



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
13th Floor

Thursday, January 11, 2018

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

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

Federal Reserve Bank of New York (“FRBNY”) participants: Christina Getz, Michael Nelson, Thomas Noone, Benjamin Snodgrass, and Angela Sun

*Other participants*¹: Otto Heinz (European Central Bank (“ECB”) and the European Financial Markets Lawyers’ Group (“EFMLG”)), Volker Enseleit (ECB), and Amelia Kaufman (Deutsche Bank)

Welcome Nancy Rigby

FMLG Chair Michael Nelson introduced new FMLG member Nancy Rigby, Vice President and Assistant General Counsel at U.S. Bank, and welcomed her to the group.

European Master Agreement

Otto Heinz, Chairman of the EFMLG and Head of the ECB’s Financial Law Division, provided the group with an update on the European Banking Federation (“EBF”)’s plans to revise the European Master Agreement (“EMA”), a multi-product agreement available in multiple EU languages that can be governed by different EU legal regimes. Mr. Heinz said that members of the EFMLG had called for revisions to the EMA. Mr. Nelson informed Mr. Heinz

¹ Mr. Heinz and Mr. Enseleit were present only for the portion of the meeting on the European Master Agreement.

that the FMLG is willing to offer any technical assistance that the EBF might require in connection with the revision process.

Benchmark reform in EU

The group continued its discussion from previous meetings of the application of the EU Benchmarks Regulation (“Regulation”) to foreign exchange benchmarks, particularly in light of the Emerging Markets Traders Association (“EMTA”)’s phase-out of its indicative surveys as fallback rate sources for certain currencies. The group discussed an initiative by the International Swaps and Derivatives Association (“ISDA”) to develop a benchmark supplement and issues presented by the Singapore Foreign Exchange Market Committee (“SFEMC”)’s plans to continue running its indicative surveys.

Opinion project update

Mr. Buchalter, Chair of the FMLG Documentation and Legal Opinions Working Group (“Opinions Working Group”), said that the Opinions Working Group sent letters to counsel in each jurisdiction requesting a streamlined legal opinion by the end of January 2018. Mr. Buchalter informed the group about issues that some of the firms raised in their responses to the request, including whether the FMLG should obtain ISDA’s consent to proceed. Mr. Buchalter said that the Opinions Working Group had concluded that the FMLG should reach out to ISDA regarding the issue. Mr. Nelson agreed to contact ISDA.

FX Code Update

Christina Getz, the Foreign Exchange Committee (“FXC”) Secretary, informed the group that the Global Foreign Exchange Committee (“GFXC”) has made some changes to Principle 17 of the FX Global Code (“Code”) in light of feedback it received from the survey on “last look” practices in the FX market. Ms. Getz shared a draft of the GFXC’s revisions to Principle 17 with the group. She informed the group that the GFXC has formed working groups that will consider issues relating to “cover and deal” trading arrangements and disclosures regarding last look on anonymous e-trading platforms.

Best practices consolidation

FMLG Secretary Thomas Noone provided the group with an update on the status of the group’s review of the FXC’s and FMLG’s best practices. The group discussed which best practices need updating and assigned members to be responsible for updating each of the best practices. The group decided to call Commodity Futures Trading Commission (“CFTC”) staff’s attention to best practices that address CFTC reporting rules, to which the group plans to defer

any updates. The group decided to move best practices that are outdated or no longer applicable to an on-line archive.

Trade authorization letters

Ms. Burke said that she would soon be circulating a draft update to a model trade authorization letter previously published by the FMLG.

Third-party payment scenarios

The group tabled this agenda topic until the next meeting.

Administrative Matters

Mr. Noone reminded members that the group will no longer approve draft meeting minutes at FMLG meetings. Instead, the minutes will be distributed to members within a couple weeks of the meeting. Barring any edits, the minutes will be posted on the FMLG's public website within 30 days of the meeting.

Members approved the minutes from the FMLG's quarterly discussion forum with the Financial Markets Law Committee ("FMLC") on December 8, 2017.

Mr. Nelson reminded members that several of their firms still have their periodic assessment outstanding.

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

The group tabled the review of attendance expectations until the next meeting.

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