

## **Financial Markets Lawyers Group Meeting**

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

Thursday, September 11, 2014  
8:30 am – 10:00 am (New York time)

*Present:* Andrew Alter, James Brown (by phone), Martha Burke, Victoria Cumings (by phone), Sarah Donnelly, Maria Douvas, Luke Farber, Pamela Hutson (by phone), Robert Klein (by phone), Ruth Laslo (by phone), Jeff Lillien, Ricardo Salaman, Lisa A. Shemie, Garland Sims, Bryan Woodard

*Federal Reserve Bank of New York participants:* Christina Getz, Joyce Hansen, Nancy Liao, Michael Nelson, David Parkinson, Jamie Pfeifer, Shawei Wang

### **SEFs and the FX Market**

The group discussed the Commodity Futures Trading Commission's ("CFTC") Division of Market Oversight ("DMO") No-Action Letter No. 14-108, which provides time-limited conditional relief to swap execution facilities ("SEFs") from certain confirmation and recordkeeping requirements. Members noted that foreign exchange may be disproportionately affected when the temporary relief expires next September. The group observed that certain industry associations, such as the International Swaps and Derivatives Association ("ISDA") and the Global Financial Markets Association ("GFMA"), are working to address some of the challenges surrounding SEF confirmations and recordkeeping.

Members of the Dodd-Frank Operational/Implementation Working Group ("DFOIWG") briefed the larger group on their ongoing work regarding foreign exchange ("FX") prime brokerage arrangements on SEFs. In conjunction with outside counsel, DFOIWG members have developed a draft letter to CFTC DMO staff, as well as a draft set of SEF model rules. The larger group was informed that outside counsel and select DFOIWG members have been in contact with CFTC DMO staff and that the staff has raised questions on trade rejections by prime brokers.

### **Dodd-Frank Operational/Implementation Issues**

The Chair noted that she received an inquiry from the Financial Markets Law Committee ("FMLC") about the possibility of scheduling periodic phone conferences between the FMLG and the FMLC. The group decided to reach out to the FMLC to schedule an initial call and to work on drafting an agenda. The group noted the potential of expanding future calls to include the European Financial Markets Lawyers Group ("EFMLG").

### **FXC Best Practices Review**

Foreign Exchange Committee ("FXC") Secretary Christina Getz updated the group on the FXC's ongoing review of its various Best Practice documents. Five working groups are being formed along common themes to review, revise, and consolidate the existing documents. FMLG members were encouraged to volunteer to assist in the process.

## **Settlement Finality Legal Opinion Project**

The group was briefed on the steps the GFMA has taken to address questions about the regulatory implementation of the Basel Committee's *Supervisory guidance for managing risks associated with the settlement of foreign exchange transactions*.

## **CLS/CME FCM Settlements**

Members discussed the CME paired-delivery model for certain foreign exchange futures and its implications for the relationship between futures commission merchants ("FCMs") and CLS members. Members were advised to look into possible implications for their firms.

## **Fund Managers Acting as Agents**

Due to time constraints, this topic was tabled for a future meeting.

## **FpML Templating Project**

Due to time constraints, this topic was tabled for a future meeting.

## **ICOM, IFEMA, FEOMA and IFXCO Legal Opinion Update Project**

Gary Sims, Chair of the Opinions Subcommittee of the FMLG, noted that the annual project to collect updated opinions with respect to the enforceability of the netting provisions of the International Currency Options Market Master Agreement, the International Foreign Exchange Master Agreement, the Foreign Exchange and Options Master Agreement, and the International Foreign Exchange and Currency Option Master Agreement from 34 jurisdictions around the world will begin shortly.

## **Administrative Matters**

FMLG Secretary Shawei Wang provided the group with an updated draft of the Articles of Association. Members were asked to review the draft in preparation for an upcoming telephone conference to vote on whether to adopt the amended Articles of Association.

FMLG Treasure Martha Burke presented an update on the group's financials.

*The next meeting of the FMLG will be held on Thursday, October 2, 2014.*