Foreign Exchange Professionals Association

May 31, 2021

Global Foreign Exchange Committee Secretariat
Sent via email: codefeedback@globalfxc.org

RE: Request for Feedback on Draft Guidance Papers for Pre-Hedging and Last Look

Dear GFXC Secretariat,

The Foreign Exchange Professionals Association (FXPA)[1] appreciates the opportunity to provide feedback to the Global Foreign Exchange Committee (GFXC) on the draft guidance papers for pre-hedging and last look.[2]

As we stated in our letter on the GFXC's request for feedback on the proposed cover sheets, the FXPA remains a strong supporter of the Code and its stated aim to promote a robust, fair, liquid, open, and transparent market, which is very much in line with FXPA's own principles. The FXPA, as an Association, fully supports the adoption of the Global Code's principles.[3]

We worry, though, that the guidance papers – like the cover sheets – will be viewed and internalized by those in the industry as more than what the GFXC intended them to be – i.e., guidance. Even with the disclosures in the guidance papers that they are "not part of the Code" and are "principles-focused and not intended to be prescriptive," their format and detailed commentary on pre-hedging and last look, including a section titled "Recommendations" in the last look paper, suggest that a market participant would need to align its processes and procedures with these papers in order to be in compliance with the Global Code. A Statement of Commitment, moreover, could be read to imply that the market participant has aligned itself with the Global Code *and* these guidance papers. In short, the FXPA is concerned that the papers will quickly become inextricably linked with the Global Code, and participants will be put under pressure to adopt the recommendations therein (incurring both the costs to do so and the liability for noncompliance).

[1] The FXPA represents the collective interests of professional FX industry participants, including buy-side, exchanges and clearing houses, trading platforms, technology companies, banks and non-bank market participants, among others, to advance a sound, liquid, transparent and competitive global currency market to policymakers and the marketplace through education, research and advocacy. The following comments do not represent the specific individual opinion of any one particular member. For more information, please see www.fxpa.org.

[2] GFXC, *GFXC Publishes Request for Feedback on Draft Guidance Papers for Pre-Hedging and Last Look* (May 11, 2021), https://www.globalfxc.org/press/p210511.htm.

[3] *See FXPA Endorses Global Code for FX Market*, FXPA (May 25, 2017), https://fxpa.org/fxpa-endorses-global-code-for-fx-market/.

Put simply, at a time when the industry and regulators are trying to encourage additional commitments to the Global Code, adding an additional layer of complexity in the form of, for example, *recommendations* in a *guidance paper* expanding on *principle* in a voluntary *code of conduct* may prove to be a step too far to convince additional FX market participants, particularly buy side firms, to sign up for the Global Code.

Recommendation #1: The FXPA recommends that the guidance papers provide additional clarity on their intended use beyond the disclosures already present in them. If being published solely as an educational perspective to improve market understanding, then the papers should state so and explicitly provide that market participants who choose not to follow some (or all) of the paper's guidelines would *not* be deemed to be out of compliance with the Global Code. If being offered as more than an educational resource and there is an expectation that participants adhere to the papers' recommendations, then the substance of the papers should be incorporated directly into the Global Code, a path the GFXC recently pursued with proposed amendments to the Global Code.

The FXPA also recommends specific changes to the guidance papers, as further discussed below.

I. Draft Guidance Paper 1: Pre-Hedging

Recommendation #2: In Section 6, the GFXC suggest several execution options for liquidity consumers to "understand how their orders are handled to as to make informed choices about which liquidity provider they choose to transact with." The FXPA notes that several of these execution options are not easily implemented in markets that trade electronically. For example, in a market with electronic trading and liquidity providers using algorithms or other automated infrastructure, a liquidity provider could not receive an accommodate a liquidity consumer's request for prices without any pre-hedging (number 4) or incorporate whether a request for quote is exclusive or competitive. To adopt these protocols for highly liquid markets would require a transition from electronic to voice markets.

Recommendation #3: The FXPA recommends that the GFXC review the use of market terms in the guidance papers, generally, to ensure they reflect the way a broad cross-section of market participants use the terms. For example, in Section 7.1, stop-loss orders should be clarified to align with the industry's use of the term. First, some market participants do not consider a stop-loss order to be a firm order, as the trade is not considered done until the client agrees to the final price (i.e., the client can walk away). Second, the FXPA encourage the GFXC to further socialize the comment in the guidance paper discussion regarding a "stop-loss order becoming an 'at the market' order once trigger is hit." In this case, a stop-loss order becoming an at the market order is not something that reflects how many market participants engage in the market and describe these order types. Generally, market participants rely on stop-loss orders to sell at a certain price in order to minimize risk, while an at the market order can introduce significantly more slippage due to rapidly changing market prices.

Recommendation #4: The FXPA recommends that the request for quote (RFQ) guidance to clients should be clarified to align with how venues implement the RFQ functionality, while also clarifying that the guidance does not place any expectations on venues that they must implement this functionality. At present, this functionality does not yet exist universally in the market.

Recommendation #5: The FXPA recommends that the guidance paper reference what the GFXC believes that buy side participants should and should not do in regard to placement of orders that could be pre-hedged. Given the particular interest in increasing buyside commitment to the Global Code, clarifying what the guidance paper means for this segment of the FX market would be a meaningful improvement.

Recommendation #6: The FXPA recommends that the guidance paper clarify how it applies to trading venues, all of whom should not be placed in a position to police the pre-hedging activities of liquidity providers. Trading venues have a limited view into the larger marketplace, and are ill suited (based on their function and access to real-time information across trading venues) to monitor this type of behavior. The FXPA encourages the GFXC to consider, perhaps in lieu of a guidance paper, to issue an examples-based FAQ document describing how to employ this guidance and some clarification of its meaning in various environments, trading formats, and circumstances.

II. Draft Guidance Paper 2: Last Look

Recommendation #7: The FXPA recommends the paper include references to what types of trading venues (anonymous, etc.) the guidance would or would not be applicable, and clarification that operators of trading venues will not be required to enforce these provisions / recommendations where not possible to do so. Trading venues are not liquidity providers. Trading venues cannot police the last look practices of liquidity providers, who are best positioned to describe, deploy, and oversee their last look practices.

Recommendation #8: The FXPA recommends clarity around the statement that "LPs should be able to disclose, at least, a high level reason for the rejection that is clear and unambiguous, such as whether it was due to failing a validity or price check." Some e-trading platforms may have some last look controls embedded in their systems, so this raises questions as to who is responsible for the accuracy, collection, and presentation of rejection reasons to the liquidity consumer. Furthermore, developing a consistent standard across trading platforms for liquidity consumers with respect to trade rejection information could be complicated, burdensome, and, potentially, a solution does not provide meaningful benefit to liquidity consumers. The FXPA cautions against such a significant undertaking without input from a broad array of market participants.

Recommendation #9: The FXPA believes the guidance paper, and the Global Code, should not adopt recommendations or principles with respect to symmetric vs asymmetric price checks. The FXPA supports adequate disclosure by liquidity providers so that liquidity consumers can make informed decisions about last look liquidity prices in the market.

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The FXPA stands ready to work with the GFXC on the issues discussed herein. Should the GFXC wish to discuss these comments further, please contact the undersigned at chairman@fxpa.org.

Sincerely yours,

Chip Lowry
Chairman