

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51365; File No. SR-FICC-2004-15)

March 14, 2005

Self-Regulatory Organizations; The Fixed Income Clearing Corporation; Notice of Filing of an Amended Proposed Rule Change Relating to Trade Submission Requirements and Pre-Netting

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on March 4, 2005, The Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") an amendment to a proposed rule change as described in Items I, II, and III below. Prior to being amended the proposed rule change was published in the Federal Register on November 4, 2004.² The Commission is publishing this notice to solicit comments on the proposed rule change as amended.

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

As previously noticed, the proposed rule change would amend the rules of FICC's Government Securities Division ("GSD") to broaden its trade submission requirements and to prohibit pre-netting activities of certain affiliates of its members. As amended, the proposed rule change would also require netting members to report foreign affiliate trades to FICC.

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

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 50607 (October 29, 2004), 69 FR 64343.

significant aspects of such statements.³

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

The proposed rule change as originally filed would require GSD members of FICC to submit data on trades executed or whose settlement is cleared and guaranteed by affiliates of GSD members that are registered broker-dealers, banks, or futures commission merchants organized in the US. Because the proposed rule would define a covered affiliate as an entity organized in the U.S., the rule would not apply to trades executed by non-U.S. affiliates of GSD members.

FICC has filed an amendment to the proposed rule change that would require a netting member to report foreign affiliate trades to FICC. The trades would be reported to FICC on an annual basis in the format and within the timeframe specified by guidelines to be issued by FICC. The reporting requirement would not apply to foreign affiliate trades of a foreign affiliate that has executed less than an average of 30 or more foreign affiliate trades per business day during any one-month period within the prior year.

The amendment proposes to add definitions of “foreign affiliate” and “foreign affiliate trade” to GSD’s rules. A “foreign affiliate” would be defined as an affiliate of a netting member that is not itself a netting member and is a foreign person. A “foreign affiliate trade” would be defined as a trade executed by a “foreign affiliate” of a netting member that satisfies the following criteria: (i) the trade is eligible for netting pursuant to GSD’s rules and (ii) the trade is executed with another netting member, with a covered affiliate, or with a “foreign affiliate” of another netting member. “Foreign affiliate trade” would not include a trade that is executed between a member and its affiliate or between affiliates of the same member. For purposes of

³ The Commission has modified the text of the summaries prepared by FICC.

this definition, the term “executed” shall include trades that are cleared and guaranteed as to their settlement by the foreign affiliate.

The proposed rule change is consistent with the requirements of Section 17A of the Act⁴ and the rules and regulations thereunder applicable to FICC because the proposed rule change should reduce systemic risk in the government securities marketplace and therefore facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions.

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

FICC does not believe that the proposed rule change would 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 yet 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 thirty five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date 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 the proposed rule change; or
- (b) institute proceedings to determine whether the proposed rule change should be disapproved.

⁴ 15 U.S.C. 78q-1.

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 e-mail to rule-comments@sec.gov. Please include File Number SR-FICC-2004-15 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-FICC-2004-15. 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 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, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at www.ficc.com. 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-2004-15 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Jill M. Peterson
Assistant Secretary

⁵ 17 CFR 200.30-3(a)(12).