For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96210; File No. SR–FICC–2022–008]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Clearing Agency Liquidity Risk Management Framework To Include a New Section Describing the Process by Which FICC Would Designate Uncommitted Resources as Qualifying Liquid Resources and Make Other Changes

November 2, 2022.

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 October 20, 2022, 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. 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 amendments to the Clearing Agency Liquidity Risk Management Framework (''Framework'') of FICC and its affiliates, The Depository Trust Company (''DTC'') and National Securities Clearing Corporation (''NSCC,'' and together with FICC and DTC, the ''Clearing Agencies'').[3] Specifically, the proposed rule changes would (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as qualifying liquid resources (''QLR'');[4] (2) clarify that FICC may have access to liquidity resources that are not designated as QLR; (3) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described or state where testing is not performed, as applicable; (4) clarify the description of FICC's QLR; (5) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes for their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (6) make technical changes, as described 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

The Clearing Agencies adopted the Framework[5] to set forth the manner in which they measure, monitor and manage the liquidity risks that arise in or are borne by each of the Clearing Agencies, including (i) the manner in which each Clearing Agency deploys their respective liquidity tools to meet its settlement obligations on an ongoing and timely basis, and (ii) each applicable Clearing Agency's use of intraday liquidity.[6] In this way, the Framework describes the liquidity risk management of each of the Clearing Agencies and how the Clearing Agencies meet the applicable requirements of Rule 17Ad–22(e)(7) under the Act.[7]

The proposed changes to the Framework would (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as QLR;[8] (2) clarify that FICC may have access to liquidity resources that are not designated as QLR; (3) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described or state where testing is not performed, as applicable; (4) clarify the description of FICC's QLR; (5) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes for their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (6) make technical changes. Each of these proposed changes is described in greater detail below.

i. Proposed Amendments To Add a New Section Describing the Process by Which FICC Would Designate Uncommitted Liquidity Resources as QLR

The Clearing Agencies would add a new section to the Framework that pertains specifically to FICC's designation of uncommitted liquidity resources as QLR pursuant to the requirements of Rule 17Ad–22(a)(14)(ii)(B) under the Act.[9] FICC does not at this time have uncommitted liquidity resources designated as QLR; however, the proposed new section would allow FICC to have such QLR to the extent the requirements of Rule 17Ad–22(a)(14)(ii)(B) are followed.

In addition, and consistent with its existing processes, FICC would consider whether any uncommitted liquidity resources, including those that are designated as QLR, would require a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Act,[10] and the rules thereunder, or an advance notice with the Commission pursuant to Section 806(e)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010,[11] and the rules thereunder.

The proposed new section would explain that, in order to designate an uncommitted liquidity resource as a QLR, FICC would first identify the properties of each financing arrangement, including the underlying collateral and the liquidity providers. Based on the nature of the liquidity resource, FICC would then determine the nature of the rigorous analysis that is appropriate for that resource and

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms not defined herein are defined in the DTC Rules, By-Laws and Organization Certificate, the FICC Government Securities Division Rulebook, the FICC Mortgage-Backed Securities Division Clearing Rules, or the NSCC Rules & Procedures (''NSCC Rules''), as applicable, *available at http://dtcc.com/legal/rules-and-procedures.*

[4] *See* 17 CFR 240.17Ad–22(a)(14).

[5] *See* Securities Exchange Act Release No. 82377 (December 21, 2017), 82 FR 61617 (December 28, 2017) (SR–DTC–2017–004; SR–NSCC–2017–005; SR–FICC–2017–008).

[6] *See* 17 CFR 240.17Ad–22(e)(7)(i), (ii), and (iv) through (ix).

[7] *Id.*

[8] *See* 17 CFR 240.17Ad–22(a)(14).

[9] 17 CFR 240.17Ad–22(a)(14)(ii)(B).

[10] 15 U.S.C. 78s(b)(1).

[11] 12 U.S.C. 5465(e)(1).

would conduct that analysis at least annually.

