

provide these market participants with clear guidance within the rules.

#### Chapter VI, Section 21, Order and Quote Protocols

The Exchange proposes to amend Chapter VI, Section 21(a)(i)(B) and (C) to make clear that Market Makers may only enter interest into SQF/QUO in their assigned options series does not impose an undue burden on competition, rather it makes clear that SQF/QUO may only be utilized for quoting in assigned options series. This rule is applicable to all Market Makers.

#### Chapter VII, Section 5, Obligations of Market Makers

Memorializing information related to order entry for Market Makers within Chapter VII, Section 5 does not impose an undue burden on competition. Today, Market Makers may enter all order types defined in Chapter VI, Section 1(e).

#### Chapter VII, Section 12, Order Exposure Requirements

The Exchange's proposal to amend Chapter VII, Section 12 to provide specific rules for limitations on entering limit orders, principal transactions and agency orders does not impose an undue burden on competition because these rules provide additional specificity as to the manner in which orders may be entered on NOM. The Exchange believes that this proposed language will provide more transparency as to the types of transactions that are not permitted today on NOM and would violate NOM Chapter III, Section 4(f). These rules will apply uniformly to all NOM Options Participants.

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

No written comments were either solicited or 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)(iii) of the Act<sup>25</sup> and

subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>26</sup>

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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-NASDAQ-2019-082 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NASDAQ-2019-082. 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

<sup>26</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 the Exchange. 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-NASDAQ-2019-082 and should be submitted on or before November 6, 2019.

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

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87258; File No. SR-FICC-2019-004]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving a Proposed Rule Change To Amend the GSD Rulebook To Establish a Process To Address Liquidity Needs in Certain Situations in the GCF Repo and CCIT Services and Make Other Changes

October 9, 2019.

On August 9, 2019, Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission"), 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> proposed rule change SR-FICC-2019-004 to make changes to how FICC processes tri-party repo market transactions, specifically GCF Repo transactions and CCIT transactions.<sup>3</sup> The proposed rule change

<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.

<sup>3</sup> On August 9, 2019, FICC also filed the proposal contained in the proposed rule change as advance notice SR-FICC-2019-801 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 ("Clearing Supervision Act"), 12 U.S.C. 5465(e)(1), and Rule 19b-4(n)(1)(i) of the Act, 17 CFR 240.19b-4(n)(1)(i). Notice of Filing of the Advance Notice was published for comment in the **Federal Register** on September 10, 2019. Securities Exchange Act Release No. 34-86876 (September 5, 2019), 84 FR 47618 (September 10, 2019) (File No. SR-FICC-2019-801).

<sup>25</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

was published for comment in the **Federal Register** on August 29, 2019,<sup>4</sup> and the Commission has received no comments regarding the changes proposed in the proposed rule change.<sup>5</sup> For the reasons discussed below, the Commission is approving the proposed rule change.

### I. Description of the Proposed Rule Change

The proposals reflected in the proposed rule change would make changes to how FICC's Government Securities Division ("GSD") processes tri-party repo transactions, specifically GCF Repo transactions<sup>6</sup> and CCIT transactions.<sup>7</sup> First, the proposals would establish new deadlines and associated late fees for FICC members to satisfy their obligations in connection with such transactions, *i.e.*, to deliver cash or securities. Second, the proposed rule change would establish a process for FICC to access liquidity in situations where a member with a net cash delivery obligation in GCF Repo/CCIT activity, that is otherwise in good standing,<sup>8</sup> is either (1) delayed in satisfying its cash delivery obligation or (2) unable to satisfy, in whole or in part, such obligation. More specifically, this process would allow FICC to access liquidity from either (i) the GCF Clearing Agent Bank<sup>9</sup> in the form of

overnight financing, which would be subject to the GCF Clearing Agent Bank's discretion, and/or (ii) end-of-day borrowing of Clearing Fund cash,<sup>10</sup> subject to specified limits. Further, if those liquidity sources are insufficient to cover the affected member's outstanding cash delivery obligations, the proposal would enable FICC to obtain additional liquidity by entering into overnight repos with those members to whom cash is owed by the member with the unsatisfied net cash delivery obligations. Third, the proposed rule change would make a clarification and several technical changes and corrections to FICC's rules.<sup>11</sup>

