Committees & Working Groups Bulletin – October/November 2019

FINANCIAL MARKETS ASSOCIATION EST 1955

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Board of Education (BOE)

- BOE continues to work on the update of the exams suite, the ACI Diploma New Version will be launched in early December and the new Syllabus for the ACI Dealing Certificate is being revised following feedback from Accredited Trainers (launch expected in January 2020)

Crypto Working Group (CWG)

- The Crypto Working Group (CWG) met and received reports on:
  - Progress of major Private Sector initiatives such as Facebook's Libra, JPM and Wells Fargo
  - Progress of Exchange initiatives such as SIX and Bakkt
  - New initiatives within Central Banks such as PBoC and BIS
  - Regulatory responses to these and other initiatives in the space
- The group resolved to increase its role within ACI as a focal point for information preparation and distribution to the membership by adopting a "Monthly Theme" and publishing a short paper (one pager) to be made available for the membership. This months' theme is Crypto Codes of Conduct which we asked Teana Baker-Taylor of GDF to prepare a short overview of that groups' initiatives in this area:

GDF

Driving industry-led international cryptoasset standards

Digital finance is a rapidly innovating and evolving sector. Global Digital Finance and its community provide organisations with the opportunity to help shape the industry's future through the development of self-regulating standards to support and encourage open and productive dialogue with global policy makers and regulators.

The GDF community is developing a global Code of Conduct to guide the industry during this formative period. The GDF Code is developed through open, inclusive working groups of crypto and digital asset industry participants; legal, regulatory and compliance experts; financial services incumbents; and academics. Code principles undergo multiple stages of community peer review, regulator preview and public consultation prior to ratification.

Global Digital Finance

Global Digital Finance (GDF) is a not-for-profit members body with a mission to drive global standards and best practices for crypto and digital asset market participants, including some of the most influential digital currency and token companies, academics and professional services who support the industry. GDF conducts policymaker, regulator and industry outreach to build a shared understanding of the risks and opportunities presented by tokens and cryptoassets and has developed a global Code of Conduct for the digital assets market and its participants. GDF is proud to include Circle, Coinbase, ConsenSys, DLA Piper, Diginex, Huobi, Hogan Lovells and R3 as patron members. Learn more at **www.gdf.io**

Why is the Code of Conduct Important?

Crypto and digital assets present unique challenges for governments and regulators. This nascent asset class enables the global transfer of assets and information across borders, often with differing legal and regulatory frameworks. While we expect all market participants to comply with all applicable legal requirements, without a bedrock set of principles, there is a heightened risk of legal and regulatory arbitrage that may harm markets and investors.

Establishing conduct and operational governance standards through a Code of Conduct enables market participants to demonstrate their commitment to following standards that are designed to protect consumers, market integrity, and enable the long-term benefits of crypto and digital assets to be realised.

The Code of Conduct provides a shared rulebook for crypto and digital asset market participants, including token issuers, trading platforms, funds, rating and comparison websites, as well as market practices such as principles for Anti-Money Laundering and Know-Your-Customer, and Stablecoin and Security Token issuance. The Code will continually evolve as the GDF community develops additional industry-led standards to support the ever-growing ecosystem. Principles outlining best practices for Custody, Tax Treatments and Market Integrity are in development today.

Driving Accountability

GDF manages a Code of Conduct Self-Attestation Registration scheme for crypto and digital asset firms and companies providing products and services within the industry to attest their adherence to the GDF Code of Conduct.

The GDF Registration Scheme is a publicly available resource of companies who have self-attested their compliance with the GDF Code of Conduct. Code adherence demonstrates to peers, customers, and policymakers around the world that these registered organisations are committed to governance best practices which promote transparency, market integrity, and investor protection and who operate within the highest standards of compliance, professionalism, and accountability to enable responsible growth and innovation within our industry.

www.gdf.io hello@gdf.io GlobalDigitalFi

Joint cooperation between: Committee For Professionalism (CFP), Foreign Exchange Committee (FXC) and Regulatory Working Group (RWG)

