

In Chapter V, an extra closing bracket was added to the deletions to 2012–036 Exhibit 5. The extra bracket will be removed to clarify that the entire section will be deleted. In Chapter VI, Section 4, BX Rules 9000 Series should have been underlined to denote new text. In Chapter X, the Exchange added “See also BX Rule 9216” to the 2012–036 Exhibit 5. The Exchange now proposes to add that section reference to the end of the sentence rather than in the middle of the sentence. In addition, the following sentence, which follows that reference, should begin with a capital “T.” Finally, where “BX Rules 9000 Series” was added to the 2012–036 Exhibit 5, the word Series was not underlined to denote that it was new text.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>4</sup> in general, and with Section 6(b)(5) of the Act,<sup>5</sup> in particular, in that the proposal is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is consistent with these provisions in that it will allow the Exchange to make administrative changes and correct inadvertent typographical errors.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act<sup>6</sup> and Rule 19b–4(f)(6) thereunder.<sup>7</sup> This proposed rule change does not significantly affect

the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. 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](mailto:rule-comments@sec.gov). Please include File Number SR–BX–2012–040 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2012–040. 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 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 Web site 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 a.m. and 3 p.m. Copies of such filing

also will be available for inspection and copying at the principal offices of the Exchange. 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–BX–2012–040, and should be submitted on or before July 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67227; File No. SR–FICC–2012–05]

### **Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Rules Regarding the GCF Repo Service To Adopt Changes Recommended by the Tri-Party Repo Infrastructure Reform Task Force**

June 20, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b–4 thereunder <sup>2</sup> notice is hereby given that on June 8, 2012, the Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 persons.

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

The purpose of the proposed rule change is to seek the Commission's approval to extend the pilot program (the “Pilot Program”) that is currently in effect for certain aspects of the GCF Repo service.<sup>3</sup> FICC is requesting that the Pilot Program be extended for one year following the date of the

<sup>8</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> GCF Repo is a registered trademark of FICC/DTCC.

<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b–4(f)(6).

Commission's approval of this proposed rule change filing.<sup>4</sup>

## 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>5</sup>

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

(i) On July 12, 2011, FICC submitted a proposed rule change filing to the Commission (SR-FICC-2011-05) proposing to make certain changes to its GCF Repo service in order to comply with the recommendations that had been made by the Tri-Party Repo Infrastructure Reform Task Force ("TPR"), an industry group formed and sponsored by the Federal Reserve Bank of New York.<sup>6</sup> Because the GCF Repo service operates as a tri-party mechanism, FICC was requested to incorporate changes to the GCF Repo service to align the service with the other TPR recommended changes for the overall tri-party repo market.

The rule change described in SR-FICC-2011-05 was proposed to be run as a Pilot Program for one year starting from the date on which the Commission approved the filing.<sup>7</sup> During this past year, FICC implemented a portion of the rule changes that were included in SR-FICC-2011-05 and wishes to continue to have these aspects of the GCF Repo service continue as part of the renewed Pilot Program. FICC also wishes to make

certain modifications to the Pilot Program as noted below.

Background: Description of the GCF Repo Service and History

#### (1) Creation of the GCF Repo Service

The GCF Repo service allows Government Securities Division ("GSD") dealer members to trade general collateral repos<sup>8</sup> throughout the day without requiring intra-day, trade-for-trade settlement on a delivery-versus-payment (DVP) basis. The service allows the dealers to trade such general collateral repos, based on rate and term, throughout the day with inter-dealer broker netting members on a blind basis. Standardized, generic CUSIP numbers have been established exclusively for GCF Repo processing and are used to specify the acceptable type of underlying Fedwire book-entry eligible collateral, which includes Treasuries, Agencies, and certain mortgage-backed securities.<sup>9</sup>

The GCF Repo service was developed as part of a collaborative effort among the Government Securities Clearing Corporation ("GSCC") (GSD's predecessor), its two clearing banks (The Bank of New York Mellon ("BNY") and JPMorgan Chase Bank, National Association ("Chase")), and industry representatives. GSCC introduced the GCF Repo service on an intra-clearing bank basis in 1998.<sup>10</sup> Under the intrabank service, dealers could only engage in GCF Repo transactions with other dealers that cleared at the same clearing bank.