#### A. New Deadlines and Late Fees for Satisfaction of Obligations in GCF Repo and CCIT Transactions

##### 1. Securities Delivery Obligations

Under FICC's current Rules, a Netting Member must meet its securities delivery obligations in connection with its GCF Repo and/or CCIT transactions within the timeframes established by FICC.<sup>12</sup> Currently, FICC has set two deadlines by which Netting Members are required to meet their securities delivery obligations: 4:30 p.m. and 6:00 p.m.<sup>13</sup> If a Netting Member fails to satisfy a securities delivery obligation by 4:30 p.m., it is subject to a late fee of \$500.<sup>14</sup> If the Netting Member delivers the securities after the 6:00 p.m. deadline, no additional late fee applies, but FICC cannot guarantee that it would be able to settle the transaction. Instead, FICC will only process such late transactions if FICC is able to contact both affected Netting Members and they agree to settle the transaction.

In the proposed rule change, FICC proposes to eliminate the 6:00 p.m. deadline. The 4:30 p.m. deadline would remain in place. If a Netting Member fails to satisfy a securities delivery obligation by 4:30 p.m., it would remain subject to the \$500 late fee. But if the Netting Member delivers the securities

after 4:30 p.m., FICC would only process the transaction if it is able to contact both affected Netting Members and they agree to settle the transaction.

##### 2. Cash Delivery Obligations

FICC's Rules do not currently contain a deadline for a Netting Member's or CCIT Member's satisfaction of cash delivery obligations in the GCF Repo and CCIT Services. FICC proposes to establish 4:30 p.m., or, if later, one hour after the close of the Fedwire Securities Service reversals, as the deadline for a "Net Funds Payor"<sup>15</sup> to satisfy its cash delivery obligations. FICC also proposes to establish late fees, subject to progressive increases. Specifically, the late fees would apply as follows for occurrences within the same 30 calendar day period: (a) \$500 for the first occurrence, (b) \$1,000 for the second occurrence, (c) \$2,000 for the third occurrence, and (d) \$3,000 for the fourth occurrence or additional occurrences. The late fee would not apply if FICC determines that failure to meet this timeframe is not the fault of the Net Funds Payor.<sup>16</sup>

In addition, FICC proposes to establish additional late fees that would be imposed on Net Funds Payors that fail to meet their cash delivery obligation by the close of the Fedwire Funds Service.<sup>17</sup> These fees would be in addition to the late fees described in the preceding paragraph, and FICC would impose both fees in the event that a Net Funds Payor did not satisfy its cash delivery obligations by the close of the Fedwire Funds Service. Specifically, these late fees would apply as follows for occurrences within the same 90 calendar day period: (a) 100 basis points on the unsatisfied cash delivery obligation amount for the first occurrence,<sup>18</sup> (b) 200 basis points on the unsatisfied cash delivery obligation amount for the second occurrence, (c) 300 basis points on the unsatisfied cash delivery obligation amount for the third

<sup>4</sup> Securities Exchange Act Release No. 86745 (August 23, 2019), 84 FR 45608 (August 29, 2019). ("Notice of Filing").

<sup>5</sup> As the proposal contained in the proposed rule change was also filed as an advance notice, all public comments received on the proposal are considered regardless of whether the comments are submitted on the proposed rule change or the advance notice.

<sup>6</sup> "GCF Repo transactions" are tri-party repo transactions through FICC's general collateral finance repo ("GCF Repo") service ("GCF Repo Service"). The GCF Repo Service enables dealers to trade general collateral repos, based on rate, term, and underlying product, throughout the day without requiring intra-day, trade-for-trade settlement on a Delivery-versus-Payment basis. See generally GCF Repo (DTCC description of the service), available at <http://www.dtcc.com/clearing-services/ficc-gov/gcf-repo> (last visited August 13, 2019).

<sup>7</sup> "CCIT" means Centrally Cleared Institutional Triparty. "CCIT transactions" are tri-party repo transactions in GCF Repo securities between members that participate in the GCF Repo Service and CCIT members, which are institutional counterparties (other than registered investment companies ("RICs") under the Investment Company Act of 1940, as amended) and are the cash lenders in the transactions. See generally Securities Exchange Act Release No. 80361 (April 3, 2017), 82 FR 17053, 17054 (April 7, 2017) (SR-FICC-2017-803) (notice of filing of the advance notice regarding creating the CCIT service).

<sup>8</sup> A member in good standing is a member for which FICC has not ceased to act for the member (in which case FICC's close-out rules would apply) or has not restricted the member's access to services.

<sup>9</sup> The GCF Clearing Agent Bank settles the repo transaction on its books. Currently, the only GCF

Clearing Agent Bank is The Bank of New York Mellon.

