



**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**

*By Teleconference*

Thursday, March 5, 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, Nancy Rigby, Jeffrey Saxon, Lisa Shemie, David Trapani, Frank Weigand, and Bryan Woodard

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

*Other participants:* Victoria Cumings (Global Financial Markets Association (“GFMA”)), Leslie Payton Jacobs (Emerging Markets Traders Association (“EMTA”)), Ida Levine (Two Rivers Associates Ltd., Financial Markets Law Committee (“FMLC”)), Jeffrey Lillien (Wells Fargo), Joanna Perkins (FMLC), and Jon Roellke (Morgan Lewis & Bockius, LLP)

**Argentina**

Jon Roellke spoke with members about antitrust considerations in holding a proposed “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. Mr. Roellke recommended, among other things, that the discussion follow a pre-circulated agenda, that counsel provide a reminder of antitrust considerations prior to the discussion, and that counsel monitor the discussion. Leslie Payton Jacobs joined this portion of the discussion.

**Investment Association paper on trade reject codes**

FMLG members continued a discussion from their previous meeting about trade reject codes provided to price takers on FX platforms. The discussion highlighted current market practices, in which liquidity providers each design their own reject codes. As a result, there is no market standard, and codes have varying levels of detail about the reasons and circumstances why quote was rejected by a liquidity provider. Price takers are therefore unable to compare information across providers and platforms.

Some members questioned whether the demand for standardization justified the effort of creating a market standard. Others posited that it was difficult argue against the premise that standardized trade reject codes would be good for the market. There was agreement that an industry group (not the FMLG) needs to lead the effort, and that input from operations specialists would be valuable.

### **Coronavirus preparedness**

Victoria Cumings, Managing Director at the Global Foreign Exchange Division of the GFMA, joined the call to provide an overview of the impact of coronavirus restrictions and preparations on global foreign exchange markets. Ms. Cumings highlighted, among other issues, the role of compliance functions in business continuity plans, especially when trading takes place away from a trading floor. She directed members to a [business continuity website maintained by the Securities Industry and Financial Markets Association](#), and circulated a [report of a 2007 pandemic response exercise](#) undertaken industry groups and the U.S. Department of the Treasury.

Several members reported that surveillance of recorded lines may not be possible in some contingency work arrangements. Members discussed, among other issues, the importance of industry engagement with regulators in the U.S. and UK, several of which are actively monitoring business continuity plans. In the U.S., industry groups have held calls with the Securities and Exchange Commission and the Commodity Futures Trading Commission, and with the National Futures Association, a self-regulatory organization for derivatives trading. In the UK, industry groups have spoken with the Financial Conduct Authority.

Members reported no general delays in clearing or settlement or other significant degradation of operational systems. Some members noted delays in the publication of a daily ICE Swap Rate, which may be related to market volatility that is secondary to coronavirus concerns. Members also foresaw some delay in efforts to implement forthcoming rules, as resources within firms and at industry groups were devoted to business continuity issues.

### **Quadrilateral discussion: ESG**

Ida Levine from the FMLC spoke about a possible addition to the 2020 Quadrilateral Meeting agenda about environmental, social, and governance (“ESG”) issues. Ms. Levine noted that interest in ESG issues had grown in significantly in the last 18 months. Among other issues, Ms. Levine and the FMLG member discussed “green bonds,” which may soon be the subject of bespoke guidance and regulation in the European Union. The discussion also touched on

sustainable finance, and regulatory proposals that would require companies to disclose to investors the negative environmental impacts of their investments.

### **Brexit update**

Joanna Perkins updated members on Brexit developments since the most recent UK general elections. The UK formally left EU on January 31, and an agreed negotiating period expires on December 31. If the two sides cannot reach an agreement to govern future trading relationships, the result will be a “hard Brexit.” Ms. Perkins reviewed several possible deal options, including “deemed equivalence.” Members discussed precedents for trade agreements and the possibility that the UK will pursue closer ties to U.S. markets.

### **CFTC open meeting**

Chinedu Ezetah briefed members on three proposals discussed at a [February 20 open meeting of the Commodity Futures Trading Commission \(“CFTC”\)](#). The CFTC voted unanimously to approve amendments to delay reporting requirements in Part 43, recordkeeping and reporting requirements in Part 45, and data repository and reporting requirements in Part 49. Members discussed, among other issues, the definition of mirror swap transactions, challenges in recordkeeping, and harmonization with standards and guidance published by other regulators.

### **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. Members discussed other recent headlines about digital currencies, including a speech by the Federal Reserve’s Lael Brainard, which highlighted expanding access to financial services. Members also discussed potential disruptions that digital currencies issued by private

enterprises could create. Finally, members discussed the development of digital currencies by central banks around the world, most of which had adopted a monitoring and assessment stance rather than an express development agenda.

### **Administrative matters**

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

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