

Financial Markets Lawyers Group Meeting

Federal Reserve Bank of New York
33 Liberty Street
7th Floor, Main Conference Room

Thursday, November 1, 2012
8:30am – 10:00am (New York time)

Present (all by phone): Andrew Alter, Victoria Cumings, Darek Defreece, Maria Douvas, Joyce Hansen, Pam Hutson, Robert Klein, Ruth Laslo, Jeff Lillien, David Miller, Michael Nelson, Sherine El-Sayed for Joanna Perkins, Tracy Ross, Ricardo Salaman, Lisa Shemie, Garland Sims, Shawei Wang, Leslie Payton Jacobs (EMTA)(for first agenda item)

In light of the effects of Hurricane Sandy, this meeting was conducted solely by phone.

EMTA

Leslie Payton Jacobs of EMTA joined the call to discuss how market closures following Hurricane Sandy had affected fixings and settlement of non-deliverable forwards (NDFs). Questions about NDFs had arisen earlier in the week following the dissemination by EMTA of a recommendation for fixed income product settlements, but it was reported that the market fairly quickly sorted the issue out and no problems existed as of the FMLG call.

A recent opinion of the Second Circuit regarding Argentina's sovereign debt was brought to the group's attention. On October 26, 2012, the United States Court of Appeals for the Second Circuit issued a ruling in the case NML Capital, Ltd v. Republic of Argentina, affirming the order of the district court for Argentina to make equal payments to the plaintiffs when it pays its other creditors but remanding for clarification on the payment formulas. The Second Circuit opinion was later distributed to the group.

Hurricane Sandy and the Markets

The group did not note any major disruptions to FX trading as a result of Hurricane Sandy. In fact, it was mentioned that FX markets remained liquid, even with most banks' New York operations in contingency mode, thus demonstrating the depth and resiliency of the FX markets.

The group discussed expanding contact information for fellow FMLG members for use in case of emergencies like Hurricane Sandy. It was agreed that alternative contact information would be disseminated for those willing to share it.

Dodd-Frank Operational/Implementation Issues: CFTC Meetings

The group discussed an upcoming meeting that certain FMLG members had scheduled with the CFTC to discuss the FMLG's proposal regarding the External Business Conduct Rule requirement to deliver a pre-trade mid-market quote. As travel to Washington, D.C. remained limited after the storm, the FMLG planned to reschedule its meeting with the CFTC for Thursday, November 8, 2012. The FMLG's proposal regarding the requirement to provide a pre-trade mid-market quote is that FX Dealers should not be required to provide a pre-trade mid-market quote pursuant to CFTC Regulation § 23.431(a)(3)(i) for a specific subset of FX transactions – those that involve highly-liquid currencies and exhibit narrow FX Dealer bid-ask spreads that are closely correlated to publicly available information.

Legal Issues Raised by Recent Economic Volatility

No issues were raised on this topic.

Miscellaneous

The Treasury Department's proposal to exempt foreign exchange swaps and forwards from the definition of "swap" for most Dodd-Frank Act purposes was raised for discussion. Questions as to the timing of possible finalization of the Treasury determination and statements regarding market effects of a failure to finalize the Treasury determination were reiterated by the group.

The next meeting of the FMLG will be held on Monday, December 3, 2012.