

Meeting Minutes

Federal Reserve Bank of New York

33 Liberty Street

13th Floor

Thursday, January 9, 2020

8:30 a.m. – 10:00 a.m.

Members present: Syed Riaz Ali, Sarah Ashkenazi, Maria Douvas-Orme, Chinedu Ezetah, Terence Filewych, Jill Hurwitz, Robert Klein, Matthew Lillvis (by phone), Nancy Rigby (by phone), Jeffrey Saxon, Lisa Shemie, David Trapani, Frank Weigand, and Bryan Woodard

Federal Reserve Bank of New York (“New York Fed”) participants: Robert Denicola, Michael Nelson, Thomas Noone, Sanja Peros, Angela Sun, Janine Tramontana, and Shawei Wang

Other participants: Leslie Payton Jacobs (Emerging Markets Traders Association (“EMTA”), by phone), Jeffrey Lillien (Wells Fargo, by phone), Annette Maluenda (Barclays, by phone), Neil Penney (Refinitiv, by phone), Irina Sivachenko (Latham & Watkins), and Douglas Yatter (Latham & Watkins)

CFTC enforcement update

Douglas Yatter and Irina Sivachenko from Latham & Watkins gave an overview of recent enforcement activity by the Commodity Futures Trading Commission, highlighting actions brought in October 2019 against two foreign exchange market participants: BGC Financial, LP and GFI Securities, LLC. According to the CFTC’s orders, brokers at these two firms posted fraudulent bids and offers on electronic trading platforms. In reality, these bids and offers had no actual client interest—a practice known as “flying prices.” These brokers also communicated false trade information to their clients—a practice known as “printing trades.” Taken together, flying prices and printing trades created misperceptions of liquidity and spreads, the purpose of which was to induce clients to trade when they otherwise would not have—at least not at that time or at that price. Mr. Yatter and Ms. Sivachenko noted that the brokers in these cases were paid on a commission model based on volume.

Mr. Yatter and Ms. Sivachenko also discussed enforcement trends at the CFTC and took questions from members about the following issues: how the CFTC becomes aware of market misconduct, the remedial steps required of the two firms, the CFTC’s coordination with criminal authorities, and the agency’s enforcement priorities for 2020.

EU benchmarks consultation paper

Leslie Payton Jacobs, Senior Legal Counsel and Managing Director at EMTA, joined the meeting to report on EMTA’s response to the European Commission’s request for public comment on the European Union’s (“EU’s”) Benchmark Regulation—Regulation 2016/1011 of the European Parliament and of the Council. The FMLG previously addressed the public consultation at its December 2019 meeting. Members discussed with Ms. Jacobs the benefits and drawbacks of including third-country administrators within an existing “public authorities” exception that applies, for example, to rate sources administered by central banks. Members further discussed possibility of amending the Benchmark Regulation to exclude benchmarks for currencies that occupy a *de minimis* share of the global foreign exchange market.

Argentina

Ms. Jacobs also participated in a discussion of a “lessons learned” exercise relating to the declaration of an exchange rate divergence for the Argentine peso by five members of EMTA between September 23 and November 4, 2019. The Foreign Exchange Committee had proposed the idea and sought input from the FMLG. Members discussed the retention of antitrust counsel, whether the discussion should include EMTA templates for countries other than Argentina, the timing of the discussion, and practicable alternatives to the exchange rate divergence clause in the Argentina template.

Annual review of charter and antitrust guidelines

FMLG Secretary Thomas Noone distributed copies of the FMLG’s Articles of Association and the New York Fed’s Antitrust Guidelines for Members of the Federal Reserve Bank of New York’s Advisory and Sponsored Groups (“Guidelines”). Both documents are available on the [FMLG’s public website](#). Mr. Noone instructed members share the Guidelines with colleagues from their institutions who also work on FMLG matters and to raise any concerns about anti-competitive conduct either directly to New York Fed staff or through the Bank’s integrity hotline (1-877-52-FRBNY or 1-877-523-7269). He also highlighted, as in previous years, the appropriate role of best practices and market conduct recommendations, and reminded members to consider the legal and reputational harm that anti-competitive conduct that could cause to the FMLG and the New York Fed.

Operation standardization issues

Neil Penney, who serves as vice-chair of the Global Foreign Exchange Committee, joined the meeting to discuss two operation standardization issues raised at recent FMLG meetings: (i) trade reject codes and (ii) time stamps for best execution analysis. Members discussed with Mr. Penney the benefits and drawbacks of trade reject codes, which, in the view of many, would serve a clear market purpose. Specific issues raised in that discussion included the identification of a neutral body to publish a standard set of codes and technological challenges in updating systems to use those codes. The latter proposal (standardized time stamps) received, by contrast, little discussion and no endorsement.

CFTC proposed rules

Robert Klein and Sarah Ashkenazi summarized two proposed rules that were addressed at a [December 2019 public meeting of the CFTC](#): (i) Prohibition on Post-Trade Name Give-Up on Swap Execution Facilities; and (ii) Cross-Border Application of the Registration Thresholds and Certain Requirements Applicable to Swap Dealers and Major Swap Participants. The first proposal would ban the practice of supplying names with limited exceptions and is the more controversial of the two. The second proposal raises an issue discussed previously at FMLG meetings: policy differences among regulators regarding swap dealing through foreign branches or subsidiaries.

GFXC update

Shawei Wang continued a discussion from the December 2019 meeting about the five projects proposed at the most recent semi-annual meeting of the Global Foreign Exchange Committee (“GFXC”) in Sydney, Australia. Those five topics are: (i) buy-side outreach, (ii) anonymous trading, (iii) disclosures, (iv) algorithmic trading and transaction cost analysis, and (v) execution principles, including pre-hedging and “last look.” Ms. Wang noted that the New York Fed would take lead the project on anonymous trading. A discussion ensued about effective ways of educating foreign exchange traders about the principles of the FX Global Code.

Digital fiat currencies

Robert Klein recommended that members read an article entitled “How do Private Digital Currencies Affect Government Policy?” by Max Rashkin, Fahad Saleh, and David Yermack, which proposed a taxonomy for organizing different types of digital currencies. FMLG Chair Michael Nelson asked members to consider invitations to experts on digital currencies for future FMLG meetings.

Administrative matters

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

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