

Title

FREQUENTLY ASKED ^ QUESTIONS

April 2012

Q. Is it acceptable for the members of a Limited Liability Company to give a power of attorney to one member to act on behalf of the LLC?

A. It may be acceptable depending upon the facts of the transaction.

Typically, the formation of a Limited Liability Company is memorialized by the members entering into an Operating Agreement. Most Operating Agreements identify a managing member or members who are responsible for various components of the LLC's day-to-day operation, often including transactions involving real property.

If there is no managing member or if the members wish to appoint someone else to sign on behalf of the Limited Liability Company, all of the members may give a Power of Attorney to the person or persons who will execute the documents relating to a particular transaction. The POA must refer to the specific property and transaction. In addition, you must inquire as to the reason the LLC is choosing to utilize the Power of Attorney. If you are not satisfied with the response you should call a member of our underwriting staff.

As with any Power of Attorney, it must be in recordable form and the original must be recorded as a standalone document before the deed or mortgage or other instrument(s) executed under it.

It is not acceptable for less than all members to sign the Power of Attorney. In addition, the Power of Attorney must be current; if it is more than 6 months since the POA was executed, a member of our underwriting staff should be consulted. The Attorney in Fact does not necessarily have to be a member of the Limited Liability Company although that is most common.

As always, feel free to address any questions to a member of our underwriting staff.