT ICL Pathway

Number of pages (including this page) 3

I attach a copy of a letter we received from Slaughter & May yesterday concerning access to audit information, transaction times and statistical rounding. We will need to reply to this letter, but I do not intend to do so before we have had the opportunity to discuss and consider Pathway's position in relation to the audit and transaction time issues, including review of recent documents and correspondence which are relevant.

Please telephone me when convenient to discuss progress and the way forward (I will be in meetings this afternoon).

Regards,  
Myles Blewett

**GRO**

FROM :

FAX NO. :

01 Mar. 2000 12:21PM P2

# SLAUGHTER AND MAY

35 Basinghall Street, London EC2V 5DB • Telephone  • Fax   
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## FAX TRANSMISSION

Date: 29th February, 2000 Total pages (inc. this) 2  
Our reference: JRT/RAC Writer's telephone:   
From: Robert Chaplin 95110 FEB 29 16:39  
To: Iain Monaghan, Masons, London Receiving fax number:

Dear Iain,

### Outstanding matters

The purpose of this fax is to deal with three of the matters which are currently outstanding between our clients. Each matter relates to the interpretation of the provisions of the Codified Agreement.

In all three cases, the interpretation of the contract is clear (but is disputed by Pathway). To avoid these matters running on for an extended period of time, we think that it would be sensible to settle the legal interpretation of the contract on these points along the following lines (independently of any commercial concerns the parties may have). Once this has been done, our client will be able to consider a commercial renegotiation of the contract on these points.

#### 1. Access to audit information

The words "any third party" in clause 801.3 relate to anyone except POCL and Pathway. There are a number of arguments which can be based on other provisions of the Codified Agreement which support this position. However, it is not necessary to have reference to these as this interpretation is obvious.

#### 2. Transaction times

Again, the point here is clear. Paragraph 2.4 of Schedule F08 states that "Within EPOSS there shall be a number of different transaction types (e.g. relating to different POCL Products) for which the Contracted Transaction Time may differ. The table below shall be used to record the different Transaction Times."

It is clear from these words that each one of the transaction times is to be treated individually. The table under heading 3, in the minimum acceptable column, goes on to require that all the transactions in the table under paragraph 2.4 operate within the times specified, making the times for each transaction type individually binding.

Our clients are preparing a joint position paper where the factual background to this point is being set out and the parties' respective positions are also described. I suggest that they

A list of the partners and their professional qualifications is available for inspection at the above address. The partners are either solicitors or registered foreign lawyers.

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**SLAUGHTER AND MAY**

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continue to produce this paper independently of the discussion that we are having. If we can resolve this matter this will remove the need for this paper to be progressed.

I am informed that similar transaction time problems are occurring in a number of instances in relation to OBCS and APS. The same argument applies.

3. **Statistical rounding**

As you are aware, Pathway have advanced arguments to suggest that throughout the contract where a percentage is expressed without a decimal point after it (for example 100 per cent. rather than 100.0 per cent.) as a benchmark for a service level, that Pathway can round up from a number which is less than this integer but which is greater than the preceding integer.

We are unable to see any foundation for this argument - if a number is less than the target, the target has simply not been met and this result cannot be achieved through an adjustment of the statistic.

I look forward to hearing from you.

With kind regards.

Yours sincerely,

**GRO**

Robert Chaplin

GRO

GRO