

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-64004; File No. SR-FICC-2011-02)

March 2, 2011

Self-Regulatory Organizations; The Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make a Technical, Clarifying Change to the Corporation Default Rule of the Government Securities Division

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on February 17, 2011, The Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I and II below, which Items have been prepared primarily by FICC. FICC filed the proposal pursuant to Section 19(b)(3)(A)(i) of the Act<sup>2</sup> and Rule 19b-4(f)(1)<sup>3</sup> thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

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

The proposed rule change will make a technical, clarifying change to the Corporation Default Rule of the Government Securities Division (“GSD”).

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

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

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>3</sup> 17 CFR 240.19b-4(f)(1).

below. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>4</sup>

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

The purpose of this rule change is to make a technical, clarifying change to GSD Rule 22B, entitled "Corporation Default" ("Corporation Default Rule"). FICC adopted the Corporation Default Rule to make explicit the close-out netting that would be applied to obligations between FICC and its members in the event that FICC becomes insolvent or defaults in its obligations to its members.<sup>5</sup> By way of background, FICC had been approached by some of its dealer members that had requested that FICC add a provision to the rules of the GSD to make explicit the close-out netting of obligations between FICC and its members in the unlikely event that FICC becomes insolvent or defaults on its obligations to its members. The members stated that the adoption of the Corporation Default Rule would provide clarity in their application of balance sheet netting to their positions with FICC under U.S. GAAP in accordance with the criteria specified in the Financial Accounting Standards Board's Interpretation No. 39, "Offsetting of Amounts Related to Certain Contracts" (FIN 39). The members further stated that the Corporation Default Rule would allow them to comply with Basel Accord Standards relating to netting. Specifically, firms are able to calculate their capital requirements on the basis of their net credit exposure where they have legally enforceable netting arrangements with their counterparties, which includes a close-out netting provision in the event of the default of the counterparty (in this case, the division of FICC acting as a CCP).

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<sup>4</sup> The Commission has modified the text of the summaries prepared by FICC.

<sup>5</sup> SEC Release No. 34-63038, File No. SR-FICC-2010-04 (October 5, 2010).

The proposed technical change adds a sentence to the Corporation Default Rule that reads as follows: “For purposes of this Rule 22B and notwithstanding any other provision to the contrary, Novation is deemed to occur and Deliver Obligations and Receive Obligations established with respect to all Transactions at the time at which the data submitted in respect of such Transactions is compared and constitutes a Compared Trade.” For purposes of clarity, this sentence brings into Rule 22B, existing language of other provisions of the GSD’s Rules. For example, GSD Rule 11B (“Guaranty of Settlement”) provides that FICC shall guarantee the settlement of a trade at the time at which the comparison of such trade occurs pursuant to the FICC’s comparison rules and that FICC’s guaranty means FICC’s obligation to novate the deliver, receive, and payment obligations that were created by the trade. The addition of the proposed sentence in the Corporation Default Rule clarifies that trades that have been compared and therefore guaranteed by the GSD shall be deemed novated at the time of comparison for purposes of Rule 22B and therefore included in the close-out netting calculation that would be performed in the event of an FICC default pursuant to Rule 22B.

FICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>6</sup> and the rules and regulations thereunder applicable to FICC because it provides members with further clarity with respect to the Corporation Default Rule and net credit exposure where members have legally enforceable netting arrangements with their counterparties.

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<sup>6</sup> 15 U.S.C. 78q-1.

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

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

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

Written comments relating to the proposed rule change have 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

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act<sup>7</sup> and Rule 19b-4(f)(1)<sup>8</sup> thereunder because the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. 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:

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>8</sup> 17 CFR 240.19b-4(f)(1).

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FICC-2011-02 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-2011-02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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 am and 3:00 pm. Copies of such filings also will be available for inspection and copying at the principal office of FICC and on FICC's website at

[http://www.dtcc.com/downloads/legal/rule\\_filings/2011/ficc/2011-02.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2011/ficc/2011-02.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-2011-02 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Cathy H. Ahn  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).