

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96938; File No. SR-FICC-2023-002]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Consisting of Modifications to the FICC Government Securities Division Rulebook

February 15, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 6, 2023, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to the FICC Government Securities Division (“GSD”) Rulebook (“Rules”)⁵ in order to improve the transparency of those rules by making clarifications, corrections, and technical changes to the Rules, as described in greater detail below.

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In Rule 3A, Sections 2(g) and 3(d), FICC proposes to clarify that Members should refer to the Fine Schedule for the dollar amount of the fine by deleting the references to \$1,000 and adding that the fine is pursuant to the applicable Fine Schedule in the Rules. The proposed rule changes would also remove the requirement that notifications under these Sections be provided orally, as such notifications are difficult to record and are redundant of the written notification also required in these Sections of Rule 3A.

FICC would also revise these sections to more clearly describe the Sponsoring Members’ obligations to notify FICC of certain events that involve either the Sponsoring Member or their Sponsored Members. Currently, Section 2(g) describes only the Sponsoring Members’ obligation to notify FICC when it is no longer in compliance with the relevant standards and qualification for a Sponsoring Member membership, and Section 3(d) describes an obligation of the Sponsored Members to notify their Sponsoring Member(s) if it is no longer in compliance with the applicable requirements of Rule 3A. Section 3(d) then describes the obligation of a Sponsoring Member to notify FICC after it receives such notification from a Sponsored Member.

First, the proposed changes would remove from the Rules the obligation of a Sponsored Member to notify the Sponsoring Member stated in Section 3(d) because this obligation is one that should be created and enforced between those two entities and not in the GSD Rules. Second, the proposed changes would move the obligation of a Sponsoring Member to notify FICC when a Sponsored Member is no longer in compliance with the applicable requirements of that Rule from Section 3(d) to Section 2(g), where the obligations of Sponsoring Members are stated. Third, the proposed rule changes would include the requirement that a Sponsoring Member also notify FICC at least 90 calendar days prior to the effective date of any Reportable Event, as such term is defined in Rule 1 of the GSD Rules, applicable to a Sponsored Member, unless the Sponsoring Member demonstrates that it could not have reasonably done so, in which case such notice shall be provided as soon as possible. This proposed change would clarify that the reporting obligations of Sponsoring Members with respect to their Sponsored Members are the same

reporting obligations applicable to other GSD Members.

Finally, the proposed changes would revise a statement in Section 3(d) of Rule 3A that currently states FICC shall cease to act for a Sponsored Member that no longer meets the requirements for such membership. The proposed change would revise this statement to replace “shall” with “may” and would clarify that FICC has the right, but not the obligation, to cease to act for a Sponsored Member in such circumstances. This proposed change would align Section 3(d) with Section 13 of Rule 3A, which provides that FICC may, based on its judgement that there is adequate cause to do so, suspend a Sponsored Member from any FICC services in the circumstances described in that Section.

FICC also proposes changes to Sections 2(i) and 3(e), which address the procedures for Sponsoring Members and Sponsored Members, respectively, to voluntarily terminate their membership with FICC. These Sections currently state that a Sponsoring Member Voluntary Termination Notice or a Sponsored Member Voluntary Termination Notice, as applicable and as defined in those Sections of Rule 3A, is not effective until it is accepted by FICC and that such acceptance is evidenced by a notice to all Members announcing the termination of that membership.

First, FICC is proposing to revise these Sections to make clear that its acceptance of a voluntary termination of a Sponsoring Member’s or Sponsored Member’s membership shall be evidenced by a notification from FICC to the firm terminating its membership and that the effective date of the membership termination will be set forth in that notice from FICC to the member.

Second, the proposed changes to these Sections will clarify that the notice to all members regarding the voluntary termination of a Sponsoring Member’s or Sponsored Member’s membership (i) is an Important Notice, which is a notice posted to FICC’s public website, and (ii) is only posted when a Sponsoring Member has terminated its status as a Sponsoring Member with respect to all Sponsored Members or when a Sponsored Member has terminated its relationship with all Sponsoring Members and, as such, has terminated its membership with FICC. More specifically, the proposed changes would clarify that an Important Notice is not posted if a Sponsored Member terminates its relationship with one, but not all, of its Sponsoring Members, for example, but only when a Sponsored

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ Capitalized terms used herein and not defined shall have the meaning assigned to such terms in the GSD Rules, available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

Member or a Sponsoring Member ceases to participate in the Sponsored Clearing service.