<sup>10</sup> The Clearing Fund is an aggregate of all members' margin deposits to FICC designed to account for the costs associated with a member defaulting to FICC.

<sup>11</sup> The FICC GSD Rulebook ("Rules") is available at <http://www.dtcc.com/legal/rules-and-procedures>. Capitalized terms not defined herein are defined in the Rules.

<sup>12</sup> Rule 20, Section 3, *supra* note 11.

<sup>13</sup> The close of the Fedwire Funds Service at 6:30 p.m. is the final cutoff point at which a Netting Member's failure to deliver securities would be deemed by FICC to result in a failed transaction. In that scenario, the Netting Member would not be entitled to receive the funds borrowed, and would instead owe interest on the funds.

<sup>14</sup> Fee Structure, *supra* note 11.

<sup>15</sup> FICC's proposal would add "Net Funds Payor" as a new defined term, meaning a Netting Member or CCIT Member with cash delivery obligations.

<sup>16</sup> This determination would be made by FICC Product Management based on input from the GCF Clearing Agent Bank, internal FICC Operations staff and the Netting Member.

<sup>17</sup> See Fedwire Services Operating Hours, available at <https://www.frbsservices.org/resources/financial-services/wires/operating-hours.html> (last visited September 2, 2019).

<sup>18</sup> The late fee is based on the ACT/360 day count convention, where "ACT" represents the actual number of days in the period. For example, assuming a first occurrence unsatisfied cash delivery obligation of \$100 million, the late fee would be \$100 million \* 100/3600000 = \$2,777.78. This example uses the first occurrence amount. This calculation would apply to the rest of the proposed late fees in this section.

occurrence, and (d) 400 basis points on the unsatisfied cash delivery obligation amount for the fourth occurrence or any additional occurrences. The late fees would not apply if FICC determines that the failure to meet this timeframe is not primarily the fault of the Net Funds Payor.<sup>19</sup>

### *B. Proposed Process To Provide Liquidity*

The proposed rule change would establish a process for FICC to access liquidity in situations where a Member with a net cash delivery obligation in GCF Repo/CCIT activity (*i.e.*, Net Funds Payor), that is otherwise in good standing, is either (1) delayed in satisfying its cash delivery obligation or (2) unable to satisfy, in whole or in part, such obligation.<sup>20</sup> Unless FICC has ceased to act for the Member (in which case FICC's close-out rules would apply) or has restricted the Member's access to services,<sup>21</sup> the Net Funds Payor shall be permitted to continue to submit additional tri-party repo transactions for clearing to FICC during this process.

Pursuant to the proposal, once FICC determines that a Net Funds Payor is in good standing with GSD but is experiencing an issue, such as an operational issue, that may result in a late payment, partial payment or non-payment of its cash delivery obligation on the settlement date, the following process would occur. First, in the case where the Net Funds Payor only satisfies part of its cash delivery obligation, the GCF Clearing Agent Bank would settle the cash it received

pursuant to such GCF Clearing Agent Bank's settlement algorithm (as is done today).

Next, FICC would consider whether it would seek liquidity to cover any of the Net Funds Payor's delivery shortfall amounts in one of the two forms discussed. The two potential forms of liquidity would be (i) end-of-day borrowing of Clearing Fund cash ("EOD Clearing Fund Cash") and/or (ii) GCF Clearing Agent Bank loans.<sup>22</sup> The cash amount that FICC would be able to access via the EOD Clearing Fund Cash and/or GCF Clearing Agent Bank loans would then be applied to the unsatisfied cash delivery obligations due to the Net Funds Receivers on a pro rata basis, based upon the percentage due to each Net Fund Receiver out of the total amount of all unsatisfied obligations.

If FICC were to use GCF Clearing Agent Bank loans to provide liquidity, any overnight financing from the GCF Clearing Agent Bank would be subject to the GCF Clearing Agent Bank's discretion because FICC's overnight financing arrangements with its GCF Clearing Agent Bank are uncommitted. As such, the financing would be secured by FICC's pledge of Clearing Fund securities subject to the GCF Clearing Agent Bank's current haircut schedule.<sup>23</sup> If FICC were to use EOD Clearing Fund Cash to provide liquidity, such use would be subject to certain internal limitations. Specifically, GSD would establish a cap on the amount of EOD Clearing Fund Cash that may be used for this purpose to the lesser of \$1 billion or 20 percent of available Clearing Fund Cash. Any resulting costs incurred by FICC in accessing EOD Clearing Fund Cash and/or GCF Clearing Agent Bank loans would be debited from the Net Funds Payor whose shortfall caused the liquidity need.