The proposed new section to the Framework would also state that, following completion of that analysis, both (1) the components of that analysis and (2) the results of that analysis, would be presented to the Board Risk Committee on at least on an annual basis. When considering whether to designate the uncommitted resource as a QLR, the Board Risk Committee would determine if the uncommitted liquid resource is highly reliable under extreme but plausible market conditions consistent with Rule 17Ad–22(a)(14)(ii)(B) under the Act.[12]

ii. Proposed Amendments To Clarify That FICC May Have Access to Liquidity Resources That are not Designated as QLR

The proposed changes to the Framework would also make clear that FICC may have access to liquidity resources that are not designated as QLR. At this time, FICC maintains uncommitted master repurchase agreements (''MRAs'') that can be utilized to finance via the repo market the securities in FICC's Clearing Funds and those purchased on behalf of a defaulting Member to raise funds. While not designated as QLR, amounts available under the MRAs may be utilized as liquidity resources in the event of a Member default. The proposed rule change states that on a weekly basis, a study to estimate the depth of the repo market under prevailing market conditions as well as a sample stress scenario to assess potential available liquidity in the event of default of the largest Member would be performed.

In addition, the proposed rule changes provide that, at least annually, FICC would conduct counterparty due diligence reviews that would assess each non-QLR liquidity provider's ability to provide liquidity to FICC under current market conditions and would provide a summary of these reviews to the Board Risk Committee.[13] The proposed rule change also states that FICC would test any non-QLR annually with the respective liquidity providers to confirm that such liquidity providers are operationally able to perform their commitments and are familiar with the applicable process.

As a conforming change, the proposed rule change would delete language referring to MRAs as QLR. The proposed rule change would add a sentence stating that FICC may count MRAs as QLR if the procedures for designating them as such (as described above) are followed. As a further conforming change, the proposed rule change would specify that the section of the Framework regarding liquidity resources that are not designated as QLR applies specifically to FICC.

iii. Proposed Amendments To Delete the Stand-Alone Section on Due Diligence and Testing, and Instead Add Due Diligence and Testing Descriptions Where Each Liquidity Resource Is Described or State Where Testing Is Not Performed, as Applicable

The current Framework contains a stand-alone section (''Stand-Alone Section'') on the due diligence and testing of liquidity providers that the Clearing Agencies perform. The proposed rule changes would delete the Stand-Alone Section and would instead add descriptions of the due diligence and testing performed in connection with each type of liquidity resource in the section of the Framework where each resource is described, as further described below in subsection v. The proposed rule changes also state where testing is not performed, where applicable, as further described below in subsections iv. and v.

More specifically, the Stand-Alone Section currently states that the Counterparty Credit Risk department (''CCR'') reviews the limits, outstanding investments, and collateral held (if applicable) at each investment counterparty. The proposed rule change would (i) restate this language to make clear that CCR's review includes a financial analysis of each counterparty, the Clearing Agencies' investments at each counterparty, and any recommendations for changes in limits to these investments and (ii) place the restated sentence in the section of the Framework related to the specific liquidity resource that CCR is surveilling.[14] The Stand-Alone Section also references formal reviews on the reliability of QLR providers and specifically ascribes certain due diligence and review responsibilities to CCR. The proposed rule change would describe CCR's obligations regarding liquidity providers in the appropriate section of the Framework related to the specific liquidity resource that CCR is surveilling. The proposed rule change also indicates where another department, such as Treasury, is responsible for actions that the Stand-Alone Section ascribes to CCR. For non-QLR liquidity resources, the proposed rule change describes the role of several departments in reviewing these resources.

Finally, the Stand-Alone Section references testing. The proposed rule change would move the references to testing where each resource is described in the Framework.

iv. Proposed Amendments To Clarify the Description of FICC's QLR

The proposed changes would make clear that each FICC division has its own Clearing Fund that includes deposits of cash. The proposed changes would also delete language regarding the ability of FICC to borrow from the Clearing Fund as that is already covered in the rules of each division. The proposed rule change would clarify the description of FICC's QLR by adding language on same day access to funds regarding deposits of Clearing Fund in creditworthy commercial banks. The proposed changes would also clarify that the rules-based committed Capped Contingency Liquidity Facility programs are determined for each FICC division per the division's respective rules.