FICC also proposes to make a clarification to Rule 3A, Section 3(c). Rule 3A, Section 3(c) currently states that each Person to become a Sponsored Member that shall be an FFI Member must be FATCA Compliant. FICC proposes to enhance clarity by adding that each Person to become a Sponsored Member that shall be a FFI Member is subject to the requirements of Section 9(iii) of Rule 3. FICC does not believe that this proposed change would change the relationship between existing Sponsored Members that are FFI Members and FICC because the requirements of Section 9(iii) of Rule 3A are currently applicable to FFI Members, including Sponsored Members that are FFI Members. Therefore, the proposed change would not impose any new requirement to these firms but would simply clarify the Rules regarding current requirements.

FICC also proposes to revise Rule 3, Section 9(iii), which currently states that an FFI Member shall indemnify FICC for any loss, liability or expense sustained by FICC as a result of such FFI Member failing to be FATCA Compliant. FICC proposes to revise this provision to clarify that the indemnification currently provided by an FFI Member to FICC under this Rule also covers FICC's affiliates, and each of their respective shareholders, directors, officers, employees, agents and advisors (each, an "Indemnified Person"). FICC would also define "Indemnified Person" in Rule 1. The proposed change would also align the indemnifications provided by Sponsored Members that are FFI Members pursuant to Rule 3, Section 9(iii) with the indemnifications provided by these firms in the membership agreements that they execute and deliver to FICC in connection with onboarding.

Rule 3A, Section 2(a) states that a Netting Member that is a Tier One Netting Member, other than an Inter-Dealer Broker Netting Member or a Non-IDB Repo Broker with respect to its activity in its Segregated Repo Account, is eligible to apply to become a Category 2 Sponsoring Member. FICC proposes to replace this description of Tier One Netting Members that are not eligible to apply to become a Category 2 Sponsoring Member (*i.e.*, an Inter-Dealer Broker Netting Member, or a Non-IDB Repo Broker with respect to activity in its Segregated Repo Account) with the phrase "Repo Broker in its capacity as a broker." In Rule 1, Repo Broker is currently defined as (i) an Inter-Dealer Broker Netting Member, or (ii) Non-IDB

Repo Broker with respect to activity in its Segregated Repo Account. As such, FICC believes it would enhance clarity to use the defined term "Repo Broker" with the additional detail that it is the Repo Broker in its capacity as a broker when describing Tier One Netting Members that are not eligible to apply to become Category 2 Sponsoring Members.

FICC is also proposing to revise Section 10 of Rule 3A to clarify the circumstances in which FICC may treat a Sponsoring Member's Netting System accounts and Omnibus Account as a single account. This Section 10 currently provides that a Sponsoring Member's Netting System accounts and its Sponsoring Member Omnibus Account shall be treated separately, as if they were accounts of separate entities, for purposes of satisfying Clearing Fund requirements for both its Netting Member activity and its Sponsoring Member activity. The rest of Section 10, however, describes FICC's right to treat these accounts as a single account in its sole discretion and without notice to a Sponsoring Member. FICC has not, and does not intend to, treat any Sponsoring Member's Netting System accounts and Sponsoring Member Omnibus Account as a single account for purposes of calculating its Clearing Fund requirements to FICC. Therefore, the proposed rule change would remove these statements from Section 10 of Rule 3A. The proposed rule changes would include a statement regarding FICC's right to apply a Sponsoring Member's Clearing Fund deposits to any obligations of that Sponsoring Member, as provided for under the GSD Rules. This proposed change would clarify that the statements in this Section 10 of Rule 3A do not have any impact on other rights FICC may have with respect to the application of a Member's Clearing Fund deposits, for example, following the default of that firm and as provided for under Sections 5 and 6 of Rule 4.

Finally, as described in greater detail below, FICC is also proposing changes to Section 12(a) of Rule 3A and the definition of Off-the-Market Transaction in Rule 1 to clarify the treatment of Sponsored Member Trades that are Off-the-Market Transactions.

