

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62478; File No. SR-FICC-2010-02)

July 9, 2010

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change to Amend the Rules of the Government Securities Division and the Mortgage-Backed Securities Division to Change the Classification of U.S. Branches or Agencies of Non-U.S. Banks from Foreign to U.S. Members

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder² notice is hereby given that on June 24, 2010, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The purpose of this proposed rule change is to amend the rules of FICC's Government Securities Division ("GSD") and the Mortgage-Backed Securities Division ("MBSD") to change the classification of U.S. branches or agencies of non-U.S. banks from "foreign" to "U.S. members".

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 17 CFR 240.19b-4.

significant aspects of these statements.

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

FICC currently classifies as "foreign" its members that are U.S. branches or agencies of non-U.S. banks ("U.S. Branches"). FICC is proposing to amend the rules of the GSD and MBSD to classify such U.S. Branches as U.S. members, based particularly on the rationale that such U.S. Branches are regulated by U.S. and or state regulators. The proposed rule change harmonizes FICC's rules with those of its affiliates, The Depository Trust Company and National Securities Clearing Corporation, which presently classify U.S. branches of foreign banks as domestic members (based on domestic regulation).³

The proposed rule change reflects that the U.S. Branches are regulated by a U.S. regulator and/or state regulator so that an insolvency of such a member would be determined by applicable domestic "ring-fence" laws.⁴ The appropriate domestic regulator treats U.S. Branches as U.S. entities for most significant matters. Under the proposed rule changes, such members will be treated as domestic members for all purposes under FICC's rules and procedures, unless FICC states otherwise in the Rules.⁵

³ This is reflected in Section 2 of DTC's Policy Statements on the Admission of Participants, and Addendum O of NSCC's Rules entitled "Admission of Non-U.S. Entities as Direct NSCC Members".

⁴ In the United States, "ring-fencing" refers to the procedure for dealing with branches of agencies of insolvent foreign banks in the United States pursuant to which the state or federal regulator, as applicable, will seize and administer the local assets of an insolvent institution, with a preference for local creditors, in a liquidation that is separate from the liquidation of the parent foreign bank as a whole.

⁵ For example, if this Rule change is approved such members will no longer be required to submit annual updates to their foreign legal opinions unless FICC deems it necessary to address legal risk. Applicants in this category will, however, continue to be required to submit an initial foreign legal opinion on their home country law with their membership application.

FICC believes the proposed rule change is consistent with the requirements of Section 17A of the Act⁶ and the rules and regulations thereunder because the proposed modifications would facilitate FICC's prompt and accurate clearance and settlement of securities transactions by providing consistent treatment to Members that are regulated by a U.S. and/or state regulator and that are subject to a domestic insolvency regime.

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

FICC does not believe that the proposed rule change would 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

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.

⁶ 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 Commissions 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-2010-02 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-2010-02. 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 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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street, N.E., Washington, D.C. 20549-1090, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filings will also be available for inspection and copying at the

principal office of the FICC and on FICC's Web site at

http://www.dtcc.com/downloads/legal/rule_filings/2009/ficc/2009-02.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-2010-02 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.⁷

Florence E. Harmon
Deputy Secretary

⁷ 17 CFR 200.30-3(a)(12).