In addition, the Framework would make clear that for purposes of making FICC Clearing Fund deposits, Members are not considered ''liquidity providers'' with reference to Rules 17Ad–22(e)(7)(iv) and (v) under the Act.[15]

[12] 17 CFR 240.17Ad–22(a)(14)(ii)(B). Examples of the type of information that the Board Risk Committee could rely on in order to determine whether it would be appropriate to designate the proposed uncommitted resource as a QLR would include whether (i) FICC has identified securities that may be pledged pursuant to the proposed financing arrangement and that such securities are reasonably likely to be readily available for pledging and acceptable as collateral; (ii) FICC has reviewed the terms of the proposed financing arrangement to confirm such terms are current, appropriate and not expected to restrict FICC's use of the proposed financing arrangement; (iii) FICC has completed due diligence of each liquidity provider as required by Rule 17Ad–22(e)(7)(iv) under the Act; and (iv) FICC has developed procedures to test the proposed financing arrangement at least annually to confirm the liquidity providers are operationally able to perform their commitments and are familiar with the drawdown process, consistent with the requirements of Rule 17Ad–22(e)(7)(v) under the Act. 17 CFR 240.17Ad–22(e)(7)(iv) and (v). In addition, FICC would include in the analysis presented to the Board Risk Committee recommendations and analyses of an independent third party that the proposed resource is highly reliable in extreme but plausible market conditions.

[13] Such due diligence includes reviews of, for example, relevant member financial metrics, results of operational testing, and relevant market data applicable to the type of securities being financed.

[14] The sentence in the Stand-Alone Section that refers to a review of each investment counterparty's deposit level at the Federal Reserve Bank of New York would not be retained because it reflects a drafting error (the Clearing Agencies are concerned with their deposits at the counterparties and not the counterparties' deposits at the Federal Reserve Bank of New York).

[15] 17 CFR 240.17Ad–22(e)(7)(iv) and (v).

v. Proposed Amendments To Clarify the Description of NSCC's and DTC's QLR, Add Language to Reflect NSCC's and DTC's Current Due Diligence and Testing Processes for Their Committed Line of Credit, and Make a Correction to the Description of DTC's Collateral Monitor

The proposed rule change would clarify the description of NSCC's QLR by deleting language regarding the ability of NSCC to borrow from the Clearing Fund as that is already covered in the NSCC Rules. In addition, the proposed changes would replace ''medium- and long-term'' with ''senior'' (which covers both medium- and long-term) before ''unsecured notes'' in the description of NSCC's QLR in order to simplify terminology.

The proposed changes would provide that, because the process for collecting Supplemental Liquidity Deposits (''SLD''), pursuant to NSCC Rule 4A,[16] is the same process used for collecting required deposits to the NSCC Clearing Fund, and Members are aware of such process, no testing is required for purposes of Rule 17Ad–22(e)(7)(v) under the Act.[17] In addition, the proposed changes would state that NSCC conducts Member outreach with those Members whose liquidity exposure may require them to make SLD in the future.

The proposed rule change would clarify the descriptions of DTC's and NSCC's QLR by adding language on same day access to funds regarding deposits of DTC Participants Fund and NSCC Clearing Fund in creditworthy commercial banks. In addition, the proposed changes would make clear that for purposes of making DTC Participants Fund deposits and NSCC Clearing Fund deposits, DTC Participants and NSCC Members, respectively, are not considered ''liquidity providers'' with reference to Rules 17Ad–22(e)(7)(iv) and (v) under the Act.[18]

The proposed changes would add language to the descriptions of DTC's and NSCC's QLR to reflect DTC's and NSCC's current practices of conducting surveillance of bank lenders to their committed credit facility, and testing the committed credit facility at least annually to confirm that the lenders, agents and respective Clearing Agency are operationally prepared to meet their obligations under the facility and are familiar with the borrowing process.

The proposed rule change would also make a correction to the description of DTC's Collateral Monitor. Currently, the Framework states that the Liquidity Risk Product Unit verifies that the Collateral Monitor will not become negative if the transaction is processed. Because this verification is done automatically, the proposed rule change would correct the sentence to state that DTC performs this verification automatically.

vi. Proposed Amendments to Make Technical Changes

The proposed rule changes include certain technical changes as follows:

- Make conforming and cross-reference changes in the Executive Summary;
- Delete a sentence that may be confusing in that it states that liquidity resources are maintained consistent with risk tolerances, whereas the correct statement is that liquidity resources are maintained consistent with Rule 17Ad–22(e)(7) under the Act,[19] which is already stated elsewhere in the Framework;
- Make conforming and cross-reference changes in the general section on ''Liquidity Resources;''
- Restate the first sentence in the section describing FICC's QLR so that it reads more clearly;
- Remove cross-references and phrases referencing other sections of the Framework where such references are no longer correct;
- Add the word ''FICC'' to the end of a sentence where it was inadvertently deleted; and
- Renumber the last three sections of the Framework to account for the deletion of the section on due diligence/testing.