By way of background, in 2019, FICC explained in a proposed rule change filing⁶ that, in light of the intermediary relationship between a Sponsoring Member and its Sponsored Member, a

Sponsoring Member may choose to post to its Sponsored Member a haircut in order to address regulatory and/or investment guideline concerns. Specifically, the regulations and/or investment guidelines applicable to a Sponsored Member may require that it receive Eligible Securities worth more than the cash it is due to receive at final settlement of a FICC-cleared reverse repo, for example, in the form of a haircut. Similarly, in some circumstances, a Sponsoring Member may choose to collect such haircut from its Sponsored Member at the Start Leg to mitigate its exposure under the Sponsoring Member Guaranty. In both situations, FICC's understanding is that accounting considerations may favor those postings being facilitated through FICC's systems. Specifically, in light of the fact that the counterparty on a FICC-cleared trade changes after novation (and the Sponsoring Member and Sponsored Member thereafter both face FICC as principal), having an obligation to receive and/or deliver a haircut at final settlement directly to FICC as the post-novation counterparty may be favorable for the Sponsoring Member and the Sponsored Member from an accounting perspective. Following regulatory approval of the Sponsored Close-Out Clarification Filing, FICC added the new defined term "Initial Haircut" to the Rules to refer to this haircut.⁷

In addition, the Sponsored Close-Out Clarification Filing made clear that FICC is not under any obligation to verify the parties' agreement in respect of an Initial Haircut, and the parties' calculation of any Initial Haircut will be conclusive and binding on the parties.⁸ These statements were consistent with the long-standing view that Initial Haircuts be treated as "off market" under the Rules. For example, when the Sponsored Membership Program was first proposed, FICC stated that it learned that custodial banks that are likely to be interested in becoming Sponsoring Members generally collateralize their custody clients (*i.e.*, the potential Sponsored Members) at 102 percent for U.S. Treasury repurchase agreements.⁹ In the

⁷ *Id.*

⁸ *Id.* at 11404 ("FICC would also amend Section 9(a) of Rule 3A to make clear that any Initial Haircut would be as agreed between the parties to the Sponsored Member Trade, and that FICC would not be under any obligation to verify the parties' agreement with respect to any Initial Haircut, and its calculation of the Initial Haircut would be conclusive and binding on the parties").

⁹ Securities Exchange Act Release No. 51659 (May 5, 2005), 70 FR 25129 (May 12, 2005) (SR-FICC-2004-22) ("Sponsored Service Filing").

⁶ Securities Exchange Act Release No. 88262 (February 21, 2020), 85 FR 11401 (February 27, 2020) (SR-FICC-2019-007) ("Sponsored Close-Out Clarification Filing").

Sponsored Service Filing, FICC also stated that under the GSD Clearing Fund formula at the time, this collateralization would cause a Sponsoring Member to pay an additional 4 percent of its overall transactional volume with Sponsored Members in the form of Clearing Fund margin. Therefore, FICC amended the Clearing Fund rule to avoid the potential adverse impact on a Sponsoring Member given that these additional funds payments are pass-through amounts and do not represent risk to FICC or its members.¹⁰

FICC is now proposing to clarify Section 12(a) of Rule 3A to clarify the Rules regarding how Initial Haircuts are treated in loss allocation arising from a default of a Sponsoring Member and would propose to amend the definition of Off-the-Market Transaction in Rule 1 to state that an Off-the-Market Transaction includes a Sponsored Member Trade in which the Sponsored Member provided the Initial Haircut.

More specifically, the proposed changes would clarify that, in the event a Sponsoring Member defaults, and a Sponsored Member has a Receive Obligation regarding a Sponsored Member Trade for which that Sponsored Member gave an Initial Haircut (which, pursuant to the Rules, makes that Sponsored Member Trade an Off-the-Market Transaction), the Sponsored Member would bear the risk of loss on such Sponsored Member Trade. This clarification would make this provision of the Rules consistent with FICC's practice to facilitate Initial Haircuts as payments but are not otherwise part of FICC's risk management processes. The proposed rule change would add clarifying language to this effect in Section 12(a) of Rule 3A. Specifically, FICC would add that, except as expressly set forth in Section 12 of Rule 3A, if a loss or liability of FICC is determined to arise in connection with the close-out or liquidation of a Sponsored Member Trade of a Sponsored Member that is an Off-the-Market Transaction because the Sponsored Member has provided an Initial Haircut, FICC would allocate such loss or liability attributable to the Initial Haircut to such Sponsored Member in accordance with Section 7 of Rule 4. Currently, Section 7 of Rule 4 states that, to the extent that a loss or liability of FICC is determined by FICC to arise in connection with the close-out or liquidation of an Off-the-Market Transaction in the portfolio of a Defaulting Member, it shall be allocated directly and entirely to the Member that

was the counterparty to such Off-the-Market Transaction.

