

Meeting Minutes

Federal Reserve Bank of New York

33 Liberty Street

13th Floor

Thursday, January 10, 2019

8:30 a.m. – 10:00 a.m.

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

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

Other participants: Chinedu Ezetah (Citigroup), Luke Farber (State Street), Emelia Kaufman (Deutsche Bank), Justin McCormack (State Street), Alex van Voorhees (Bank of America)

Annual antitrust reminder and charter review

FMLG Secretary Thomas Noone distributed copies of the FMLG’s Articles of Association and the FRBNY’s *Antitrust Guidelines for Members of the Federal Reserve Bank of New York’s Advisory and Sponsored Groups* (“Guidelines”). The Guidelines were released in 2018 and replace the FMLG’s prior antitrust guidelines. Mr. Noone instructed the members to review the Guidelines and share them with colleagues from their institutions who also work on FMLG matters. He also highlighted the appropriate role of best practices and market conduct recommendations, and addressed anti-competitive conduct that could cause legal or reputational risk to the FMLG and the FRBNY. The Articles of Association and the Guidelines are available on the FMLG’s public website.

CFTC external business conduct obligations

Continuing a discussion from the previous meeting, Lisa Shemie and Chinedu Ezetah updated members on a draft letter to staff at the Commodities Futures Trading Commission

(“CFTC”) requesting, on behalf of the FMLG’s private sector members, interpretative guidance on the applicability of an exception to a disclosure rule for certain offsetting transactions that mirror transactions occurring on a swap execution facility (“SEF”), particularly as such exclusion may apply in the context of foreign exchange prime brokerage. Members supported the current draft of the letter on the basis of the appropriateness of the topic to the FMLG’s work, the substance of the requested guidance, and the benefits of the guidance to market functioning. Members noted that while the issue relates to SEFs, the relevant CFTC rule applies directly to platform users, who are in need of guidance. Members further commented that the requested guidance is consistent with broader regulatory objectives, and was not addressed by either prior no-action letters or concurrent trade association initiatives. Mr. Nelson stated that a final draft would be available for review by Members shortly and will be sent to the CFTC before the February 2019 meeting.

ISDA novation protocol

Continuing a discussion from previous meetings about the underutilization of International Swaps and Derivatives Association’s (“ISDA”) novation protocol, and at the request of FMLG members Frank Weigand and Bryan Woodard, Luke Farber briefed the members on the availability of automated solutions from third-party vendors to facilitate novations in foreign exchange contracts. He observed that a market-wide increase in novations may be attributable to dealers responding to capital and liquidity pressure, and that post-Brexit novations could add to concerns about the volume of novations processed manually, rather than through ISDA’s novation protocol. Mr. Farber noted that other asset classes and markets have developed widely accepted protocols and automation solutions, with the result that novations are processed with comparative ease and serve a valuable price discovery function.

In the discussion that followed, members asked whether ISDA could take a more active role in promoting automated solutions and awareness of the protocol among buy-side counterparties. Members observed differences in adoption of the protocol reflecting different levels of participation in foreign exchange transactions, which may be a result of the perceived complexity of the protocol. That is, firms that deal in larger volumes or with greater frequency are more willing to invest the time to understand and employ ISDA’s novation protocol. Members discussed whether improvements could be made to the protocol or accompanying documentation—perhaps a revised version of the FAQs or a pictorial guide to using the protocol. Mr. Farber suggested that it may be helpful to coordinate any revisions with the Global Foreign Exchange Division (“GFXD”) of the Global Financial Markets Association. FMLG Chair Michael Nelson thanked Mr. Farber for his presentation and requested that members volunteer to report on the GFXD’s work at the next meeting.

FMSB standards and the FX Global Code

Foreign Exchange Committee (“FXC”) Secretary Christina Getz said that her committee was aware of the potential for conflict between standards promulgated by the FICC Market Standards Board (“FMSB”) and the FX Global Code and was actively surveilling FMSB materials for actual conflicts. Members observed that the FMSB drafting process varies from project to project, and sometimes lacks transparency and opportunities for comment before the FMSB publishes a final version. Members volunteered to work in advance of the next meeting on how to promote greater engagement with the FMSB on draft standards.

Separately, Ms. Getz responded to member questions on the status of the Global Foreign Exchange Committee’s draft educational papers, especially the paper addressing disclosures and transparency. Ms. Getz reported that the papers would be published in the first quarter of 2019 and would include more references to provisions of the FX Global Code. She also reminded members of plans to revise the FX Global Code every three years, and suggested that interim educational papers could serve as a roadmap for future revisions.

Library of FXC best practices

Ms. Getz presented a revised catalog of prior FXC best practices available on the FXC’s public website. Mr. Nelson thanked the FMLG members for their work on reviewing and categorizing the documents. Members discussed briefly the need to update several of the prior best practice in light of the FX Global Code.

Golden week/Japanese holiday issues

FMLG Treasurer Martha Burke led a discussion of the legal and market consequences to a planned banking holiday in Japan lasting for approximately 10 days in late April and early May, corresponding to the abdication of Emperor Akihito on April 30, 2019. According to Ms. Burke, the 10-day holiday created operational concerns and risk from market exposure. Ms. Getz stated that the Bank of Japan had circulated a market practice proposal through the Tokyo Foreign Exchange Market Committee, and that members of the FXC had provided comments. Ms. Getz offered to share the draft with FMLG members and to pass along their feedback. Members expressed support for official guidance from the Bank of Japan to promote market stability.

ISDA QFC protocol

Maria Douvas reported that the FMLG’s statement on the ISDA universal stay protocol for qualified financial contracts (“QFCs”) is now available on the FMLG’s public website.

Opinion project update

David Buchalter reported that the 2018 project is complete.

Administrative matters

Ms. Burke gave a brief update on the group's finances. Mr. Noone asked members to review a contact list for the FMLG, FXC, and the Operation Managers Working Group ("OMWG"). Ms. Nelson asked members for suggestions of additional members to the OMWG, and Ms. Getz requested suggestions for a new FXC member with compliance experience and appropriate seniority.

Finally, members requested additional information about the 2019 Quadrilateral, which will be held on July 11-12 in Tokyo.

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