

**Meeting Minutes**

By Teleconference

Thursday, July 9, 2020

9:00am – 10:00am

*Members present:* Syed Riaz Ali, Sarah Ashkenazi, James Brown, Maria Douvas-Orme, Chinedu Ezetah, Terence Filewych, Jill Hurwitz, Glade Jacobsen, Robert Klein, Nancy Rigby, Jeffrey Saxon, Lisa Shemie, David Trapani, James Wallin, Frank Weigand, Bryan Woodard

*Federal Reserve Bank of New York (“New York Fed”) participants:* Michael Nelson, Thomas Noone, Sanja Peros, Ben Snodgrass, Shawei Wang, Alex Cohen, Kaitlyn McMillan

*Other participants:* Jeff Lillien (Wells Fargo), Joanna Perkins (Financial Markets Law Committee (“FMLC”)), Venessa Parekh (FMLC), Claude Brown (Reed Smith LLP), Carolyn Jackson (Katten Munchin Roseman LLP), Barney Reynolds (Shearman & Sterling LLP), Sanjev Warnakula-suriya (Latham & Watkins LLP), Kate Gibbons (Clifford Chance LLP), Michelangelo de Marzio (International Swaps and Derivatives Association (“ISDA”)), Rick Sandilands (ISDA), Victoria Cumings (Global Financial Markets Association (“GFMA”))

**ISDA definitions and deliverable FX disruptions**

Michelangelo de Marzio, Assistant Director of Market Infrastructure and Technology at the ISDA, and Rick Sandilands, Senior Counsel for Europe at ISDA, joined the meeting to solicit feedback on ISDA’s proposed updates to its 2006 definitions. ISDA began its work on updating the 2006 definitions in order to clarify and embed certain market practices and regulatory changes that have emerged in the past 14 years. The group discussed several types of transactions, including deliverable interest rate swaps, deliverable foreign exchange transactions, and deliverable currency option transactions.

Mr. de Marzio also sought feedback on a set of generic deliverable currency disruption events that could be incorporated into the proposed 2020 definitions. ISDA is considering three options in order to ensure that the document is applicable to relevant transactions. First, the provisions could apply to all deliverable currency pairs, avoiding the need to create and maintain a matrix of currency pairs. Second, ISDA could make the provisions elective on a confirmation

by confirmation basis, leaving it to the parties involved to determine which provisions should apply to a transaction. Third, ISDA could utilize a matrix similar and have the provisions fully apply to the specific currency pairs listed in the matrix.

Members held a discussion that covered the following topics: changes in basis risk as a result of changes to ISDA's definitions; calculation agent determinations; the need to gather input from key stakeholders (traders, regulators, etc.); whether to include non-deliverable fallbacks in deliverable transactions. Members proposed continuing the discussion via teleconference before the FMLG's next meeting in September 2020.

## **Brexit update**

Joanna Perkins, Chief Executive of the FMLC, discussed Brexit negotiations and their implications for financial markets. Dr. Perkins reported that several deadlines have passed since she last spoke to the FMLG—including the deadline for the UK to ask for an extension of the implementation period. Negotiations appear to have reached an impasse. The UK has been seeking maximum access to European markets and maximum flexibility on legislation and regulation for British firms and suppliers. The EU, on the other hand, has taken the position that the UK must transact on terms that are broadly similar to those available to other countries outside of the EU. If a trade or economic agreement is not reached with the EU this year, then the UK will find itself in a “no-deal” scenario, which would result in trading on WTO terms. While negotiating with the EU, the UK has had the opportunity to negotiate with other countries, including the United States and Japan. Certain issues, such as fisheries and access to UK waters, have surfaced as challenges in those negotiations.

Following Dr. Perkins's briefing, members discussed whether UK central clearing parties will continue to serve as valid clearing venues for EU swaps counterparties.

## **GFXC: analysis of settlement risk**

Alex Cohen of the New York Fed briefed members about a discussion of settlement risk at a recent meeting of the Global Foreign Exchange Committee (“GFXC”). According to a triennial survey conducted by the Bank for International Settlements, a growing and significant portion of trades are being settled without payment-versus-payment (“PVP”) protections. In light of this finding, the GFXC has asked local foreign exchange committees to consider ways to reduce settlement risk, including revised guidance in the FX global code. FMLG Chair Michael Nelson recommended that members interested in the issue for an informal working group.

## **GFMA update: FX COVID workshop**

Victoria Cumings, Managing Director in the Global Foreign Exchange Division of the GFMA, provided an update about a recent pandemic planning exercise related to foreign exchange. A discussion followed in which the following topics were discussed: central bank swap lines, working from home, market monitoring, the FX Global Code, and employee wellness and motivation. Mr. Nelson members to raise concerns about market dislocations that the group should be discussing. Members reported that, so far, there have been no significant market disruptions during the pandemic.

## **ISDA IBOR fallback protocol**

Maria Douvas provided a brief update on ISDA's IBOR fallback protocol. She requested that FMLG members verify that the master agreements listed comprise the full universe of agreements and reach out to ISDA before July 15<sup>th</sup> with any comments.

## **Argentina review**

Mr. Noone asked members to refocus their attention to a proposed "lessons learned" discussion with the Foreign Exchange Committee ("FXC") about Argentina's 2019 currency controls. He referred members to background materials shared in previous meetings and proposed that the discussion with the FXC take place in September. Mr. Nelson encouraged members to volunteer to help plan the September discussion.

## **Trading and lawyering from home**

Mr. Nelson asked members whether they were able to work from their offices. Several members reported that they were not required to work in their offices but had the ability to enter their offices with permission if needed.

## **Administrative matters**

FMLG Treasurer Jill Hurwitz gave a brief update on the group's finances.

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