

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-59917; File Nos. SR-DTC-2009-07, SR-FICC-2009-06, SR-NSCC-2009-03)

May 14, 2009

Self-Regulatory Organizations; The Depository Trust Company, Fixed Income Clearing Corporation, and National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes Relating to Economic Sanctions and Embargo Programs Administered and Enforced by the Office of Foreign Assets Control

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on March 31, 2009, April 1, 2009, and April 22, 2009, the Fixed Income Clearing Corporation (“FICC”), the National Securities Clearing Corporation (“NSCC”), and The Depository Trust Company (“DTC”), respectively, filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Item I, II, and III, below, which Items have been prepared primarily by FICC, NSCC, and DTC (collectively, “Clearing Agencies”). The Clearing Agencies filed the proposed rule changes pursuant to Section 19(b)(3)(A)(iii) of the Act² and Rule 19b-4(f)(4) thereunder³ so that the proposals were effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organizations’ Statement of Terms of Substance of the Proposed Rule Changes

The Clearing Agencies are adding language to their rules to make clear that the Clearing Agencies’ participants, members, and pledgees (collectively, “members”) must comply with the U.S. Department of the Treasury’s Office of Foreign Asset Control’s (“OFAC”) sanctions and

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A)(iii).

³ 17 CFR 240.19b-4(f)(4).

embargo programs and as part of their compliance with OFAC sanctions regulations must agree not to conduct any transaction or activity through the Clearing Agencies that violate OFAC regulations.

II. Self-Regulatory Organizations' Statement of Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filing with the Commission, the Clearing Agencies included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Clearing Agencies have prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations' Statement of Purpose of, and Statutory basis for, the Proposed Rule Changes

The purpose of these rule filings is to add new language to the Clearing Agencies' rules⁴ to clarify that the Clearing Agencies' members must comply with OFAC's sanctions and embargo programs and as part of their compliance with OFAC sanctions regulations must agree not to conduct any transaction or activity through the Clearing Agencies that violate such OFAC regulations.

In addition, members subject to United States jurisdiction must confirm to the Clearing Agencies that it has implemented a risk-based OFAC compliance program. The Clearing Agencies will require each member to execute a "Confirmation of an OFAC Program" letter ("OFAC Letter"), which will serve to confirm that the member has "implemented a risk-based

⁴ FICC is amending Government Securities Division Rule 3, Section 9, and Mortgage-Backed Securities Division Article III, Rule 1, Section 7. NSCC is amending Rule 2, Section 4. DTC is amending Rule 2, Section 8.

program reasonably designed to comply with applicable OFAC sanctions regulations.”⁵ Each U.S. member’s OFAC Compliance Officer, Chief Compliance Officer, or other individual with responsibility for managing the OFAC compliance program will be required to submit the OFAC Letter at least every two years.⁶ Failure to properly submit the OFAC Letter to the Clearing Agencies will result in a \$5,000 fine.

The Clearing Agencies state that the proposed rule changes are consistent with the requirements of Section 17A of the Act⁷ and the rules and regulations thereunder because such changes will enhance the Clearing Agencies’ ability to comply with applicable laws thereby reducing risks and associated costs to the Clearing Agencies and their participants.

B. Self-Regulatory Organizations’ Statement on Burden on Competition

The Clearing Agencies do not believe that the proposed rule changes will have any impact on or impose any burden on competition.

C. Self-Regulatory Organizations’ Statement on Comments on the Proposed Rule Changes Received from Members, Participants, or Others

The Clearing Agencies have not solicited or received written comments relating to the proposed rule changes. The Clearing Agencies will notify the Commission of any written comments they receive.

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

⁵ The OFAC Letter is not intended to reallocate legal liability related to the sanctions administered and enforced by OFAC.

⁶ The form of the OFAC Letter is attached to each of the clearing agencies’ rule filings with the Commission.

⁷ 15 U.S.C. 78q-1.

The foregoing rule changes have become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and Rule 19b-4(f)(4)⁹ thereunder because each of the proposed rule changes effects a change in an existing service of one of the Clearing Agencies that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the Clearing Agencies or for which it is responsible and (ii) does not significantly affect the respective rights of the clearing agencies or persons using the service. At any time within sixty days of the filing of such rule changes, the Commission may summarily abrogate such rule changes 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 changes are 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 e-mail to rule-comments@sec.gov. Please include File No. SR-FICC-2009-06, SR-NSCC-2009-03, or SR-DTC-2009-07 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 No. SR-FICC-2009-06, SR-NSCC-2009-03, or DTC-2009-

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(4).

07. At least one of these file numbers 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 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 inspection and copying in the Commission's Public Reference Section, 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 FICC's, NSCC's, and DTC's principal office and on FICC's, NSCC's, and DTC's Web sites, respectively at <http://ficc.com/gov/gov.docs.jsp?NS-query=#rf>, http://www.dtcc.com/legal/rule_filings/nsc/2009.php, and <http://www.dtc.org/impNtc/mor/index.html>. 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 No. SR-FICC-2009-06, SR-NSCC-2009-03, or DTC-2009-07 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.¹⁰

Florence E. Harmon
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).