#### (2) Creation of the Interbank Version of the GCF Repo Service

In 1999, GSCC expanded the GCF Repo service to permit dealer participants to engage in GCF Repo trading on an interbank basis, meaning

that dealers using different clearing banks could enter into GCF Repo transactions (on a blind brokered basis).<sup>11</sup> Because dealer members that participate in the GCF Repo service do not all clear at the same clearing bank, introducing the service as an interbank service necessitated the establishment of a mechanism to permit after-hours movements of securities between the two clearing banks to deal with the fact that GSCC would likely have unbalanced net GCF securities and cash positions within each clearing bank (that is, it is likely that at the end of GCF Repo processing each business day, the dealers in one clearing bank will be net funds borrowers, while the dealers at the other clearing bank will be net funds lenders). To address this issue, GSCC and its clearing banks established, and the Commission approved, a legal mechanism by which securities would "move" across the clearing banks without the use of the Fedwire Securities Service ("Fedwire Securities").<sup>12</sup> (Movements of cash do not present the same issue because the Fedwire Funds Service ("Fedwire Funds") is open later than Fedwire Securities). Therefore, at the end of the day, after the GCF net results are produced, securities are pledged via a tri-party-like mechanism and the interbank cash component is moved via Fedwire Funds. In the morning, the pledges are unwound, that is, funds are returned to the net funds lenders and securities are returned to the net funds borrowers.

The following simplified example illustrates the manner in which the GCF Repo service works on an interbank basis:

Assume that Dealer B clears at BNY and Dealer C clears at Chase. Further assume that: (i) outside of FICC, Dealer B engages in a tri-party repo transaction with Party X to obtain funds and seeks to invest such funds via a GCF Repo transaction; (ii) outside of FICC, Dealer C engages in a DVP repo transaction with Party Y to buy securities and seeks to finance these securities via a GCF Repo transaction; and (iii) Dealer B and Dealer C enter into a GCF Repo transaction (on a blind basis via a GCF Repo broker) and submit the trade details to FICC.

At the end of "Day 1," GCF Repo collateral must be allocated, i.e., Dealer B must receive the securities. However, the securities that Dealer B is to receive are at Chase and Fedwire Securities is closed. The after-hours movement

<sup>4</sup> If FICC determines to change the parameters of the service during the one-year Pilot Program extension period, it will submit a proposed rule change filing to the Commission. If FICC seeks to extend the Pilot Program beyond the one-year period or proposes to make the Pilot Program permanent, it will also submit a proposed rule change filing to the Commission.

<sup>5</sup> The Commission has modified the text of the summaries prepared by FICC.

<sup>6</sup> The main purpose of the TPR was to develop recommendations to address the risk presented by tri-party repo transactions due to the current morning reversal or "unwind" process and to move to a process by which tri-party repo transactions are collateralized all day.

<sup>7</sup> Securities Exchange Act Release No. 34-65213 (August 29, 2011), 76 FR 54824 (September 2, 2011).

<sup>8</sup> A general collateral repo is a repo in which the underlying securities collateral is nonspecific, general collateral whose identification is at the option of the seller. This is in contrast to a specific collateral repo.

<sup>9</sup> In 2009, the Commission approved FICC rule filing 2009-04 to add debt securities issued under the Debt Guaranty Program component of the Federal Deposit Insurance Corporation's ("FDIC") Temporary Liquidity Guarantee Program ("TLGP") to the GCF Repo Service. See Securities Exchange Act Release No. 34-59558 (March 11, 2009), 74 FR 11385 (March 17, 2009). The TLGP, one of the steps taken by the U.S. Government to stabilize the credit markets and stimulate lending, was designed to allow banks to issue FDIC-insured debt, ensuring that the banks would be able to roll over any debt coming due in the coming months. The guarantee consists of timely payment of principal and interest. The expiration of the FDIC's guarantee is the earlier of either the maturity date of the issued debt or June 2012.

