

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103299; File No. SR-FICC-2025-005]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Adopt an Intraday Mark-to-Market Charge at GSD

June 23, 2025.

I. INTRODUCTION

On March 14, 2025, Fixed Income Clearing Corporation (“FICC,” a subsidiary of The Depository Trust & Clearing Corporation (“DTCC”) and a “Clearing Agency”), filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-FICC-2025-005 (“Proposed Rule Change”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder.² The Proposed Rule Change was published for comment in the *Federal Register* on March 27, 2025.³ The Commission has received comments on the changes proposed.⁴

On May 5, 2025, pursuant to Section 19(b)(2) of the Act,⁵ the Commission designated a longer period within which to approve, disapprove or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.⁶ The Commission is instituting

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 102705 (Mar. 21, 2025), 90 FR 13965 (Mar. 27, 2025) (File No. SR-FICC-2025-005) (“Notice of Filing”).

⁴ Comments on the Proposed Rule Change are available at <https://www.sec.gov/comments/sr-ficc-2025-005/srficc2025005.htm>.

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 102896 (May 5, 2025), 90 FR 19755.

proceedings, pursuant to Section 19(b)(2)(B) of the Act,⁷ to determine whether to approve or disapprove the Proposed Rule Change.

II. SUMMARY OF THE PROPOSED RULE CHANGE

A tool that FICC uses to manage its credit exposure to its members is the daily collection of the Required Fund Deposit from each member.⁸ The Required Fund Deposit serves as each member's margin. A member's margin is designed to mitigate potential losses associated with the liquidation of a member's portfolio in the event of that member's default. The Proposed Rule Change would add the "Intraday Mark-to-Market Charge" as an additional charge in calculating the Required Fund Deposit and Segregated Customer Margin Requirement in the Margin Component Schedule and outlines the circumstances which warrant its collection. Specifically, the Proposed Rule Change would amend the FICC Government Securities Division ("GSD") Rulebook to add a definition of "Intraday Mark-to-Market Charge" to GSD Rule 1 (Definitions) and to define it in the new Margin Component Schedule.

The Proposed Rule Change defines the Intraday Mark-to-Market Charge as, "an additional charge that is collected from a Member or Segregated Indirect Participant (unless waived...) to mitigate [FICC's] exposures that may arise due to intraday changes in the size, composition and constituent security prices of such Member's Margin Portfolio or Segregated Indirect Participant's portfolio, including when certain risk thresholds are breached or when the products cleared or markets serviced display elevated volatility." The Proposed Rule Change also states that the Intraday Mark-to-Market Charge equals the difference between (a) the mark-to-

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ See GSD Rule 4 (Clearing Fund and Loss Allocation). The GSD Rules are available at https://www.dtcc.com/~media/Files/Downloads/legal/rules/ficc_gov_rules.pdf. Terms not otherwise defined herein are defined in the GSD Rules.

market amount reflected either in the last Funds-Only Settlement Amount or Intraday Mark-to-Market Charge, as applicable, for the Margin Portfolio or Segregated Indirect Participant's portfolio and (b) such Margin Portfolio's or Segregated Indirect Participant's portfolio marked to the most recently observed System Price for such positions and shall be recalculated intraday, each Business Day, at the times and frequencies established [by FICC] for this purpose, which times and frequencies shall be communicated to Members and Segregated Indirect Participants on [FICC's] public website.

The Proposed Rule Change identifies risk thresholds for the imposition of an Intraday Mark-to-Market Charge. The Proposed Rule Change states that the Intraday Mark-to-Market Charge applies to a Margin Portfolio or Segregated Indirect Participant's portfolio that meets each of the following thresholds: (1) experienced an adverse intraday mark-to-market change that equals or exceeds a certain threshold dollar amount (not less than \$1 Million) as compared to the mark-to-market amount reflected either in the last Funds-Only Settlement Amount, or Intraday Mark-to-Market Charge, as applicable, for the Margin Portfolio or Segregated Indirect Participant's portfolio (the "Dollar Threshold"); (2) experienced an adverse intraday mark-to-market change that equals or exceeds a certain threshold percentage (not less than 10 percent) as compared to the last calculated VaR Charge for the Margin Portfolio or Segregated Indirect Participant's portfolio (the "Percentage Threshold"); and (3) has either (a) fewer than 100 trading days in a rolling 12-month period, or (b) 12-month backtesting coverage below a certain threshold percentage as determined by FICC from time to time (the "Trading Day Threshold/Coverage Target"). The Proposed Rule Change also states that FICC will notify Members of changes to any of these parameters via an Important Notice.

The Proposed Rule Change also states that, if volatile market conditions occur, FICC may: (1) reduce the Dollar Threshold (but not to less than \$250,000); (2) reduce the Percentage Threshold (but not to less than five percent); or (3) modify or not consider the 12-month Trading Day Threshold/Coverage Target. Examples of volatile market conditions outlined in the Proposed Rule Change include, but are not limited to, the occurrence of sudden swings in U.S. Treasury yields or mortgage-backed security spreads outside of historically observed market moves and/or conditions contributing to intraday risk exposures that, in aggregate, materially exceed intraday risk exposures observed under normal market conditions. FICC will provide Members with a minimum of one business day advance notice of changes to any parameter due to volatile market conditions via an Important Notice.

