

Meeting Minutes

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

Thursday, February 2, 2017
8:30 a.m. – 10:00 a.m. (New York time)

Present: Syed Riaz Ali, Christian Artmann, Sarah Ashkenazi, David Buchalter, Martha Burke, Maria Douvas-Orme, Terence Filewych, Pamela Hutson (by phone), Glade Jacobsen, Robert Klein, Matthew Lillvis, Tracy Ross (by phone), Jeffrey Saxon, Lisa Shemie, David Trapani, Frank Weigand, Bryan Woodard (by phone)

Federal Reserve Bank of New York (“FRBNY”) participants: James Bergin, Christina Getz, Michael Nelson, Thomas Noone, Angela Sun, Janine Tramontana

Other participants: Brian Rance, James Grand, Michael Raffan and James Smethurst (Freshfields Bruckhaus Deringer US LLP)¹

Introduce Frank Weigand

FMLG Acting Chair Michael Nelson introduced new FMLG member Frank Weigand to the group. Mr. Weigand is Associate General Counsel at HSBC Global Banking & Markets and General Counsel at HSBC Securities (USA) Inc.

Master agreements in a Eurozone breakup

Freshfields Bruckhaus Deringer US LLP partners Brian Rance, James Grand, Michael Raffan, and James Smethurst gave a presentation on legal issues that could arise in the event of a Eurozone breakup, including the potential impact on master agreements.

¹ These participants were only present for the portion of the meeting on Master agreements in a Eurozone breakup.

Legal Opinion on FX Code Adherence Update

Terence Filewych, head of an ad hoc working group that had engaged law firm Morgan Lewis to provide advice on antitrust issues relating to adherence to the FX Global Code (the “Code”), summarized the firm’s advice on these issues. The firm prepared a memorandum that had previously been circulated to the group. The group discussed how to implement this advice.

FX Code Update

Foreign Exchange Committee (“FXC”) Secretary Christina Getz updated the group on the progress of the next phase of the Code. Ms. Getz announced that the “fatal flaw” draft of the second phase of the Code would be released on February 3 and that the deadline for comments was February 14.

CFXC Membership

Mr. Nelson tabled this topic until the next meeting due to time constraints.

2017 Legal Opinion Jurisdictions Update

David Buchalter, Chair of the FMLG Documentation and Legal Opinions Working Group (“Opinions Working Group”), shared a recommendation for a streamlined annual legal opinions project. The Opinions Working Group recommends that the FMLG ask for confirmation from counsel in each of the jurisdictions from which it currently gathers legal opinions that, 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. If so, and so long as the netting provisions remain substantially similar, the FMLG’s member firms may choose to rely on an enforceability opinion for the ISDA Master Agreements in determining the enforceability of the FXC Master Agreements for that jurisdiction. The group accepted the recommendation.

Margin Rules

The group discussed the industry’s state of readiness for the new variation margin rules, which are effective March 1, and potential regulatory relief. Mr. Nelson recommended that the group have a conference call on the issue before the next meeting.

2017 Quadrilateral Proposed Agenda

FMLG Secretary Thomas Noone updated the group on potential dates for the 2017 Quadrilateral Meeting of the FMLG, the European Financial Markets Lawyers Group, the Financial Markets Lawyers Committee (“FMLC”), and the Financial Law Board. Mr. Noone also shared proposed agenda topics for the Quadrilateral Meeting with the group.

Administrative Matters

FMLG Treasurer Martha Burke offered a brief update on the group’s finances.

Members were presented with minutes from the group’s January 5, 2017, meeting and approved them.

Working Group on October 2016 GBP Flash Crash

Mr. Filewych informed the group that the Bank for International Settlements (“BIS”) recently issued a report on the October 2016 GBP flash crash, and provided a brief overview of the report’s findings. Mr. Nelson asked FMLG members to volunteer for an ad hoc working group that would review the BIS report and report on matters warranting further discussion.