<sup>10</sup> See Securities Exchange Act Release No. 34-40623 (October 30, 1998), 63 FR 59831 (November 5, 1998).

<sup>11</sup> See Securities Exchange Act Release No. 34-41303 (April 16, 1999), 64 FR 20346 (April 26, 1999).

<sup>12</sup> See *id.* for a detailed description of the clearing bank and FICC accounts needed to effect the after-hour movement of securities.

mechanism permits the securities to be “sent” to Dealer B as follows: FICC will instruct Chase to allocate to a special FICC clearance account at Chase securities in an amount equal to the net short securities position.

FICC has established on its own books and records two “securities accounts” as defined in Article 8 of the New York Uniform Commercial Code, one in the name of Chase (“FICC Account for Chase”) and one in the name of BNY (“FICC Account for BNY”). The FICC Account for Chase is comprised of the securities in FICC’s special clearance account maintained by BNY (“FICC Special Clearance Account at BNY for Chase”), and the FICC Account for BNY is comprised of the securities in FICC’s special clearance account maintained by Chase (“FICC Special Clearance Account at Chase for BNY”).<sup>13</sup> The establishment of these securities accounts by FICC in the name of the clearing banks enables the clearing bank that is in the net long securities position to “receive” securities by pledge after the close of Fedwire Securities. Once the clearing bank has “received” the securities by pledge, it can credit them by book-entry to a FICC GCF Repo account at that clearing bank and then to the dealers that clear at that bank that are net long the securities in connection with GCF Repo trades.

In the example, Chase, as agent for FICC, will transmit to BNY a description of the securities in the FICC Special Clearance Account at Chase for BNY. Based on this description, BNY will transfer funds equal to the funds borrowed position to the FICC GCF Repo account at Chase. Upon receipt of the funds by Chase, Chase will release any liens it may have on the FICC Special Clearance Account at Chase for BNY, and FICC will release any liens it may have on the FICC Account for BNY (both of these accounts being comprised of the same securities). BNY will credit the securities in the FICC Account for BNY to FICC’s GCF Repo account at BNY, and BNY will further credit these securities to Dealer B, who, as noted, is in a net long securities position. In the morning of “Day 2,” all securities and funds movements occurring on Day 1 are reversed (“unwind”).

<sup>13</sup> FICC has appointed Chase as its agent to maintain FICC’s books and records with respect to the BNY securities account, and FICC has appointed BNY as its agent to maintain FICC’s books and records with respect to the Chase securities account.

### (3) Issues With Morning Unwind Process

In 2003, FICC shifted the GCF Repo service back to intrabank status only.<sup>14</sup> By that time, the service had grown significantly in participation and volume. However, with the increase in use of the interbank service, certain payments systems risk issues arose from the inter-bank funds settlements related to the service, namely, the large interbank funds movement in the morning. FICC shifted the service back to intrabank status to enable management to study the issues presented and identify a satisfactory solution for bringing the service back to interbank status.

### (4) The NFE Filing and Restoration of Service to Interbank Status

In 2007, FICC submitted to the Commission a proposed rule change to address the issues raised by the interbank morning funds movement and return the GCF Repo service to interbank status (“2007 NFE Filing”).<sup>15</sup> The 2007 NFE Filing addressed these issues by using a hold against a dealer’s “net free equity” (“NFE”) at the clearing bank to collateralize its GCF Repo cash obligation to FICC on an intraday basis.<sup>16</sup>

