



F M L G | F I N A N C I A L M A R K E T S L A W Y E R S G R O U P

Meeting Minutes

Federal Reserve Bank of New York
33 Liberty Street
13th Floor

Thursday, February 1, 2018

8:30 a.m. – 10:00 a.m. (New York time)

Present: Syed Riaz Ali, Sarah Ashkenazi, James Brown, David Buchalter (by phone), Martha Burke, Maria Douvas-Orme, Luke Farber (by phone), Terence Filewych, Christina Getz, Jill Hurwitz, Glade Jacobsen, Robert Klein, Matthew Lillvis, Nancy Rigby, Jeffrey Saxon, Lisa Shemie, David Trapani (by phone), Bryan Woodard

Federal Reserve Bank of New York (“FRBNY”) participants: Christina Getz, Michael Nelson, Thomas Noone, Angela Sun, and Janine Tramontana

Other participants: Chinedy Ezetah (Citi), Nicole Gordon (Cboe Global Markets), Michael Wirgin (HSBC, by phone)

Bitcoin futures

Nicole Gordon and Lisa Shemie gave a presentation and led a discussion on Cboe Bitcoin Futures, which began trading on Cboe Futures Exchange (“CFE”) on December 10.

Annual antitrust reminder and charter review

FMLG Secretary Thomas Noone distributed copies of the FMLG Charter and the FMLG Antitrust Guidelines (“Guidelines”). He instructed the members to review the Guidelines and share them with colleagues from their institutions who also work on FMLG matters, and highlighted certain conduct that the members should avoid. FMLG Chair Michael Nelson emphasized the importance to the Federal Reserve Bank of New York of complying with both the letter and the spirit and state and federal antitrust law.

Benchmark reform in EU

The group continued its discussion from previous meetings of the application of the EU Benchmarks Regulation to FX benchmarks, and industry efforts to address any risks arising from

material changes to or cessation of such benchmarks. The group discussed the International Swaps and Derivatives Association (“ISDA”)’s plans to develop a benchmark supplement to the 2006 ISDA Definitions, which would apply to the 1998 FX and Currency Option Definitions. The group also discussed other benchmark-related developments and initiatives in the industry and the official sector. One member commented that these efforts appear to be fragmented. Mr. Nelson suggested that the FMLG invite an ISDA representative to the next meeting to discuss these issues with the group.

Opinion project update

Mr. Buchalter, Chair of the FMLG Documentation and Legal Opinions Working Group (“Opinions Working Group”), said that the Opinions Working Group has received draft opinions from counsel in several jurisdictions, which will be reviewed by members of the Opinions Working Group. Mr. Buchalter said that counsel from some jurisdictions are waiting for the FMLG to obtain ISDA’s consent before they proceed. Mr. Nelson agreed to contact ISDA. Mr. Noone also said that the Japanese Bankers Association (“JBA”) has raised concerns about the ability of JBA members to rely on the streamlined opinions given that some of its members may not be members of ISDA, and so would not have access to ISDA’s netting opinions.

Trade authorization letters

Ms. Burke circulated a proposed update to a model trade authorization letter previously published by the FMLG. Mr. Noone asked the group to email any comments on the updated letter to Ms. Burke and stated that any significant issues can be discussed at the next FMLG meeting. The group discussed whether the updated letter should reference the FX Global Code (the “Code”), or whether it should be included in a local annex to the Code. Members also noted that local annexes to the Code and other, similar industry codes of conduct have been published in other jurisdictions. Mr. Nelson said that this topic should be separately discussed at the next FMLG meeting.

Best practices consolidation

Mr. Noone provided the group with an update on the status of the group’s review of the FXC’s and FMLG’s best practices. He said that this topic will be on the agenda for the next Foreign Exchange Committee (“FXC”) meeting. In particular, the FXC will review the best practice entitled “Management of Operational Risk in Foreign Exchange,” or the “Sixty Best Practices,” to determine whether it should be retained or whether it should be incorporated into a local annex to the Code.

One member asked whether Mr. Noone had received any scenarios raising third party payments issues from FMLG members' firms, per the group's December 2017 discussion of third party payments issues. Mr. Noone said that only one member had submitted scenarios. The member agreed to put together discussion topics for the group to consider instead.

Topics for Quadrilateral agenda

Mr. Noone asked the group to suggest agenda topics for the 2018 Quadrilateral Meeting of the FMLG, the European Financial Markets Lawyers Group, the Financial Markets Lawyers Committee and the Financial Law Board ("Quadrilateral"). Members suggested a number of topics for consideration.

Administrative Matters

Mr. Nelson reminded members that several of their firms still have their periodic assessment outstanding.

Ms. Burke gave a brief update on the group's finances.

Mr. Nelson reviewed attendance expectations for FMLG meetings.

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