foreign exchange committee

FXC

Minutes of the Operations Managers Working Group ("OMWG") Meeting, May 12, 2020

Meeting was held via teleconference

OMWG Attendees:

Mark Cox	Blackrock
John Fusco	BNY Mellon
Alfred Pollock	Citigroup
Daniel Lennon (Chair)	CLS
Aaron Ayusa	Credit Suisse
Christy Grant	Credit Suisse
Brittany Panzino	Eaton Vance
Amber Latner	Federal Reserve Board of Governors
Kelly Roberts	Federal Reserve Board of Governors
Tom Kennedy	Goldman Sachs & Co.
Varun Patel	Goldman Sachs & Co.
Nicholas Picini	HSBC
Matthew Smith	JPMorgan Chase
Marcellus Fisher	PIMCO
Anthony Ghibesi	Standard Chartered
Richard Maling	State Street
Ryan Masters	SWIFT
Lisa Mahon Lynch	Wellington
Tahir Mahmood	Wells Fargo

Federal Reserve Bank of New York ("FRBNY")

Thomas Noone
Sanja Peros
Kathy Ramirez (Secretary)
John Rutigliano
Geza Sardi
Daniela Seci
Lawrence Sweet

Financial Markets Lawyers Group ("FMLG") Update
Thomas Noone provided the updates from the FMLG's recent meeting with its three sister organizations: Financial Markets Law Committee ("FMLC") in the U.K, European Financial Markets Lawyers Group ("EFMLG") sponsored by the European Central Bank in Frankfurt, and the Financial Law Board ("FLB") sponsored by the Bank of Japan in Tokyo. The meeting focused on three topics related to the coronavirus pandemic:

- Force Majeure provisions where the group discussed differences between the four jurisdictions on the extent that one can excuse conduct not only on the basis of impossibility but that it was commercially unreasonable to proceed. Participants in the discussion agreed that courts and commercial parties recognize that everyone is operating under special circumstance however, there are circumstances that would still justify invoking force majeure provisions.
- Discussion on the acceptability of e-signatures across the different jurisdictions as well as the various e-signature formats that may have different evidential weight. The discussion also covered an emerging concern in the UK specifically with cross border contracts, such as those that involve Hong Kong and France, where the legal regime favor "wet" signatures.
- Discussion on Notice, focusing on how firms effectively deliver an ISDA closeout notice to a party who had an event of default and where the closeout notice provision requires a courier to deliver the notice. Concerns were raised that some contracts list head office addresses that are not manned currently due to the pandemic and physical delivery is not possible; that some contracts prohibit the use of email; and contracts that utilize other electronic alternatives such as fax or telex which may be problematic when no one is in the office to receive the notice.

SWIFT Update
Ryan Masters gave an update on SWIFT's ongoing efforts to implement its new strategy moving from a serial messaging to a centralized transaction management platform, which will provide a holistic view of a transaction for anyone in the settlement chain. Currently, SWIFT is holding bilateral discussions with a number of clients and shareholders on the design and functionality of the new platform.

Mr. Masters also provided an update to the SWIFT standards release expected in November, where he noted that most updates are postponed until the following year, with the exception of securities messages updates where current regulatory efforts such as Central Securities Depositories Regulation ("CSDR") require these updates to be implemented in 2020.

FXC Update
Sanja Peros, secretary to the FXC, updated participants on the group's current areas of focus:

- FX market conditions;
- Contingency planning and resiliency updates;

- Operational developments since shifting to a remote work environment.

Ms. Peros also shared that the efforts related to the three year review of the FX Global code is currently on pause as banks and local FXCs remained focused on responding to the global pandemic. The Global Foreign Exchange Committee ("GFXC") is still expected to meet in June, albeit remotely, to cover the below topics. Members of the OMWG were invited to comment on emerging operational issues via email.

- Update on market conditions from the local FXCs;
- Revised timeline for the commencement of the FXGC three year review;
- Discussion focused on emerging operational issues;
- Presentation on FX Settlement Risk.

CLS Update
Daniel Lennon delivered the CLS update summarizing record volumes and values observed at the start of the pandemic in March and added that April numbers have returned to normal. Mr. Lennon also highlighted year over year metrics and also informed the group of updates pertaining to CLS Now, CLS Net, CLS Trade Monitor and CLS Compression. Lastly, Mr. Lennon added that the Chilean Peso which is slated to be the 19th CLS currency has a soft go-live date of April 2022.

Follow-up Discussion: Business Resiliency and Pandemic Responses
Member firms have established varying degrees of work from home arrangement. Observations to the pandemic responses were overwhelmingly positive, with staff being productive, decisive and collaborative while working from home. Staff are also found to be communicating more with the help of audio and video platforms. External correspondence, specifically firm to firm exchanges which is essential to resolve any trade related inquiries, have been largely successful due to updated contact lists and call forwarding functionalities. Power outages, both for onshore and offshore sites, have been noted as a concern by the group.

Operational discussion: Successes and challenges experienced since migrating to a remote work environment
Kathy Ramirez invited everyone to share their views via email as there were limited comments on the topic during the meeting.

Follow-Up Discussion: FX Settlement Risk
Lawrence Sweet, Senior Payments and Market Infrastructure Policy Advisor at FRBNY and member of the Committee on Payments and Market Infrastructure ("CPMI"), shared early and recent efforts to mitigate FX Settlement Risk. The New York FXC was the first group to analyze the nature of foreign exchange settlement risk in the '90s and started the global effort to reduce it. The analysis showed that settlement risk does not only arise intraday, for example, when a

party to a trade sends a currency payment and waits to receive the currency it is buying, but that the exposures can extend overnight, to weekends and over multiple days. As soon as a trade is executed and trade processing commences, it may be difficult to track and/or stop the outgoing payment to the counterparty before settlement occurs -- even if the firm becomes concerned that the counterparty will not be able to complete the trade. This analysis led to several central bank strategies aimed at reducing settlement risk. These strategies ultimately allowed for the creation of CLS and other payment vs payment ("PvP") systems.

More recently, the CPMI and the Basel Committee on Banking Supervision has taken a fresh look at the level of FX Settlement risk and found that while there is an enormous amount of payments settled with the protection of PvP, there is still a significant number of trades settle outside PvP. The recent results of the triennial survey provides data on how much settles through PvP versus non-PvP. From informal discussions the CPMI and the Basel Committee have had with banks, it was gathered that exposures not protected by PvP are not well measured or controlled. To move the topic forward, Mr. Sweet highlighted a few ways in which FX Settlement risk may be addressed:

- Potentially strengthen current provisions in the FX Global Code with respect to using PvP and controlling risk exposures as the GFXC undergoes the Code's 3-year review; and
- Increasing the frequency and settlement risk data collection through the local FXCs.

The group also talked about data collection details such cross currency swaps and On-Us settlement and where these are captured (whether PvP or non-PvP) in the triennial results.

Administrative Matters
The next OMWG meeting will be on Thursday, June 25, 2020