The 2007 NFE Filing replaced the Day 2 morning unwind process with an alternate process, which is currently in effect. Specifically, in lieu of making funds payments, the interbank dealers grant to FICC a security interest in their NFE-related collateral equal to their prorated share of the total interbank funds amount. FICC, in turn, grants to the other clearing bank (that was due to receive the funds) a security interest in the NFE-related collateral to support the debit in the FICC account at the clearing bank. The debit in the FICC account (“Interbank Cash Amount Debit”) occurs because the dealers who are due to receive funds in the morning must receive those funds at that time in return for their release of collateral. The debit in the FICC account at the clearing bank gets satisfied during the end of day GCF Repo settlement process. Specifically, that day’s new activity yields a new interbank funds amount

<sup>14</sup> See Securities Exchange Act Release No. 34–48006 (June 10, 2003), 68 FR 35745 (June 16, 2003).

<sup>15</sup> See Securities Exchange Act Release No. 34–57652 (April 11, 2008), 73 FR 20999 (April 17, 2008).

<sup>16</sup> NFE is a methodology that clearing banks use to determine whether an account holder (such as a dealer) has sufficient collateral to enter into a specific transaction. NFE allows the clearing bank to place a limit on its customer’s activity by calculating a value on the customer’s balances at the bank. Bank customers have the ability to monitor their NFE balance throughout the day.

that will move at end of day—however, this amount gets netted with the amount that would have been due in the morning, thus further reducing the interbank funds movement. The NFE holds are released when the interbank funds movement is made at end of day. The 2007 NFE Filing did not involve any changes to the after-hours movement of securities occurring at the end of the day on Day 1.

Using the example above:

On the morning of Day 2, Dealer C who needs to return funds in the unwind, instead of returning the funds in the morning, grants to FICC a security interest in Dealer C’s NFE-related collateral equal to its funds movement (it is assumed only one GCF Repo transaction took place in this simplified example). FICC, in turn, grants BNY (that was due to receive the funds) a security interest in the NFE-related collateral to support the debit in the FICC account at BNY. As noted above, the debit in FICC’s account at BNY arises because, under the current processing, Dealer B must receive its funds during the morning unwind. The FICC debit is then satisfied during the end of day GCF Repo settlement process.

As part of the 2007 NFE Filing, FICC imposed certain additional risk management measures with respect to the GCF Repo service. First, FICC imposed a collateral premium (“GCF Premium Charge”) on the GCF Repo portion of the Clearing Fund deposits of all GCF participants to further protect FICC in the event of an intra-day default of a GCF Repo participant. FICC requires GCF Repo participants to submit a quarterly “snapshot” of their holdings by asset type to enable risk management staff to determine the appropriate Clearing Fund premium. As with all other instances of late submissions of required information, members who do not submit this required information by the deadlines established by FICC are subject to a fine and an increased Clearing Fund premium.

Second, the 2007 NFE Filing addressed the situation where FICC becomes concerned about the volume of interbank GCF Repo activity. Such a concern might arise, for example, if market events were to cause dealers to turn to the GCF Repo service for increased funding at levels beyond normal processing. The 2007 NFE Filing provides FICC with the discretion to institute risk mitigation and appropriate disincentive measures in order to bring GCF Repo levels to a comfortable level from a risk management perspective.<sup>17</sup>

<sup>17</sup> Specifically, the 2007 NFE Filing introduced the term “GCF Repo Event,” which will be declared by FICC if either of the following occurs: (i) The GCF interbank funds amount exceeds five times the

### Proposed Changes to the GCF Repo Service To Implement the TPR's Recommendations

In SR-FICC-2011-05, FICC proposed the following rule changes with respect to the GCF Repo service to address the TPR's Recommendations:

(1) (a) To move the Day 2 unwind from 7:30 a.m. to 3:30 p.m.; (b) to move the NFE process<sup>18</sup> from morning to a time established by FICC as announced by notice to all members;<sup>19</sup> (c) to move the cut-off time of GCF Repo submissions from 3:35 p.m. to 3:00 p.m.; and (d) to move the cut-off time for dealer affirmation or disaffirmation from 3:45 p.m. to 3:00 p.m.; and

(2) To establish rules for intraday GCF Repo collateral substitutions (*i.e.*, SR-FICC-2011-05 stated that with respect to interbank GCF Repo transactions, the substitution process would only permit cash as an initial matter to accommodate current processing systems, however, as noted below, following the approval of this proposed rule change filing, the substitution process will permit cash and/or securities).