2. Statutory Basis

The Clearing Agencies believe that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act,[20] and Rules 17Ad–22(e)(7) and 17Ad–22(a)(14)(ii)(B) under the Act,[21] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible,[22] for the reasons described below. The proposed changes described above in Items II(A)1.i. and II(A)1.ii. would update the Framework to (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as QLR; [23] and (2) clarify that FICC may have access to liquidity resources that are not designated as QLR. By updating the Framework to reflect these changes, the Clearing Agencies believe the proposed rule change would make the Framework more effective in describing FICC's liquidity risk management procedures as they relate to FICC's liquidity resources. The proposed rule changes would introduce clarity to the Framework through the addition of a specific process regarding FICC's designation of uncommitted resources as QLR and would better explain the section regarding FICC's resources that are not QLR. Because FICC's liquidity resources support the ability of FICC to effect timely settlement, and because the proposed changes are designed to ensure that any uncommitted resource that is designated as QLR would be highly reliable in extreme but plausible market conditions and therefore also potentially facilitate timely settlement, the Clearing Agencies believe that the proposed changes described in Items II(A)1.i. and II(A)1.ii. above are consistent with Section 17A(b)(3)(F) of the Act.

The proposed changes described in Items II(A)1.iii. through II(A)1.vi. above would (1) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described; (2) clarify the description of FICC's QLR; (3) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes regarding their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (4) make technical changes. These proposed changes would improve the clarity of the descriptions of various liquidity management processes of the Clearing Agencies. The improvement in the clarity of the descriptions of liquidity risk management processes within the Framework would assist the Clearing Agencies in carrying out these functions. Therefore, the Clearing Agencies believe the proposed changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act [24] that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the

[16] *See supra* note 3.

[17] 17 CFR 240.17Ad–22(e)(7)(v).

[18] 17 CFR 240.17Ad–22(e)(7)(iv) and (v).

[19] 17 CFR 240.17Ad–22(e)(7).

[20] 15 U.S.C. 78q–1(b)(3)(F).

[21] 17 CFR 240.17Ad–22(e)(7) and 17 CFR 240.17Ad–22(a)(14)(ii)(B).

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] *See* 17 CFR 240.17Ad–22(a)(14).

[24] 15 U.S.C. 78q–1(b)(3)(F).

safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The Clearing Agencies believe that the proposed changes are consistent with Rule 17Ad–22(e)(7) under the Act,[25] which requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, doing the requirements set forth in Rule 17Ad–22(e)(7). The proposed rule changes described above have been designed to enhance the Clearing Agencies' compliance with Rule 17Ad–22(e)(7) by addressing the designation of QLR and liquidity resources that are not QLR and providing various clarifications. By addressing the designation of QLR and liquidity resources that are not QLR and providing various clarifications, the proposed rule changes would reduce ambiguity and thus assist risk management staff in the performance of their duties associated with compliance of Rule 17Ad–22(e)(7).

In addition, the proposed changes are designed to ensure that any uncommitted resource that is designated as QLR would be highly reliable in extreme but plausible market conditions, in accordance with Rule 17Ad–22(a)(14)(ii)(B) under the Act.[26]

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

The Clearing Agencies do not believe the proposed rule change would have any impact, or impose any burden, on competition. As described above, the proposed changes would update the Framework to describe the process by which FICC would designate uncommitted liquidity resources as QLR, clarify that FICC may have access to liquidity resources that are not designated as QLR, and improve the clarity of the descriptions of the Clearing Agencies' liquidity risk management functions. Therefore, the proposed changes relate mostly to the operation of the Framework and/or are technical in nature. As such, the Clearing Agencies do not believe that the proposed rule change would have any impact on competition.

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

The Clearing Agencies have not received or solicited 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 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.

The Clearing Agencies reserve the right to not respond to any comments received.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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–2022–008 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–2022–008. 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–2022–008 and should be submitted on or before November 29, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Deputy Secretary.

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[25] 17 CFR 240.17Ad–22(e)(7).

[26] 17 CFR 240.17Ad–22(a)(14)(ii)(B).

[27] 17 CFR 200.30–3(a)(12).