

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-51875; File No. SR-FICC-2005-01)

June 17, 2005

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving a Proposed Rule Change Relating to Timely Notification of Significant Events that Effect a Change in Control of a Member or Could Have a Substantial Impact on a Member's Business or Financial Condition

On January 6, 2005, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and on May 13, 2005, amended the proposed rule change.<sup>2</sup> Notice of the proposal was published in the Federal Register on May 10, 2005.<sup>3</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

## **I. Description**

The proposed rule change will require certain FICC members to notify FICC when they experience an event that would effect a change in control of such member or could have a substantial impact on such member's business or financial condition. Under the rule change, GSD netting members and MBSD participants will be required to notify FICC upon experiencing a "reportable event." The term "reportable event" is defined as an event that would effect a change in control of a GSD netting member or an MBSD participant or an event that could have a substantial impact on a netting member's/participant's business or financial condition including,

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

<sup>2</sup> Republication of the notice is not required because the amendment to the proposed rule change merely renumbered certain proposed and existing sections of the rule text that were included in the original filing.

<sup>3</sup> Securities Exchange Act Release No. 51643 (May 2, 2005); 70 FR 24665.

but not limited to: (a) material organizational changes including mergers, acquisitions, changes in corporate form, name changes, changes in the ownership of a netting member/participant or its affiliates, and material changes in management; (b) material changes in business lines, including new business lines undertaken; and (c) status as a defendant in litigation which could reasonably impact the netting member's/participant's financial condition or ability to conduct business.<sup>4</sup>

In order to provide FICC with enough time to analyze the implications of a “reportable event” and to determine an appropriate course of action, a netting member/participant must submit written notice to FICC at least 90 calendar days prior to the effective date of such “reportable event” unless the netting member/participant demonstrates that it could not have reasonably done so and also has provided oral and written notice to FICC as soon as possible. Failure to so notify FICC will result in a \$5,000 fine.

## **II. Discussion**

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing be designed to assure the safeguarding of securities and funds which are in its custody or control.<sup>5</sup> The proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it should enhance FICC's ability to collect and evaluate in a timely manner the type of information that it needs in order to properly manage risks and thereby to better safeguard the securities and funds for which it is in control.

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<sup>4</sup> A similar requirement was added as Addendum T to the National Securities Clearing Corporation's Rules in 1998. Securities Exchange Act Release No. 40582 (Oct. 20, 1998), 63 FR 57346 (Oct. 27, 1998).

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

### III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>6</sup> and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-FICC-2005-01) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

Margaret H. McFarland  
Deputy Secretary

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

<sup>7</sup> 17 CFR 200.30-3(a)(12).