FICC has implemented the proposed changes referred to in subsections 1(c) and 1(d) above. FICC has not yet implemented the proposed changes referred to in subsections 1(a), 1(b) and 2 above. FICC is seeking the Commission's approval to extend the Pilot Program for all of these changes for an additional year as noted above. FICC is working with its clearing banks with respect to the implementation of the

average interbank funds amount over the previous ninety days for three consecutive days; or (ii) the GCF interbank funds amount exceeds fifty percent of the amount of GCF Repo collateral pledged for three consecutive days. FICC reviews these figures on a semi-annual basis to determine whether they remain adequate. FICC also has the right to declare a GCF Repo Event in any other circumstances where it is concerned about GCF Repo volumes and believes it is necessary to declare a GCF Repo Event in order to protect itself and its members. FICC will inform its members about the declaration of the GCF Repo Event via important notice. FICC will also inform the Commission about the declaration of the GCF Repo Event.

<sup>18</sup> No other changes are being proposed to the NFE process that was in place by the 2007 NFE Filing; the risk management measures that were put in place by the 2007 NFE Filing remain in place with the present proposal.

<sup>19</sup> SR-FICC-2011-05 noted that the possible time range would be between 8 a.m. and 1 p.m. to coincide with the collateral substitution mechanism that was being developed between FICC and its clearing banks. FICC wishes to clarify that the 8 a.m. to 1 p.m. proposed time range in SR-FICC-2011-05 referred to the clearing bank hold on the FICC interest in the NFE (*i.e.*, as part of the NFE process, FICC grants to the other clearing bank (that was due to receive the funds) a security interest in the NFE-related collateral to support the debit in the FICC account at the clearing bank). With respect to the NFE hold on the dealers, please see footnote 21 below.

changes that have not yet been implemented.

### (1) Proposed Change Regarding the Morning Unwind and Related Rule Changes

The TPR has recommended that the Day 2 unwind for all tri-party transactions be moved from the morning to 3:30 p.m. The TPR has made this recommendation in order to reduce the clearing banks' intraday credit exposure to the dealers. As previously stated, because the GCF Repo service is essentially a tri-party repo mechanism, FICC has also been requested by the TPR to accommodate this time change. For the GSD rules, this necessitates a change to the GSD's "Schedule of GCF Timeframes" ("Schedule"). Specifically, the 7:30 a.m. time in the Schedule will be deleted and the language therein proposed to be moved to a new time of 3:30 p.m. on the Schedule.

The change to the time of the intrabank unwind also necessitates a change to the cut-off time for GCF Repo trade submissions, which is currently 3:35 p.m. in the Schedule. FICC is proposing to amend the Schedule to change the cut-off time to 3 p.m. to allow FICC to submit files to the clearing banks which, in turn, will provide files to the dealers by 3:30 p.m.; this will permit the dealers to have a complete picture of their positions as the unwind occurs at 3:30 p.m. The 3:45 p.m. cutoff for dealer affirmation or disaffirmation that is in the current Schedule will move to 3 p.m. so that the new 3 p.m. cutoff for submissions will also now be the cutoff for dealer affirmations and disaffirmations.<sup>20</sup>

Because the Day 2 unwind is proposed to move from the morning to 3:30 p.m. and because the NFE process established by the 2007 NFE Filing is tied to the moment of the interbank unwind, the NFE process will also move to the time established by FICC as announced by notice to all members.<sup>21</sup> Because the NFE process is a legal process and not an operational process, it is not reflected on the Schedule. A

<sup>20</sup> This change updates the current Schedule to provide that the cutoff for submissions and dealer affirmations/disaffirmations is at the same time; the current practice is inconsistent with the current Schedule and the proposed rule change would remedy this inconsistency.

