

Meeting Minutes

Federal Reserve Bank of New York
33 Liberty Street
13th Floor

Thursday, September 7, 2017
8:30 a.m. – 10:00 a.m. (New York time)

Present: Syed Riaz Ali (by phone), David Buchalter, Martha Burke, Maria Douvas-Orme, Terence Filewych, Jill Hurwitz, Pamela Hutson (by phone), Robert Klein (by phone), Jeffrey Saxon, David Trapani, Alex Van Vorhees (for Sarah Ashkenazi), Frank Weigand, Robert Eby (by phone)¹

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

Non-deliverable forwards project

Robert Eby, Chair of the Operations Managers Working Group (“OMWG”) of the Foreign Exchange Committee (“FXC”), provided the group with an update about clearing of non-deliverable forwards. Mr. Eby said that a working group may be formed to conduct further efforts in this area. FMLG Acting Chair Michael Nelson recommended that the OMWG involve the FMLG in these efforts when appropriate.

FX Code: Last look update

FRBNY Staff Attorney Ben Snodgrass provided the group with an update on the status of the FX Global Code (the “Code”), which was released publicly on May 25th, along with a request by the Global Foreign Exchange Committee (“GFXC”) for feedback on “last look” practices in the FX market. Mr. Snodgrass stated that the deadline for the requested feedback on last look practices is September 21, and that the feedback would inform discussions at the GFXC’s meeting on November 14. The group discussed various issues related to the GFXC’s request for feedback.

¹ Mr. Eby is a Senior Vice President at Wells Fargo and the Chair of the Operations Managers Working Group of the Foreign Exchange Committee. He was present only for the portion of the meeting regarding the non-deliverable forwards project.

Revisions to trade authorization letter

FMLG Treasurer Martha Burke led a discussion of updates to a model trading authorization letter previously published by the FMLG. Ms. Burke announced that certain members had been working to draft updates to the model trading authorization letter to bring the letter in line with current market expectations, but came to the conclusion that the letter could benefit from review and revision by outside counsel. Ms. Burke proposed that the group engage outside counsel to revise the letter. The group agreed to this proposal.

Assessments

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

China netting opinions

Mr. Nelson asked members for their views on a *Risk* article regarding legal uncertainty about whether close-out netting is effective in China. One member noted that the article has generated discussion among practitioners, and that the China Banking Regulatory Commission (“CBRC”) recently indicated support for close-out netting. Mr. Nelson said that FRBNY staff would be willing to assist with looking into the issue further.

September 1 margin rule implementation

Mr. Nelson asked members to share any concerns they might have relating to implementation of the margin rules. Members did not share any concerns at the meeting.

Opinion project update

David Buchalter, Chair of the FMLG Documentation and Legal Opinions Working Group (“Opinions Working Group”), reminded members that the FMLG has decided to streamline its approach to the legal opinions project. Under the new, streamlined approach, the FMLG will ask for confirmation from counsel in each of the jurisdictions from which it currently gathers legal opinions that (1) from the perspective of enforceability, the netting provisions of the FXC Master Agreements are substantially similar to the netting provisions of the International Swaps and Derivatives Association (“ISDA”) Master Agreements for that jurisdiction, and (2) it would not be unreasonable for members to rely on the ISDA legal opinion on netting enforceability in that jurisdiction. Mr. Nelson said that the FMLG should present the

FXC with a brief, written explanation of the group's new approach to its legal opinions project. Mr. Buchalter agreed to prepare the explanation.

Agenda items for fall 2017 meetings

Mr. Nelson asked members to suggest agenda items for the group's remaining meetings this year. Mr. Nelson also announced that the group would be undertaking an in-depth review of all of the FXC and FMLG's existing best practices to determine whether any of these best practices should be updated or eliminated. Mr. Nelson said that FRBNY staff could begin the process by providing the group with a proposal on which best practices can be eliminated.

Members suggested the following agenda items: the Board of Governors of the Federal Reserve System's final rule on restrictions on qualified financial contracts of global systemically important banking institutions, the extraterritorial effects of MiFID II, and benchmark reform.

Membership discussion

Mr. Nelson said that the group is looking to add additional members, particularly from buy-side firms. He asked members to suggest possible candidates.

Status of CFTC communications

FMLG Secretary Thomas Noone provided members with an update on communications between the FMLG and CFTC staff regarding prime broker trading on swap execution facilities ("SEFs"). Going forward, FMLG members may direct comments and inquiries to the Global FX Division of the Global Financial Markets Association and/or the International Swaps and Derivatives Association.

Administrative Matters

Members were presented with minutes from the group's June 1, 2017, meeting and approved them.

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