

Joint Audit Committee

REGULATORY UPDATE

TO: Chief Financial Officers
Chief Compliance Officers

#09-08

DATE: October 15, 2009

SUBJECT: Power of Attorney Law Changes in New York

New York State recently amended its power of attorney statute which affects powers of attorney executed by individuals on and after September 1, 2009, while in the State of New York.

The new law, among other changes, imposes on an agent certain fiduciary and other duties and a “prudent man” standard of care. In addition, the new law requires that the short-form power of attorney contain verbatim certain specified risk disclosures, be of clear type of no less than 12 point in size, and be signed and notarized by both the principal and the agent in order to be effective. The new law does not affect powers of attorney executed prior to September 1, 2009, or powers of attorney executed by entities. However, powers of attorney executed by an individual on and after September 1, 2009, will have the effect of revoking all prior powers (including unrelated powers of attorney) granted by that individual, unless specifically stated otherwise in the power itself.

The JAC recommends that all FCMs consult with their attorneys and review the new law to determine the impact, if any, on their activities.

If you have any questions, please consult your DSRO.