<sup>21</sup> Currently, the NFE hold is from the time the collateral is returned to the repo dealer (approximately 7:30 a.m.) until the time the funds move between the two clearing banks (approximately 5 p.m.). When the systems processing for the tri-party reform effort continues on the part of the clearing banks, the unwind will move to 3:30 p.m. and the funds will continue to move between the two clearing banks at 5 p.m.; when this occurs, the NFE hold which applies to dealers will be between 3:30 p.m. and 5 p.m.

change is needed in Section 3 of Rule 20 to delete the reference to the "morning" timeframe on Day 2 with respect to the NFE process and to add language referencing "at the time established by the Corporation."

### (2) Proposed Change Regarding Intraday GCF Repo Securities Collateral Substitutions

As a result of the time change of the unwind (*i.e.*, the reversal on Day 2 of collateral allocations established by FICC for each netting member's GCF net funds borrower positions and GCF net funds lender positions on Day 1) to 3:30 p.m., the provider of GCF Repo securities collateral in a GCF Repo transaction on Day 1 will no longer have access to such securities at the beginning of Day 2. Therefore, during Day 2 prior to the unwind of the Day 1 collateral allocations, the provider of GCF Repo securities collateral (Dealer C, in the example) needs a substitution mechanism for the return of its posted GCF Repo securities collateral in order to make securities deliveries for utilization of such securities in its business activities. (In the example, Dealer C may need to return the securities to Party Y depending upon the terms of their transaction). FICC is proposing to establish a substitution process for this purpose in conjunction with its clearing banks. The language for the substitution mechanism is proposed to be added to Section 3 of GSD Rule 20. The proposed rule change provides that all requests for substitution for the GCF Repo securities collateral must be submitted by the provider of the GCF Repo securities collateral (*i.e.*, Dealer C) by the applicable deadline on Day 2 (the "substitution deadline").<sup>22</sup>

### Substitutions on Intrabank GCF Repos

If the GCF Repo transaction is between dealer counterparties effecting the transaction through the same clearing bank (*i.e.*, on an intra-clearing bank basis and in our example Dealer C and other dealers clearing at Chase), on Day 2 such clearing bank will process each substitution request of the provider of GCF Repo securities collateral (*i.e.*, Dealer C) submitted prior to the substitution deadline promptly upon receipt of such request. The return of

<sup>22</sup> FICC will establish such deadline prior to the implementation of the changes to this service in conjunction with the clearing banks and the Federal Reserve in light of market circumstances. The initial substitution deadline is anticipated to be 1 p.m.; however, this will be finalized with the Federal Reserve and the clearing banks. The possible time range will be between 8 a.m. and 1 p.m. FICC will provide members advanced notice of the substitution deadline and any future changes thereto by important notice.

the GCF Repo securities collateral in exchange for cash and/or eligible securities of equivalent value can be effected by simple debits and credits to the accounts of the GCF Repo dealer counterparties at the clearing agent bank (*i.e.*, in the example, Chase). Eligible securities for this purpose will be the same as those currently permitted under the GSD rules for collateral allocations, namely, Comparable Securities,<sup>23</sup> (ii) Other Acceptable Securities,<sup>24</sup> or (iii) U.S. Treasury bills, notes or bonds maturing in a time frame no greater than that of the securities that have been traded (except where such traded securities are U.S. Treasury bills, substitution may be with Comparable Securities and/or cash only).

#### Substitutions on Interbank GCF Repos

For a GCF Repo that was processed on an interbank basis and to accommodate a potential substitution request, FICC proposes to initiate a debit of the securities in the account of the lender through the FICC GCF Repo accounts at the clearing bank of the lender and the FICC GCF Repo account at the clearing bank of the borrower ("Interbank Movement"). This Interbank Movement is being done so that a borrower who elects to substitute collateral will have access to the collateral for which it is substituting. The Interbank Movement is expected to occur in the morning, though the clearing banks and FICC have the capability to have the Interbank Movement occur at any point during the day up until 2:30 p.m. During the Pilot Program, FICC and the clearing banks will unwind the intrabank GCF Repo transactions at 3:30 p.m. FICC and the clearing banks will determine the most appropriate timeframe for the Interbank Movement process to occur.

