



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, May 10, 2018

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

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

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

Other participants: Chinedu Ezetah (Citigroup, by phone), Amelia Kaufman (Deutsche Bank, by phone), Gregory Todd (Bank of American Merrill Lynch, by phone)

QFC stay rule

Ms. Douvas-Orme provided an overview of issues that market participants are currently assessing with respect to the U.S. banking agencies’ final rules on qualified financial contracts. The first compliance date for the rules is January 1, 2019. Ms. Douvas-Orme also informed the group that the International Swaps and Derivatives Association (“ISDA”) is in the process of publishing a Universal Stay Protocol (“ISDA Protocol”), which market participants can use to comply with the rules. The group discussed the issues that ISDA is trying to resolve prior to finalizing the protocol. Mr. Nelson said that the FMLG could consider publishing a statement, to be released following the publication of the ISDA Protocol, informing market participants about the Protocol.

SEF equivalence

Ms. Shemie provided an overview of regulatory hurdles that swap execution facilities (“SEFs”) continue to face with respect to onboarding EU participants, notwithstanding the U.S.-EU equivalence regime. The group discussed the Commodity Futures Trading Commission

(“CFTC”)’s efforts to address these issues with EU regulators and the potential for market fragmentation if these issues are not resolved.

FinCEN customer due diligence requirements

Ms. Rigby gave a presentation on the Financial Crimes Enforcement Network (“FinCEN”)’s new customer due diligence rule. The group discussed areas of uncertainty with respect to implementation of the rule, particularly for dealers in the foreign exchange market.

Membership and meeting update

FMLG Acting Chair Michael Nelson announced that FMLG members Tracy Ross and Luke Farber have resigned from the group and FMLG member Terence Filewych will be continuing as a member in his new role as Senior Counsel at Wells Fargo. Mr. Nelson also informed the group about a recently approved FRBNY internal policy that sets out certain requirements for the operation of FRBNY’s advisory and sponsored groups, including the FMLG.

ISDA annual meeting

Ms. Douvas-Orme provided a brief update on the 2018 ISDA Annual General Meeting, focusing on discussions regarding the LIBOR transition, Brexit, and continuing implementation of the uncleared swap margin rules. The group discussed market adoption of the new Secured Overnight Financing Rate (“SOFR”) and ISDA efforts to develop LIBOR fallbacks for derivatives transactions.

FIA Law & Compliance Division Conference

Mr. Klein provided a brief update on the 2018 FIA Law & Compliance Division Conference, focusing on comments by CFTC staff on anticipated changes to the position limits rule, SEF rules, and external business conduct rules for swaps dealers.

Quadrilateral planning

FMLG Secretary Thomas Noone thanked members that have agreed to present at the 2018 Quadrilateral Meeting of the FMLG, the European Financial Markets Lawyers Group (“EFMLG”), the Financial Markets Law Committee (“FMLC”), and the Financial Law Board (“Quadrilateral”). Mr. Noone informed the group that he expects the agenda for the Quadrilateral to be finalized soon.

Opinion project update

David Buchalter, Chair of the FMLG Documentation and Legal Opinions Working Group (“Opinions Working Group”), provided the group with an update on the status of the opinion project. Mr. Buchalter said that all of the opinions received by the Opinions Working Group have either been finalized or are currently under review, and all of the firms that had requested ISDA’s written consent prior to commencing work on the opinions have received such consent.

Update on third-party payments and trade authorization letter

Mr. Noone informed the group that the scenarios raising third-party payments issues aggregated by the FMLG had been presented to the Operations Managers Working Group (“OMWG”), a standing working group of the Foreign Exchange Committee (“FXC”), at a recent OMWG meeting. Mr. Noone said that the OMWG is not interested in taking up the issue. Mr. Noone told FMLG members that they could contact their firms’ OMWG representatives if they wish to discuss the issue further.

Ms. Burke announced that the FMLG’s draft of the revised trade authorization letter has been presented to the FXC for its consideration.

GFXC

FMLG members had a number of questions regarding the Global Foreign Exchange Committee (“GFXC”)’s progress on its three workstreams relating to various market topics. FXC Secretary, Christina Getz, and FRBNY Counsel, Benjamin Snodgrass, provided a brief update on these workstreams. The group agreed to put the topic on the agenda for the next meeting.

Administrative matters

Mr. Nelson reminded members that one member’s periodic assessment remains unpaid.

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

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