



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
7th Floor

Thursday, November 1, 2018

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

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

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

Other participants: Victoria Cumings (GFMA, by phone), Chinedu Ezetah (Citigroup, by phone), Leslie Payton Jacobs (EMTA, by phone)

EU benchmark regulation

Leslie Payton Jacobs from the Emerging Markets Traders Association (“EMTA”) updated the members on discussions with administrators for primary rate sources that are considered at risk for non-compliance with EU benchmark regulations—in particular, rate sources for Russia, Argentina, Nigeria, and Kazakhstan. Victoria Cumings from the Global Financial Markets Association (“GFMA”) also participated in the discussion.

Ms. Jacobs reported that, in general, administrators are now aware of the issue and are considering their approaches. It is unclear, however, if certain administrators—in Argentina, for example—have taken steps to attain compliance. Ms. Cumings added that central banks for some of these jurisdictions also appeared to be aware of the issue and in some cases—India, for example—were participating in discussions about a solution. In general, administrators are seeking data that would support a conclusion that compliance with EU benchmark regulations is a good business decision. There are also efforts underway for a European legislative solution, perhaps by extending the dates for compliance. There was, however, some reluctance to pursue legislative relief in Europe if local rate administrators ultimately do not plan to comply.

Members expressed an interest in continued discussion of the issue, and continued dialogue with foreign central banks.

LIBOR replacement plans

Jill Hurwitz briefed members on the status of industry efforts to move away from LIBOR in light of concerns about its continuation and validity beyond 2021. Members discussed, among other issues, recent regulator engagement in the United States and United Kingdom, ISDA fallback plans, and various possible placements, including the Secured Overnight Financing Rate (“SOFR”), identified by the Alternative Reference Rates Committee (“ARRC”) as the rate that represents best practice for use in certain new U.S. dollar derivatives and other financial contracts. Further discussion ensued on the possibility of U.S. legislative relief modeled on statutes addressing the Euro transition. Members expressed skepticism that legislation could offer a satisfactory solution because spread adjustments involve value transfers that cannot be eliminated entirely and may affect material terms of contracts. Members also voiced concern about LIBOR’s continued use in cash product markets, in which transition efforts lag compared to derivative markets.

Quadrilateral update

FMLG Secretary Thomas Noone updated the members on plans for the 2019 Quadrilateral in Tokyo. Members discussed possible topics, projected attendance, and additional meetings with regional authorities.

Statement on ISDA universal stay protocol

FMLG Chair Michael Nelson reported that the FMLG’s draft statement on the ISDA universal stay protocol could be published by the end of the month. He thanked members for their participation in the project. Members reiterated their support for the statement.

ISDA novation protocol

Chinedu Ezetah reported on concerns raised by members of the Operation Managers Working Group (“OMWG”) of the Foreign Exchange Committee (“FXC”) that “buy-side” interest in the ISDA novation protocol remained low, despite efforts to tailor the protocol to their needs. Executing novation agreements outside of the protocol could result in booking trades at different times, which could give rise to valuation disputes. Members discussed whether the FMLG could boost buy-side interest in ISDA’s novation protocol, how the importance of the protocol may increase in light of Brexit-related novations, and whether there were opportunities to improve the existing protocol or related materials. Mr. Nelson requested that members

continue the discussion at the December FMLG meeting. Mr. Noone asked FMLG members interested in the issue to join the next OMWG meeting on Tuesday, December 4.

FX Global Code update

FXC Secretary Christina Getz led a discussion of two draft reports by the Global Foreign Exchange Committee (“GFXC”) addressing “cover-and-deal” and disclosure provisions in the FX Global Code. Members debated, among other ideas, whether the disclosure standard was too stringent or particular. Mr. Noone offered to convene a follow-up call to continue the discussion. Ms. Getz noted a continuing need for feedback on e-trading platforms, and members agreed that further discussion would be useful. Members also requested that the FMLG discuss proposed standards for trading venues from the FICC Market Standards Board (“FMSB”) at the December meeting.

Opinion project update

David Buchalter, Chair of the FMLG Documentation and Legal Opinions Working Group (“Opinions Working Group”), provided the group with an update on the status of the opinion project, which is near complete. Mr. Noone distributed final opinions to members on DVD.

FinTech and FX

Mr. Nelson asked for volunteers or suggestions for a discussion in December of current FinTech issues in the FX market.

Other business

Members recommended that the FMLG discuss forthcoming proposed rules of the Commodity Futures Trading Commission (“CFTC”) governing swap execution facilities (“SEFs”) at the December meeting.

Administrative matters

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

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