In the example above, the GCF Repo securities collateral will be debited from the securities account of the receiver of the collateral (*i.e.*, Dealer B) at its clearing bank (*i.e.*, BNY), and from the

FICC Account for BNY. If a substitution request is received by the clearing bank (*i.e.*, Chase) of the provider of GCF Repo securities collateral, prior to the substitution deadline at a time specified in FICC's procedures,<sup>25</sup> that clearing bank will process the substitution request by releasing the GCF Repo securities collateral from the FICC GCF Repo account at Chase and crediting it to the account of the provider of GCF Repo securities collateral (*i.e.*, Dealer C). All cash and/or securities substituted for the GCF Repo securities collateral being released will be credited to FICC's GCF Repo account at the clearing bank (*i.e.*, Chase).

Simultaneously, with the debit of the GCF Repo securities collateral from the account at the clearing bank (*i.e.*, BNY) of the original receiver of GCF Repo securities collateral (*i.e.*, Dealer B), for purposes of making payment to the original receiver of securities collateral (*i.e.*, Dealer B), such clearing bank will effect a cash debit equal to the value of the securities collateral in FICC's GCF Repo account at such clearing bank and will credit the account of the original receiver of securities collateral (*i.e.*, Dealer B) at such clearing bank with such cash amount. (This is because when Dealer B is debited the securities, Dealer B must receive the funds.) In order to secure FICC's obligation to repay the balance in FICC's GCF Repo account at such clearing bank (*i.e.*, BNY), FICC will grant to such clearing bank a security interest in the cash and/or securities substituted for the GCF securities collateral in FICC's GCF repo account at the other clearing bank (*i.e.*, Chase).

Using the example from above, assume that Dealer C submits a substitution notification—it requires the securities collateral that has been pledged to Dealer B and will substitute cash and/or securities. BNY will debit the securities from Dealer B's account and the relevant liens will be released so that the securities are in FICC's account at Chase. Chase will credit the securities to Dealer C's account and the cash and/or securities that Dealer C uses for its collateral substitution will be credited by Chase to FICC's account at

Chase. From Dealer B's perspective, when BNY debits the securities from Dealer B's account, Dealer B is supposed to receive the funds—but as noted, the funds are at Chase. BNY will credit the funds to Dealer B's account and debit FICC's account at BNY.

At this point in the example, FICC is running a credit at Chase and a debit at BNY. In order to secure FICC's debit at BNY, FICC will grant a security interest in the funds in the FICC account at Chase.

For substitutions that occur with respect to GCF Repo transactions that were processed on an inter-clearing bank basis, FICC and the clearing banks will permit cash substitutions as noted in SR-FICC-2011-05. However, as discussions have developed between FICC and its clearing banks, it has been determined that cash and/or securities may be used for substitutions. The proposed rule change provides FICC with flexibility in this regard by referring to FICC's procedures. When interbank securities substitutions begin to be permitted, FICC will announce this to members by important notice.

#### Other Rule Changes

FICC is also proposing to make technical clean-up changes to Section 7 of GSD Rule 20, which relate to the GCF Repo collateral process. Specifically, a correction is being made to change references to the defined term "Security" to "security" to conform to the use of "security" throughout the rule. The proposed rule change also introduces a term that previously had not been included in the rules inadvertently, "GCF Collateral Excess Account." This term is defined in the proposed rule change as "the account established by a GCF Custodian Bank in the name of the Corporation to hold securities it credits to the GCF Securities Account the Corporation establishes for another GCF Clearing Bank."

