



**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

13<sup>th</sup> Floor

Thursday, March 1, 2018

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

*Present:* Syed Riaz Ali, Sarah Ashkenazi, James Brown, Martha Burke, Terence Filewych, Jill Hurwitz, Robert Klein, Matthew Lillvis, Nancy Rigby, Jeffrey Saxon, Lisa Shemie (by phone), and Frank Weigand

*Federal Reserve Bank of New York participants:* Christina Getz, Michael Nelson, Thomas Noone, Angela Sun, and Janine Tramontana

*Other participants:* Chinedu Ezetah (Citigroup, by phone), Amelia Kaufman (Deutsche Bank, by phone), Rick Sandilands<sup>1</sup> (International Swaps and Derivatives Association, Inc. (“ISDA”), by phone), and Olivia Wang (Morgan Stanley, by phone)

**Benchmark reform in the EU**

Mr. Sandilands, Senior Counsel at ISDA, gave a presentation on ISDA’s benchmark initiatives, including ISDA’s analysis of the impact of Article 28(2) of the EU Benchmark Regulation on ISDA documentation. The group then discussed ISDA’s fallbacks analysis for the 1998 FX and Currency Option Definitions. Members expressed interest in ISDA’s coordination with the Emerging Markets Traders Association (“EMTA”) on these issues.

**Third party payments**

FMLG Secretary Thomas Noone reminded members of an upcoming group call on third party payments. In previous meetings, the group had raised the issue of whether Principle 52 of the FX Global Code provides firms with sufficient guidance. Mr. Noone asked members to send scenarios raising third party payments issues to him so he can aggregate them for discussion.

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<sup>1</sup> Mr. Sandilands joined only for the portion of the meeting on benchmark reform in the EU.

## **Approval of trade authorization letter**

Ms. Burke said that she had not received any comments from members on a proposed update to a model trade authorization letter previously published by the FMLG. The group agreed the next step would be to send the updated letter to the Foreign Exchange Committee (“FXC”) for review.

## **Best practices consolidation**

Mr. Noone provided the group with an update on the status of the group’s review of the FXC’s and FMLG’s best practices. Mr. Noone reminded members to inform him as to which best practices they would like to be responsible for updating. The group decided to move those best practices that the group has deemed outdated to the archive. FXC Secretary Christina Getz informed the group that she has asked the FXC and the Operations Managers Working Group (“OMWG”), a standing working group of the FXC, to be involved in the best practices review. One member suggested that the FXC and FMLG nominate select best practices or topics for potential review by the Global Foreign Exchange Committee (“GFXC”) to encourage consistency across jurisdictions.

## **Opinion project update**

Mr. Noone provided the group with an update on the status of the opinion project on behalf of David Buchalter, Chair of the FMLG Documentation and Legal Opinions Working Group (“Opinions Working Group”). Mr. Noone said that the Opinions Working Group has received several, but not all, of the draft opinions. He noted that some of the draft opinions that have been received are ready to be finalized, while others are under review by the Opinions Working Group. Mr. Noone also said that ISDA has been notified of the FMLG’s request to use ISDA’s legal opinions for the FMLG’s legal opinions project and is working on a means by which ISDA can provide formal consent.

## **CFTC no action relief**

Mr. Klein provided the group with an update on certain developments at the Commodity Futures Trading Commission (“CFTC”), including the CFTC’s recent extension of no-action relief from certain reporting obligations for counterparties clearing swaps through derivatives clearing organizations acting under exemptive orders or no-action relief. Mr. Klein also reported that the CFTC has been engaging with ISDA on prime brokerage issues.

## **Quadrilateral update**

Mr. Noone asked members to suggest agenda topics for the 2018 Quadrilateral Meeting of the FMLG, the European Financial Markets Lawyers Group (“EFMLG”), the Financial Markets Law Committee (“FMLC”) and the Financial Law Board (“Quadrilateral”). Mr. Noone told members that the EFMLG expects to send around a finalized agenda soon. Mr. Nelson asked members to brainstorm ideas for a keynote speaker.

## **Administrative Matters**

Mr. Noone reminded members that the quarterly conference call with the FMLC will take place on March 8, and asked for a volunteer to lead one of the agenda topics.

Mr. Nelson reminded members that two members still have their periodic assessment outstanding.

Ms. Burke gave a brief update on the group’s finances.

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