Finally, to the extent that the amount of liquidity FICC obtains via the Clearing Fund cash and overnight financing arrangement (if any) is insufficient to cover the outstanding cash delivery obligations, the relevant Net Funds Receivers would be required under FICC's Rules to enter into overnight repurchase agreements with

FICC on the Generic CUSIP Number for which such Net Funds Payor failed to fulfill its cash delivery obligation. This arrangement would be done pursuant to the "GCF Repo Allocation Waterfall MRA," which is a committed financing arrangement that would be added as part of this proposal to the binding terms of FICC's rulebook.<sup>24</sup> The amount FICC would seek to obtain via this committed facility would be the remaining unsettled amount per Net Funds Receiver, thus satisfying the outstanding amount of the Net Funds Payor's cash delivery obligations.<sup>25</sup> The associated overnight interest of the reverse repurchase agreement would be debited from the Net Funds Payor that did not satisfy its cash delivery obligation and credited to the affected Net Funds Receivers in the funds-only settlement process as a Miscellaneous Adjustment Amount.<sup>26</sup>

Any resulting costs, such as financing costs, incurred by the Net Funds Receivers would be debited from the Net Funds Payor whose shortfall caused the need for the reverse repurchase agreement. A Net Funds Receiver requesting compensation in this regard would need to submit a formal claim to FICC. Upon review and approval by FICC, the Net Funds Receiver would receive a credit that would be processed in the funds-only settlement process as a Miscellaneous Adjustment Amount.<sup>27</sup> The debit of the Net Funds Payor would be processed in the same way.

### *C. Clarification, Technical Changes and Corrections*

FICC also proposes to make certain clarifying, technical changes, and corrections both to reflect the changes proposed in this proposed rule change and to revise certain aspects of the Rules that FICC has determined to be inaccurate or incorrect as related to the GCF Repo Service. These changes include adding particular parentheticals, changes to titles of sections, corrections to refer to the title of the Fedwire Securities Service, updating references and descriptions, adding new defined terms, and updating

<sup>19</sup> The determination would be made by FICC Product Management based on input from the GCF Clearing Agent Bank, internal FICC Operations staff and the Netting Member.

<sup>20</sup> Such delay could, for example, be due to operational issues experienced by the Net Funds Payor. If a Netting Member with a collateral obligation does not deliver its securities, FICC considers it a fail. However, if a Netting Member or CCIT Member with a cash delivery obligation is unable to deliver its cash (and is in good standing), FICC has represented that it intends to employ the proposed process. Notice of Filing, *supra* note 4 at 47620.

<sup>21</sup> See Rule 22A, *supra* note 11. FICC has represented that, before it uses the proposed process, it would first evaluate whether to recommend to the Board's Risk Committee that FICC cease to act for such Net Funds Payor. FICC would consider, but would not be limited to, the following factors in its evaluation: (i) The Net Funds Payor's current financial position, (ii) the amount of the outstanding payment, (iii) the cause of the late payment, (iv) current market conditions, and (v) the size of the potential overnight reverse repurchase agreements under the GCF Repo Allocation Waterfall MRAs (as defined below) on the GSD membership. Notice of Filing, *supra* note 4 at 47620. FICC already has the authority to cease to act for a member that does not fulfill an obligation to FICC and will continually evaluate throughout the proposed process whether FICC will cease to act. *Id.*

<sup>22</sup> FICC has represented that it would not prioritize accessing these two sources of potential liquidity because FICC's decision to use either or both sources would be considered on a case-by-case basis, taking into consideration factors such as the specific circumstances at issue (*i.e.*, the time of day and the size of the shortfall), availability of a bank loan, market conditions (*i.e.*, whether there are stress events occurring in the market), commercial considerations (*i.e.*, the current loan rates), and ease of operational execution. Notice of Filing, *supra* note 4 at 47620.

<sup>23</sup> See Rule 4, Section 5, *supra* note 11.

<sup>24</sup> Such reverse repurchase agreements would be entered into pursuant to the terms of a 1996 SIFMA Master Repurchase Agreement (available at <http://www.sifma.org/services/standard-forms-and-documentation/mra,-gmra,-msla-and-msftas/>), which would be incorporated into the Rules, subject to specific changes set forth in the Rules.