(ii) FICC believes the proposed rule changes are consistent with the requirements of Section 17A of the Act<sup>26</sup> and the rules and regulations thereunder applicable to FICC because the rule amendments are designed to promote the prompt and accurate clearance and settlement of security transactions and assure the safeguarding of securities and funds which are in the custody or control of FICC by aligning the GCF Repo service with recommendations being made by the TPR to address risks in the overall tri-party repo market, which will serve to

<sup>23</sup> The GSD rules define "Comparable Securities" as follows: The term "Comparable Securities" means, with respect to a security or securities that are represented by a particular Generic CUSIP Number, any other security or securities that are represented by the same Generic CUSIP Number.

<sup>24</sup> The GSD rules define "Other Acceptable Securities" as follows: The term "Other Acceptable Securities" means, with respect to: (an) Adjustable-rate mortgage-backed security or securities issued by Ginnie Mae, any fixed-rate mortgage-backed security or securities issued by Ginnie Mae, or (an) adjustable-rate mortgage-backed security or securities issued by either Fannie Mae or Freddie Mac: (a) Any fixed-rate mortgage-backed security or securities issued by Fannie Mae and Freddie Mac, (b) any fixed-rate mortgage-backed security or securities issued by Ginnie Mae, or (c) any adjustable-rate mortgage-backed security or securities issued by Ginnie Mae.

<sup>25</sup> This timeframe will also be established in consultation with the clearing banks and the Federal Reserve. The parties are considering whether to have the substitution process be accomplished in two batches during the day depending upon the time of submission of the notifications for substitution. In any event, substitution requests will be subject to the substitution deadline. The details of the batches, if applied, will be announced to members by important notice. The deadline for submission of GCF Repo substitution requests will be the same for intrabank and interbank processing.

<sup>26</sup> 15 U.S.C. 78q-1.

safeguard the securities and funds for which FICC is responsible.

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

FICC does not believe that the proposed rule change would 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 not 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**

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 the 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](mailto:rule-comments@sec.gov). Please include File Number SR-FICC-2012-05 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-FICC-2012-05. 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 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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of FICC and on FICC's Web site at [http://www.dtcc.com/downloads/legal/rule\\_filings/2012/ficc/2012-05.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2012/ficc/2012-05.pdf)

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-2012-05 and should be submitted on or before July 17, 2012.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Kevin O'Neill,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-67226; File No. SR-EDGA-2012-22]**

**Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGA Rules To Add the Mid-Point Discretionary Order**

June 20, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 8, 2012, the EDGA Exchange, Inc. (the "Exchange" or the "EDGA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have

been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

EDGA Exchange, Inc. ("EDGA" or the "Exchange") proposes to amend Exchange Rule 11.5(c) to add a new order type, the Mid-Point Discretionary Order, to the rule. In addition, the Exchange proposes to amend Exchange Rule 11.8(a)(2)(C) to reflect the priority that a Mid-Point Discretionary Order would have under certain circumstances. The text of the proposed rule changes are attached as Exhibit 5 and are available on the Exchange's Web site at [www.directedge.com](http://www.directedge.com), at the Exchange's principal office, and at the Public Reference Room of the Commission.

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

In its filing with the Commission, the Exchange 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 self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

*Purpose*

**1. Proposed Amendment to Rule 11.5(c)**

Exchange Rule 11.5(c) describes the Exchange's current order types. In order to provide additional flexibility and increased functionality to its System<sup>3</sup> and its Users,<sup>4</sup> the Exchange proposes to add a new order type, the Mid-Point Discretionary Order (the "MDO"), to Rule 11.5(c)(17). MDOs to buy would be displayed at and pegged to the national best bid (the "NBB"<sup>5</sup>), with discretion to execute at prices up to and including the mid-point of the National Best Bid

<sup>3</sup> As defined in Exchange Rule 1.5(cc)

<sup>4</sup> As defined in Exchange Rule 1.5(ee).

<sup>5</sup> As defined in Exchange Rule 1.5(o) and Rule 600(b)(42) of Regulation NMS under the Securities Exchange Act of 1934.

<sup>27</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.