

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2004-85 and should be submitted on or before March 9, 2005.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (File No. SR-CBOE-2004-85), as amended by Amendment No. 1, be, and hereby is, approved, and that Amendment No. 2 to the proposed rule change be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. E5-642 Filed 2-15-05; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51178; File No. SR-FICC-2005-03]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Appendix A to Its Cross-Margining Agreement With the Chicago Mercantile Exchange To Update the List of Other Cross-Margining Agreement To Which Each Is a Party

February 9, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 21, 2005, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange

Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Appendix A to the cross-margining agreement ("Agreement") between the Chicago Mercantile Exchange ("CME") and the Government Securities Division ("GSD") of FICC which lists other cross-margining and loss sharing arrangements to which the GSD and CME are parties.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>2</sup>

##### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

FICC is currently participating in a cross-margining arrangement with the Chicago Mercantile Exchange ("CME"). The Agreement governing the arrangement contains Appendix A on which the parties are required to list other cross-margining or loss sharing arrangements to which they are parties. The Agreement provides that the parties may amend Appendix A without prior approval of the other party by giving notice to the other party.

The CME recently notified FICC that it has amended Appendix A to remove two agreements it had with the Board of Trade Clearing Corporation and to add an agreement that it now has with the New York Mercantile Exchange. This rule change incorporates these changes into the Agreement, which is a part of the GSD's rules.

The proposed rule change is consistent with the requirements of

Section 17A of the Act<sup>3</sup> and the rules and regulations thereunder applicable to FICC because it facilitates the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities and in futures.

##### (B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have an impact or impose any burden on competition.

##### (C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have been solicited or received. FICC will notify the Commission of any written comments received by FICC.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>4</sup> and Rule 19b-4(f)(4)<sup>5</sup> thereunder because the proposed rule does not significantly affect the respective rights or obligations of the clearing agency or persons using the service and does not adversely affect the safeguarding of securities or funds in the custody or control of FICC or for which it is responsible. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FICC-2005-03 on the subject line.

<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> The Commission has modified the text of the summaries prepared by FICC.

<sup>3</sup> 15 U.S.C. 78q-1.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(4).

### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-FICC-2005-03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at [www.ficc.com](http://www.ficc.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FICC-2005-03 and should be submitted on or before March 9, 2005.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-638 Filed 2-15-05; 8:45 am]

**BILLING CODE 8010-01-P**

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51175; File No. SR-FICC-2004-19]

#### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving a Proposed Rule Change Relating to Changes To Eliminate or Amend Rules That Are Inconsistent With Current Practice, Have Expired, Are Outdated, Are Unnecessary, or Require Technical Correction

February 9, 2005.

**SUMMARY:** On October 7, 2004, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> (File No. SR-FICC-2004-19). Notice of the proposal was published in the **Federal Register** on December 29, 2004.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### I. Description

The proposed rule change will eliminate or amend FICC's Government Securities Division ("GSD") and Mortgage-Backed Securities Division ("MBSD") rules in the following manner:

##### 1. Delete Provisions in GSD's Rules Regarding the Automated Customer Account Transfer Service ("ACATS")

The ACATS provisions were added to GSD's rules in 1998, when the National Securities Clearing Corporation requested that the Government Securities Clearing Corporation ("GSCC"), the GSD's predecessor, establish with it an interface that would enable account transfers involving netting-eligible government securities to be processed using GSCC's existing netting and settlement processes. This service was never implemented, and its continued reference in the rules is inconsistent with current practice.

##### 2. Delete Provisions From GSD's Rules That Designate Participation in the Repo Comparison and Netting Processes

GSD's rules used to refer to FICC as designating a member to be eligible to participate in the repo comparison and repo netting processes. When these repo services commenced in 1995, GSCC required testing prior to participation

and subsequently designated members as eligible to participate in the services. Participation in these services has now become commonplace and special testing and designation for participation in the repo services is no longer necessary. As such, the provisions in question are outdated and are being deleted.

##### 3. Make Technical Corrections to GSD Rules By

i. Changing the definitions of "Interest Adjustment Payment" and "Interest Rate Mark Adjustment Payment" in GSD Rule 1 (Definitions) to correct an erroneous reference in both definitions to the "Federal Funds Rate" and replacing them with references to a newly defined term, "Overnight Investment Rate;"

ii. changing the term in Rule 1 "Multilateral Clearing Organization" to "Multilateral Clearing Agency;"

iii. changing the language of the definition in Rule 1 of "Member" to reflect the fact that certain members (*i.e.*, comparison-only members) are approved for membership by senior management and not by the Membership and Risk Management Committee;

iv. correcting Section 1(d) of Rule 2, where GSD is erroneously referred to as its predecessors name, GSCC;

v. deleting subsection (b) of Rule 11B, which has expired;

vi. changing an incorrect reference to "Rule 7" to "Rule 6C" in Rule 17, Section 4; and

vii. changing a reference to the "Membership and Standards Committee" to the "Membership and Risk Management Committee" in Rule 48, Section 2.

##### 4. Technical Corrections in the MBSD Rules

FICC will renumber MBSD Rule 15 (Notices) of Article X to Rule 16 as it is in fact the 16th rule in that article.

### II. Discussion

Section 17A(b)(3)(A) of the Act requires, among other things, that a clearing agency be organized to facilitate the prompt and accurate clearance and settlement of securities transactions.<sup>3</sup> FICC's proposed rule change will eliminate unnecessary or outdated provisions, and make technical changes. This should promote greater transparency and understanding of FICC's actual practices and policies, which should enhance FICC's organizational capacity to facilitate the

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> Securities Exchange Act Release No. 50888 (Dec. 20, 2004), 69 FR 78073.

<sup>3</sup> 15 U.S.C. 78q-1(b)(3)(A).

<sup>6</sup> 17 CFR 200.30-3(a)(12).