<sup>25</sup> FICC represents that these reverse repurchase agreements would be at a market rate, which would be the overnight par weighted average rate at the Generic CUSIP Number level. Notice of Filing, *supra* note 4 at 47621.

<sup>26</sup> See Rule 13, Section 1(m) and Rule 3B, Section 13(a)(ii), *supra* note 11.

<sup>27</sup> *Id.*

certain defined terms. These changes are described in detail in the Notice of Filing.<sup>28</sup>

## II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act<sup>29</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. After carefully considering the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to FICC. In particular, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F)<sup>30</sup> of the Act and Rule 17Ad-22(e)(7) thereunder.<sup>31</sup>

### A. Consistency With Section 17A(b)(3)(F)

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency, such as FICC, be designed to promote the prompt and accurate clearance and settlement of securities transactions.<sup>32</sup>

#### 1. New Deadlines and Late Fees for Satisfaction of Obligations in GCF Repo and CCIT Transactions

FICC has represented that Netting Members generally meet their securities delivery obligations by the current 4:30 p.m. securities allocation deadline. However, according to FICC, because of the interconnectivity between the GCF Repo market within FICC and the tri-party repo market outside of FICC, in which obligations to deliver securities collateral typically occur after collateral allocations at FICC, the securities collateral that is used to settle GCF Repo positions may subsequently be used by Netting Members to complete tri-party repo transactions. Therefore, settling GCF Repo Service transactions earlier in the day reduces the likelihood that an operational issue may result in a failed or incomplete tri-party repo transaction outside of FICC. When a Netting Member depends on the proceeds from the GCF Repo Service transaction to satisfy its cash obligations in its tri-party repo transactions outside of FICC, the Netting Member could default on its

obligations and transmit losses to other market participants.

The Commission believes that the proposed new deadlines (*i.e.*, 4:30 p.m. for securities delivery obligations, and 4:30 p.m., or one hour after the close of the Fedwire Securities Service, whichever is later, for cash delivery obligations), as well as the associated late fees, should lower the potential operational risk that could arise from delayed GCF Repo settlements and should help FICC manage the risk of delayed settlement. The Commission believes that these measures should incentivize Netting Members and CCIT Members to meet their cash delivery obligations on a timely basis, which, in turn, should help FICC reduce its overall settlement risk. As such, the Commission believes that the proposed deadlines and late fees would be consistent with promoting the prompt and accurate clearance and settlement of securities transactions as required under Section 17A(b)(3)(F) of the Act.<sup>33</sup>

#### 2. Proposed Process To Provide Liquidity

As described in Section I.B above, the proposed rule change would also establish a process for FICC to access liquidity in situations where a Member with a cash delivery obligation in GCF Repo/CCIT activity, that is otherwise in good standing, is either (1) delayed in satisfying its cash delivery obligation or (2) unable to satisfy, in whole or in part, such obligation. The Commission believes that establishing a process for FICC to access liquidity in these particular circumstances is designed to provide FICC with additional sources of liquidity and, therefore, an improved ability to manage its liquidity risk in the event that a Netting Member cannot meet its cash delivery obligations. In addition, the proposed process for FICC to access liquidity in these particular circumstances should help decrease the risk of unsettled obligations and belated settlement due to a lack of liquidity and, therefore, avoid the potential impact that a sudden liquidity demand could have on FICC and its Members. As such, the proposed rule change should help ensure that, in the event of these particular circumstances, FICC's operations would not be disrupted and Clearing Members would not be exposed to losses that they cannot anticipate or control because FICC would be able to access additional liquidity resources to complete settlement. As such, the Commission believes that these changes should promote the prompt and accurate

clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.<sup>34</sup>

#### 3. Clarification, Technical Changes and Corrections

As described in Section I.C above, the proposed rule change also includes certain clarifications, technical changes, and corrections to FICC's Rules both to reflect the changes proposed in this proposed rule change and to revise certain aspects of the Rules that FICC has determined to be inaccurate or incorrect as related to the GCF Repo Service. The proposed changes are designed to provide clear and coherent Rules regarding GCF Repo transactions for Netting Members and CCIT Members, which should, in turn, help Netting Members and CCIT Members better understand and remain compliant with the Rules. As such, the Commission believes that the proposed clarifications, technical changes, and corrections to FICC's Rules would promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.<sup>35</sup>

### B. Consistency With Rule 17Ad-22(e)(7)(i)

Rule 17Ad-22(e)(7) requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to 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. Specifically, Rule 17Ad-22(e)(7)(i) requires policies and procedures for maintaining sufficient liquid resources at the minimum in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions.<sup>36</sup>

As described above, the proposed process for FICC to access liquidity in the event that Netting Members will be delayed in satisfying or cannot satisfy

<sup>28</sup> Notice of Filing, *supra* note 4 at 47622.