Furthermore, as noted above, FICC also proposes to add that an Off-the-Market Transaction includes a Sponsored Member Trade in which the Sponsored Member provided the haircut in the definition of Off-the-Market Transaction in GSD Rule 1.

(ii) Corrections

FICC is also proposing to make a number of changes to the Rules, described below, that would correct errors in the Rules. First, FICC would make a grammatical correction in Rule 3A, Section 1 by revising "and to" to "nor."

Next, FICC is proposing to correct an error in Rule 3A, Section 6(b). Currently, Rule 3A, Section 6(b) states that the comparison of Sponsored Member Trades will be governed by Rule 5 and either: (i) Rule 6A or (ii) Sections 1, 2, 4, 6 through 10 and 13 of Rule 6C depending upon the type of comparison for which the Sponsored Member Trades are submitted. FICC would add a reference to Rule 6B as new subsection (ii) to the list of Rules that govern the comparison of Sponsored Member Trades; Rule 6B describes Demand Comparison and is applicable for Sponsored Member Trades that are between a Sponsored Member and a Netting Member.¹¹ Rule 6B, Section 1 states that in order for FICC to process a trade for Demand Comparison, FICC must receive trade data from a Demand Trade Source. Rule 6B, Section 1 also states that FICC has designated the Repo Brokers as Demand Trade Sources with respect to Brokered Repo Transactions (other than GCF Repo Transactions) that are submitted to FICC by the deadline established for this purpose in the Schedule of Timeframes. Therefore, Rule 6B should have been included in Rule 3A, Section 6(b) when the Sponsored Member Trade definition was expanded in 2019 to allow Sponsored Members to submit FICC eligible securities transactions with Netting Members other than their Sponsoring Members.¹² The proposed change would correct this error that

failed to include Rule 6B in Rule 3A, Section 6(b).

FICC is also proposing to correct an error in Rule 3A, Section 8(iii) by changing the reference from section (a)(ii) of the definition of Sponsored Member Trade to section (a) of the definition of Sponsored Member Trade. Rule 3A, Section 8(iii) currently states that with respect to Section 1 of Rule 12, the optional Pair-Off Service is available to Sponsored Member Trades within the meaning of section (a)(ii) of that definition. Section (a)(ii) of the definition of Sponsored Member Trades means a transaction that satisfies the requirements of Section 5 of Rule 3A and that is between a Sponsored Member and a Netting Member. Section (a)(i) of the definition of Sponsored Member Trade means a transaction that satisfies the requirements of Section 5 of Rule 3A and that is between a Sponsored Member and its Sponsoring Member. The Pair-Off Service is currently available to transactions that fall within the meaning of section (a)(ii) of the definition of Sponsored Member Trades as well as transactions that fall within the meaning of section (a)(i) of the definition of Sponsored Member Trades. Therefore, FICC proposes to correct the current reference from section (a)(ii) to section (a) of the definition of Sponsored Member Trade in Rule 3A, Section 8(iii) to clarify that the optional Pair-Off Service is available to Sponsored Member Trades that fall within the meaning of sections (a)(i) and (a)(ii) of the definition of Sponsored Member Trade.

FICC is proposing to delete the first sentence in Rule 3A, Section 12(c), which states that the entire amount of the Required Fund Deposit associated with the Sponsoring Member's Netting System accounts and the entire amount of the Sponsoring Member's Omnibus Account Required Fund Deposit may be used to satisfy any amount allocated against a Sponsoring Member in its capacity as either a Netting Member or a Sponsoring Member. The proposed change would remove this statement, which does not describe the current process and should have been removed when FICC revised the loss allocation rules to, among other things, incorporate the concept of the Loss Allocation Cap and to reference the applicable sections in Rule 4 that would apply when a Sponsoring Member elects to terminate its status as a Sponsoring Member.¹³ The proposed change would correct the

¹¹ The term "Sponsored Member Trade" means (a) a transaction that satisfies the requirements of Section 5 of Rule 3A and that is (i) between a Sponsored Member and its Sponsoring Member or (ii) between a Sponsored Member and a Netting Member or (b) a Sponsored GC Trade. Rule 1, *supra* note 5.

¹² Securities Exchange Act Release No. 85470 (March 29, 2019), 84 FR 13328 (April 4, 2019) (SR-FICC-2018-013). As of February 11, 2019, the advance notice (SR-FICC-2018-802) was deemed to not have been objected to by the Commission.

