



**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**

By Video Conference

Thursday, December 2, 2021

8:30 a.m. – 9:30 a.m.

*Members present:* Sarah Ashkenazi, James Brown, Martha Burke, Maria Douvas-Orme, Chinedu Ezetah, Terence Filewych, Jill Hurwitz, Amelia Kaufman, Robert Klein, Matthew Lillvis, Nancy Rigby, Jeffrey Saxon, Lisa Shemie, David Trapani, and James Wallin

*Federal Reserve Bank of New York (“New York Fed”) participants:* James Bergin, Alex Cohen, Thomas Noone, and M. Benjamin Snodgrass

*Other participants:* Jeffrey Lillien (Wells Fargo) and Annette Maluenda (Barclays)

***FMLG netting opinions: check in***

FMLG Secretary Thomas Noone began a discussion of the efficacy of the FMLG’s most recent round of netting enforceability opinions, commissioned in 2018. Members reported that the approach of linking legal opinions about standard agreements published by the Foreign Exchange Committee (“FXC”) and the FMLG to legal opinions about standard agreements published by the International Swaps and Derivatives Association, Inc. (“ISDA”) continued to provide cost-effective and legally adequate coverage.

***FCA and the FX Global Code***

Maria Douvas led a discussion of the [November 2021 announcement by the United Kingdom’s Financial Conduct Authority \(“FCA”\)](#) that it would formally recognize the revised version of the FX Global Code for regulatory purposes under the Senior Managers and Certification Regimes. The announcement also clarified that “last look practices that incorporate a delay that is additional to what is required to complete price and validity checks (some market participants refer to such deliberate delays as ‘additional hold time’) are not consistent with the Code[.]” In the discussion that followed, members commented on enduring market disagreement about what the term “last look” means.

***Cover sheets and the FX Global Code***

Terence Filewych and Jeffrey Lillien Members led a discussion about the completion of standard cover sheets and challenges owing to the window for adherence with the revised version of the Code.

***Digital currencies: legal issue spotting***

FMLG Secretary Thomas Noone introduced a discussion of legal issues in the issuance and circulation of digital currencies. Members observed, among other things, that a better understanding technical issues would be helpful so that lawyers could spot legal issues related to how digital currencies are held, traded, and regulated. Some members suggested that the FMLG include in future discussions about digital currencies outside speakers who can brief the group technical as well as legal issues, while other members believed that the FMLG's time was best spent on legal matters like how the use of digital currencies will affect settlement finality. There was agreement that it would be helpful to monitor digital currency projects at central banks.

***Future FMLG topics***

FMLG Chair James Bergin led a discussion of possible topics for the FMLG's agendas in 2022 in addition to digital currencies. Members suggested, among other topics, a review of certain industry letters published by the Foreign Exchange Committee and the FMLG, calculation agent practices, and industry disclosure conventions. Members also recommended monitoring the agendas of other industry groups to keep current with projects of mutual interest.

**Administrative matters**

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

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