



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, July 12, 2018

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

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

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

Other participants: Chinedu Ezetah (Citigroup, by phone), Amelia Kaufman (Deutsche Bank, by phone), Nathan Rice (Morgan Stanley, by phone)

Quadrilateral recap

FMLG Secretary Thomas Noone opened a discussion of highlights from the 2018 Quadrilateral conference held in June at the European Central Bank in Frankfurt. Members reflected on, among other issues, the industry’s adoption of replacements for LIBOR and the extraterritorial effects and impact on electronic trading caused by “MiFID II.” Members also discussed logistical and organizational aspects of the conference that might be adopted in future years—for example, a longer agenda punctuated by frequent breaks, and more opportunity for questions to panel members.

EU benchmark regulation and administrator registration

Maria Douvas-Orme reported that the rate sources for the Korean Won, Philippine Peso, Taiwanese Dollar, the Kazakhstani Tenge, and Argentine Peso are not published by the central banks for those countries, and so must be approved by EU regulators in order to be used in currency contracts in the EU after January 2020. Some market participants perceive a lack of initiative by the administrators of those benchmarks to seek approval, although the reasons for the apparent inertia is unclear. Members observed that relevant trade organizations, such as the Emerging Markets Traders Association, are aware of the issue, and questioned whether affected

currencies would cease to be traded in Europe once the registration deadline had passed. An alternative for market participants might be to amend contract provisions, although that would entail substantial cost and may result in uneven adoption of a market standard. Members questioned the significance of any resulting market fragmentation. FMLG Chair Michael Nelson proposed to raise the issue with central banks in Asia, which may be interested in the effects of the benchmark regulation on heavily traded non-deliverable forwards.

Trade authorization letter

Foreign Exchange Committee (“FXC”) Secretary Christina Getz reported that the FXC had formally approved the revisions to its trade authorization letter recommended by the Financial Markets Lawyers Group (“FMLG”), and would soon publish an updated version of the letter on its website. The publication of the letter would be the first form of market guidance published by the FXC since the publication of the FX Global Code and may be a model for future guidance to market participants.

Universal stay protocol

Ms. Douvas-Orme updated the members on a proposed statement from the FMLG and FXC informing market participants about a Universal Stay Protocol to be published by the International Swaps and Derivatives Association (“ISDA”). The members agreed that any statement should follow the publication of ISDA’s protocol, not precede it. The audience for the proposed statement was also discussed, with a resulting consensus that smaller counterparties would receive the greatest benefit from a joint statement by the FMLG and FXC. The members agreed to revisit the proposed statement at the next meeting in September, by which point ISDA will have published its protocol.

Global Foreign Exchange Committee (“Global FXC”) update

Ms. Getz reported that the Global FXC had formed four working groups to address the following issues: disclosure and transparency; cover-and-deal models; buy-side outreach; and Global Code implementation. Ms. Getz requested suggestions for working group members, especially buy-side market participants that use a cover-and-deal model. She also reported that Simon Potter, head of the FRBNY’s Markets Group, would serve a term as chair of the Global FXC. Members discussed the status of revisions to examples concerning pre-hedging and emerging issues in Global Code implementation, including adoption by retail market participants.

FXC legacy best practices

Ms. Douvas-Orme described the FXC’s project to review best practices that it issued prior to the publication of the FX Global Code. The project would yield recommendations on prior best practices to maintain, update, retire, or flag for consideration by the Global FXC.

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. Twenty-one opinions were final, and five were under review. Opinions from two jurisdictions (Ireland and Malaysia) remained outstanding. Members discussed the best way to distribute the final opinions.

Administrative matters

Mr. Noone stated that proposed changes to the FMLG’s articles of association would be distributed before the next meeting.

FMLG Treasurer Martha Burke gave a brief update on the group’s finances.

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