<sup>29</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>30</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>31</sup> 17 CFR 240.17Ad-22(e)(7).

<sup>32</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> 17 CFR 240.17Ad-22(e)(7)(i).

their cash delivery obligations is designed to help ensure that FICC has sufficient liquid resources available in such circumstances. Moreover, for any outstanding liquidity obligations after the utilization of EOD Clearing Fund cash and/or overnight financing with the GCF Clearing Agent Bank, any transactions pursuant to the GCF Repo Allocation Waterfall MRA would be sized based on the actual liquidity need presented in a particular situation, which would help FICC maintain sufficient liquid resources to settle the cash delivery obligations of a Netting Member. Therefore, the Commission believes that adoption of the proposed changes is consistent with Rule 17Ad-22(e)(7)(i).<sup>37</sup>

#### *C. Consistency With Rule 17Ad-22(e)(7)(ii)*

Rule 17Ad-22(e)(7)(ii) requires policies and procedures for holding qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under 17Ad-22(e)(7)(i) in each relevant currency for which the covered clearing agency has payment obligations owed to clearing members.<sup>38</sup> Rule 17Ad-22(a)(14) defines qualifying liquid resources to include, among other things, assets that are readily available and convertible into cash through prearranged funding arrangements, such as committed arrangements without material adverse change provisions, including repurchase agreements.<sup>39</sup>

As described above, the proposed process for FICC to access liquidity in the event that Netting Members will be delayed in satisfying or cannot satisfy their cash delivery obligations includes, in part, the GCF Repo Allocation Waterfall MRA. This agreement would be a committed arrangement that is a repurchase agreement and all transactions entered into pursuant to the GCF Repo Allocation Waterfall MRA are designed to be readily available to meet the cash delivery obligations owed to Netting Members. This arrangement therefore constitutes a qualifying liquid resource, as defined in Rule 17Ad-22(a)(14), and the Commission believes, therefore, that adoption of the proposed changes is consistent with Rule 17Ad-22(e)(7)(ii).<sup>40</sup>

#### *D. Consistency With Rule 17Ad-22(e)(7)(viii)*

Rule 17Ad-22(e)(7)(viii) requires that a covered clearing agency establish, implement, maintain, and enforce

written policies and procedures reasonably designed to 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, addressing foreseeable liquidity shortfalls that would not be covered by the covered clearing agency's liquid resources and seek to avoid unwinding, revoking, or delaying the same-day settlement of payment obligations.<sup>41</sup>

The proposed process for FICC to access liquidity when Netting Members are delayed in satisfying or cannot satisfy their cash delivery obligations provides FICC with a process to address liquidity shortfalls which may arise in such circumstances and allow FICC to complete settlement on a timely basis. Therefore, this proposed process should help to avoid unwinding, revoking, or delaying same-day settlement obligations. The Commission believes, therefore, that adoption of the proposed changes are consistent with Rule 17Ad-22(e)(7)(viii).<sup>42</sup>

### **III. Conclusion**

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>43</sup> and the rules and regulations promulgated thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>44</sup> that proposed rule change SR-FICC-2019-004, be, and hereby is, *Approved*.<sup>45</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>46</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-87265; File No. SR-CBOE-2019-083]

### **Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Its Financial Incentive Programs for Global Trading Hours Lead Market-Makers**

October 9, 2019.

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 October 2, 2019, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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**

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend its financial incentive programs for Global Trading Hours Lead Market-Makers. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

#### **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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

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

<sup>41</sup> 17 CFR 240.17Ad-22(e)(7)(viii).

<sup>42</sup> *Id.*

<sup>43</sup> 15 U.S.C. 78q-1.

<sup>44</sup> 15 U.S.C. 78s(b)(2).

<sup>45</sup> In approving the proposed rule change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>46</sup> 17 CFR 200.30-3(a)(12).

<sup>37</sup> *Id.*

<sup>38</sup> 17 CFR 240.17Ad-22(e)(7)(ii).

<sup>39</sup> 17 CFR 240.17Ad-22(a)(14).

<sup>40</sup> 17 CFR 240.17Ad-22(e)(7)(ii).