- The three Committees/Working Groups have drafted a response to the ESMA Consultation Paper on the provisions of the Market Abuse Regulation (MAR), an European Union Regulation that came into effect on 3 July 2016
- In its feedback, ACI FMA focussed on the possible inclusion of Spot FX contracts within the scope of MAR, working together with other organisations that shared our views, such as the Global FX Division of the GFMA (AFME)
- The summary of our response is:
  - "ACI FMA would also like to use the opportunity to highlight the essential issues related to the FX market, especially the method to include spot FX into MAR rather than use a more globally harmonized approach.
  - The spot FX market is global and the world's largest. The FX market has many different and diverse stakeholders. Following the global consideration of the UK's Fair and Effective Markets review, which recommended setting up a FX Global Code as a consequence of the spot FX market falling within the jurisdiction of Central Banks. The Central Banks worldwide, in partnership with participants from the private sector, have developed the FX Global Code to support fair and efficient FX markets. The FX Global Code is a set of global principals of good practice in the FX market and has been developed to provide a common set of guidelines to promote the integrity and effective functioning of the wholesale FX market.
  - ACI FMA strongly supports the FX Global Code. It promotes a robust, fair, liquid, open, and appropriately transparent market in which a diverse set of Market Participants, supported by resilient infrastructure, are able to confidently and effectively transact at competitive prices that reflect available market information and in a manner that conforms to acceptable standards of behaviour.
  - More than 1.000 institutions around the world now support the FX Global Code and the ACI FMA strongly believe that the FX Global Code will need more time to embed comprehensively in the market. To ensure that the standards are acknowledged worldwide the commitment and responsibility to keep the FX Global Code up to date lies with the Global FX Committee that also has the responsibility to promote and maintain it. As a result, the FX Global Code will be reviewed in 2020. By following the FX Global Code, market participants can expect the global FX market to conduct business in an appropriate and responsible manner. If the European market brings spot FX into MAR, the FX Global Code will be immensely weakened. Given the global nature of the FX market, including it in MAR or MiFID/R will cause fragmentation and impact liquidity. In addition, considerable cost will be occurred by the FX market to no practical avail.
  - If spot FX is included in MAR, it will bring many more challenges to the market. The definitions and the current interpretations of MAR are not suitable or aligned with the characteristics of the spot FX market. The challenges are present in other markets which are already covered by MAR. This is for instance the case for covered bonds given the fact that inside information definitions are not compatible to those in the equities markets.
  - Spot FX does not fit naturally into the MiFID definition of a financial instrument. Spot FX is also used to effect monetary policy by governments and Central Banks intervening in the market for policy purposes. MAR would need clarification as to how this will be accommodated given a carve out in the FX Global Code exempting Central Banks when acting in this regard.
  - If spot FX is classified as a financial instrument by MiFID there will be separate challenges of transaction reporting in capturing, reporting and analyzing the data that would be required, given the size and speed of operations in the spot FX Market, particularly at a time when the revision and optimization of existing data obligations is still underway. We already see that transaction reporting is currently under review for revision following identified issues. The issue on how to provide best execution will also have to be addressed given the wide scope of the FX market by such a diverse set of participants. In addition, it should be borne in mind that spot FX is an integral part of the cash and payments system with participants, such as Bureau de Change, that will need special consideration given regulatory overlap.
  - ACI FMA has traditionally supported regulatory, civil and criminal regulatory/legal measures that use and complement established appropriate Codes of Conduct. ACI FMA welcomed the recognition by the UK FCA of the FX Global Code within the SMCR. ACI FMA is strongly of the view that the existing jurisdiction of the spot FX market by central banks and the ongoing work to fully embed the FX Global Code across the market should not be disrupted by extending MAR to include spot FX.
  - When it comes to the Sell Side who have been through remediation after the FEMR, surveillance frameworks are in place for FX to accommodate detecting market abuses; but including spot FX under MAR would involve modifications and disruptions to existing systems. The cost is estimated to be considerable.
  - In conclusion, ACI FMA does not believe that extending MAR and/or MiFID/R to Spot FX would be an appropriate or proportionate course of action at this time."

Money Market & Liquidity Working Group (MM&LWG)

- Agenda for meeting held in Helsinki on Monday 7th and Tuesday 8th October:
  - Application of Kevin Van Berkel (OVH)
  - Minutes from last meeting
  - Feedback ECB's MMCG
  - Brexit
  - Market commentaries ECB (TLTRO 3 tiering, redcut, QE + forward guidance)
  - Market Commentaries USD, REPO, mid-September
  - Recommendation from RFR Groupe notably for WG5 on the interest payment of EURO Money Market Products: ase of cleared repos versus bilateral repos
  - INTRA DAY discussion
  - Latest evolution of benchmarks transition, EURO €STER, SOFR, LIBOR…
- The next meeting will be hosted by Cecabank and is scheduled for Madrid on Monday 3rd and Tuesday 4th of February 2020