Lastly, the Proposed Rule Change states that FICC may waive the imposition, or decrease the amount, of the Intraday Mark-to-Market Charge. FICC may determine that the adverse intraday mark-to-market change in the portfolio of the Member or Segregated Indirect Participant and/or breaches of the thresholds noted in the previous paragraph do not accurately reflect FICC's risk exposure from these intraday mark-to-market fluctuations. The Proposed Rule Change states that one example, though not the only, of a circumstance where a waiver or decrease of the Intraday Mark-to-Market Charge may be appropriate is when there are large mark-to-market fluctuations arising out of trade errors. All waiver and/or reduction of the Intraday Mark-to-Market Charge shall be approved, documented and reviewed on a regular basis pursuant to FICC's procedures.

III. PROCEEDINGS TO DETERMINE WHETHER TO APPROVE OR DISAPPROVE THE PROPOSED RULE CHANGE AND GROUNDS FOR DISAPPROVAL UNDER CONSIDERATION

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the Proposed Rule Change should be approved or disapproved.⁹ Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the Proposed Rule Change. Institution of proceedings does not indicate that the Commission has reached any conclusion with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the Proposed Rule Change, which would provide the Commission with arguments to support the Commission's analysis as to whether to approve or disapprove the Proposed Rule Change.

Pursuant to Section 19(b)(2)(B) of the Act,¹⁰ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the Proposed Rule Change's consistency with Section 17A of the Act¹¹ and the rules thereunder, including the following provisions:

- Section 17A(b)(3)(F) of the Act,¹² which requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible,

⁹ 15 U.S.C. 78s(b)(2)(B).

¹⁰ *Id.*

¹¹ 15 U.S.C. 78q-1.

¹² 15 U.S.C. 78q-1(b)(3)(F).

as well as to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions; and to protect investors and the public interest;

- Rule 17ad-22(e)(4)(i) under the Act,¹³ which requires each CCA to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence;
- Rule 17ad-22(e)(6)(i) under the Act,¹⁴ which requires each covered clearing agency (“CCA”) to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover, if the CCA provides central counterparty (“CCP”) services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market, and, if the CCA provides CCP services for U.S. Treasury securities, calculates, collects, and holds margin amounts from a direct participant for its proprietary positions in Treasury securities separately and independently from margin calculated and collected from that direct participant in connection with U.S. Treasury securities transactions by an indirect participant that relies on the services provided by the direct participant to access the CCA’s payment, clearing, or settlement facilities; and.

¹³ 17 CFR 240.17ad-22(e)(4)(i).

¹⁴ 17 CFR 240.17ad-22(e)(6)(i).

- Rule 17ad-22(e)(6)(ii) under the Act,¹⁵ which requires each CCA establish, implement, maintain and enforce written policies and procedures reasonably designed to cover, if the CCA provides CCP services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum: (A) marks participant positions to market and collects margin (including variation margin or equivalent charges if relevant) at least daily; (B) monitors intraday exposures on an ongoing basis; (C) includes the authority and operational capacity to make intraday margin calls, as frequently as circumstances warrant, including the following thresholds: (1) when risk thresholds specified by the CCA are breached, or (2) when the products cleared or markets served display elevated volatility; and, (D) documents when the CCA determines not to make an intraday call pursuant to its written policies and procedures required under Rule 17ad-22(e)(6)(ii)(C).

IV. PROCEDURE: REQUEST FOR WRITTEN COMMENTS

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the Proposed Rule Changes. In particular, the Commission invites the written views of interested persons concerning whether the Proposed Rule Changes are consistent with Section 17A(b)(3)(F) and Rules 17Ad-22(e)(4)(i), 17ad-22(e)(6)(i), 17ad-22(e)(6)(ii), 17ad-22(e)(19) and 17ad-22(e)(23)(ii) of the Exchange Act, or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of

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17 CFR 240.17ad-22(e)(6)(ii).

views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4(g) under the Exchange Act, any request for an opportunity to make an oral presentation.¹⁶

The Commission asks that commenters address the sufficiency of FICC's statements in support of the Proposed Rule Changes, which are set forth in the Notices of Filing¹⁷ in addition to any other comments they may wish to submit about the Proposed Rule Changes.

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include file number SR-FICC-2025-005 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-FICC-2025-005. 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 (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Proposed

¹⁶ Section 19(b)(2) of the Exchange Act grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

¹⁷ See Notice of Filing, *supra* note 3.

Rule Changes that are filed with the Commission, and all written communications relating to the Proposed Rule Changes 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's website (<https://www.dtcc.com/legal/sec-rule-filings>).

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to File Number SR-FICC-2025-005 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Rebuttal comments should be submitted by [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,

Assistant Secretary.

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17 CFR 200.30-3(a)(31).