¹³ Securities Exchange Act Release Nos. 83970 (August 28, 2018), 83 FR 44929 (September 4, 2018) (SR-FICC-2017-022) and 83951 (August 27, 2018), 83 FR 44331 (August 30, 2018) (SR-FICC-2017-806) ("Loss Allocation Filing").

¹⁰ *Id.*

error of failing to delete this sentence in the Loss Allocation Filing. The Loss Allocation Filing added the description of the current process in the second sentence of Rule 3A, Section 12(c), but should have also deleted the description of the process that was in the Rules at the time (*i.e.*, the first sentence of Rule 3A, Section 12(c)).¹⁴

The process is correctly described in the second sentence of Rule 3A, Section 12(c), which as described above, was added in the Loss Allocation Filing and intended to replace the process described in the first sentence of Rule 3A, Section 12(c). The second sentence of Rule 3A, Section 12(c) states that with respect to an obligation to make payment due to any loss allocation amounts assessed to a Sponsoring Member pursuant to Rule 3A, Section 12(b) above, the Sponsoring Member may instead elect to terminate its membership in FICC pursuant to Section 7b of Rule 4 and thereby benefit from its Loss Allocation Cap pursuant to Section 7 of Rule 4. In addition, for the purpose of determining the Loss Allocation Cap for such Sponsoring Member, its Required Fund Deposit will be the sum of its Required Fund Deposit and its Sponsoring Member's Omnibus Account Required Fund Deposit.¹⁵

Finally, FICC would correct the Interpretative Guidance with Respect to Settlement Finality by adding a section describing the point of finality for Sponsored GC Trades. Specifically, FICC proposes to add a section that would state that the point of finality of settlement of Sponsored GC Trades occurs on the books of the Sponsored GC Clearing Agent Bank at the point when the Sponsoring Member and Sponsored Member make the relevant payment obligation or securities delivery, as applicable, to the account at the Sponsored GC Clearing Agent Bank specified by the pre-novation counterparty in accordance with such procedures as the Sponsoring GC Clearing Agent Bank may specify from time to time. This proposed subsection describing the point of finality for Sponsored GC Trades should have been added to the Interpretative Guidance with Respect to Settlement Finality in the proposal to add the Sponsored GC Service but was inadvertently omitted; this proposal was approved in 2021.¹⁶

(iii) Technical Changes

FICC is also proposing to make a number of technical changes to the Rules, which include correcting grammar, for example, by adding a comma after the word “hereinafter” in the second paragraph of Rule 3A, Section 2(i) and adding “hereinafter,” before the defined terms in Rule 3A, Sections 2(i), 3(e) and 18(b). The proposed changes would also add the word “the” before the defined term “Sponsored Member Voluntary Termination Notice” in Rule 3A, Section 3(e), and would revise the hyphens in the headings of Sections 3, 4, 5, 6, 8, 10, 12, 13, 14, 15 and 16 of Rule 3A to be consistent with the hyphens in the headings of the other sections in Rule 3A (*e.g.*, Sections 1 and 2).

In the Schedule of Sponsored GC Trade Timeframes, with respect to the “10:30 p.m. to 2:00 a.m.” timeframe, FICC proposes to delete the double space after the line that lists “10:30 p.m.” so that there would only be a single space between the line that lists “10:30 p.m.” and the line that lists “to 2:00 a.m.” FICC also proposes to bold the times listed in the Sponsored GC Trade Timeframes to be consistent with the formatting of times in the other schedules in the Rules.

In the Schedule of GC Comparable Securities, FICC proposes to delete the extra space after the hyphen in the description of GC Comparable Securities for Generic Security Type “FFARM” (Fannie Mae and Freddie Mac Fixed Rate and Adjustable Rate Mortgage-Backed Securities) and for Generic Security Type “TIPS” (U.S. Treasury inflation-protected notes and bonds). In the Schedule of GC Comparable Securities, FICC proposes to add the word “and” in the description of GC Comparable Securities for Generic Security Type “STRP” and to delete the comma and add the word “and” in the description of GC Comparable Securities for Generic Security Type “TIPS”.

In Rule 3A, Section 6(b), FICC proposes to add a new subsection (ii) as described above and as such, also proposes to make a conforming change to renumber current subsection (ii) to subsection (iii). Similarly, in the Interpretative Guidance with Respect to Settlement Finality, FICC proposes to add subsection 2(b), as further described above. As such, FICC proposes to make a conforming change to revise current subsection 2(b) to subsection 2(c).

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules be

designed to promote the prompt and accurate clearance and settlement of securities transactions.¹⁷

The proposed changes to make certain clarifications, corrections, and technical changes to the Rules would help to ensure that the Rules are accurate and clear to participants. When participants better understand their rights and obligations regarding the Rules, such participants are more likely to act in accordance with the Rules, which FICC believes would promote the prompt and accurate clearance and settlement of securities transactions. As such, FICC believes that the proposed changes would be consistent with Section 17A(b)(3)(F) of the Act.¹⁸

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe the proposed rule changes to make certain clarifications, corrections, and technical changes to the Rules would impact competition. The proposed rule changes would help to ensure that the Rules remain clear and accurate. In addition, the changes would facilitate participants' understanding of the Rules and their obligations thereunder. These changes would not affect FICC's operations or the rights and obligations of the membership. As such, FICC believes the proposed rule changes would not have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC reviewed the proposed rule change with Sponsoring Members, who are the FICC Members that would be impacted by the proposed changes. FICC has not received any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information. All prospective commenters should follow the Commission's instructions on

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Securities Exchange Act Release Nos. 92808 (August 30, 2021), 86 FR 49580 (September 3, 2021) (SR-FICC-2021-003) and 92799 (August 27, 2021), 86 FR 49387 (September 2, 2021) (SR-FICC-2021-801).

¹⁷ 15 U.S.C. 78q-1(b)(3)(F).

¹⁸ *Id.*

how to submit comments, available at <https://www.sec.gov/regulatory-actions/how-to-submit-comments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

FICC reserves the right to not respond to any comments received.

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

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁹ and Rule 19b-4(f)(6) thereunder.²⁰

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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 email to rule-comments@sec.gov. Please include File Number SR-FICC-2023-002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.
- All submissions should refer to File Number SR-FICC-2023-002. This file number should be included on the subject line if email 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FICC-2023-002 and should be submitted on or before March 15, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Sherry R. Haywood,
Assistant Secretary.

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BILLING CODE 8011-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21105]

Avalon Motor Coaches, LLC— Acquisition of Control—Wynne Transportation, LLC

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: On January 23, 2023, Avalon Motor Coaches, LLC (Avalon), an interstate passenger motor carrier, filed an application for Avalon to purchase and assume substantially all the shuttle services of another interstate passenger motor carrier, Wynne Transportation, LLC (Wynne). The Board is tentatively approving and authorizing this

transaction. If no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by April 10, 2023. If any comments are filed, Avalon may file a reply by April 23, 2023. If no opposing comments are filed by April 10, 2023, this notice shall be effective on April 11, 2023.

ADDRESSES: Comments may be filed with the Board either via e-filing on the Board's website at www.stb.gov/proceedings-actions/e-filing/other-filings/ or in writing addressed to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. Comments must reference Docket No. MCF 21105.¹ In addition, one copy of comments must be sent to Avalon's representative: Barry M. Weisz, Thompson Coburn LLP, 10100 Santa Monica Boulevard, Suite 500, Los Angeles, CA 90067.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet at (202) 245-0368. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

SUPPLEMENTARY INFORMATION: According to the application, Avalon is a Texas company owned by Virgin-Fish, Inc. (Virgin-Fish), a privately held California company.² (Appl. 4.) Virgin-Fish also owns Avalon Transportation, LLC (Avalon Transportation), a California company and Avalon's sister company. (*Id.*) Avalon and Avalon Transportation both hold interstate authority to carry passengers.³ (*Id.* at 2.) According to the application, Avalon and Avalon Transportation currently operate chauffeured service offices in California, New York, New Jersey, and Pennsylvania, and motor coach offices in California, Arizona, and Texas. (*Id.* at 4.) The application states that Avalon focuses on the Texas Motor Coach division and operates charter shuttle services in San Antonio, Texas; Beaumont, Texas; and Houston, Texas, while Avalon Transportation focuses on chauffeured services and the California

¹ Concurrent with its application, Avalon also filed, in Docket No. MCF 21105 TA, a request under 49 U.S.C. 14303(i) to operate the assets to be acquired on an interim basis pending approval of the acquisition. The Board granted that request in a decision served in that docket on January 30, 2023.

² More information about Avalon's corporate structure and ownership can be found in the application. (See Appl. 4-5.)

³ Further information about Avalon and Avalon Transportation, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (Appl. 2, 12.)

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f)(6).

²¹ 17 CFR 200.30-3(a)(12).