

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51550; File No. SR-FICC-2005-07)

April 15, 2005

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change to Establish a Firm Deadline by which Members of the Government Securities Division Must Satisfy Clearing Fund Deficiencies

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on March 18, 2005, the Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The purpose of this proposed rule change is to establish a firm deadline by which members of FICC’s Government Securities Division (“GSD”) must satisfy clearing fund deficiencies.

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 significant aspects of these statements.²

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries prepared by FICC.

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

The purpose of the proposed rule change is to establish a firm deadline by which members of GSD must meet clearing fund deficiencies. Currently, GSD's rules provide a deadline for a member's satisfaction of a clearing fund deficiency of two hours after GSD has issued a notice of deficiency to that member. Under current practice, GSD issues its clearing fund deficiency notices by telephone calls typically at 8:30 a.m. Eastern Time, and by a facsimile containing (i) a cover letter summarizing the deficiency status and (ii) a detailed report reflecting the firm's current clearing fund requirement and collateral on deposit. Therefore, deficiency calls typically must be satisfied by approximately 10:30 a.m. Eastern Time.

Notwithstanding GSD's issuance of clearing fund calls, each member has the ability to access a report each day detailing its clearing fund balances and any deficiency thereof generally by 12:30 a.m. Eastern Time.

To further ensure the timely satisfaction of clearing fund deficiency calls and taking into account members' ready access to clearing fund deficiency information, the proposed rule change would establish a firm deadline of 10:30 a.m. Eastern Time for such satisfaction and eliminate current provisions which correlate the timing of the deadline to the issuance of the notice by FICC.³ As a result, it would be incumbent upon members to access directly the appropriate report detailing their clearing fund deposit requirements so they might satisfy any deficiencies.

³ Under the proposed rule, FICC may extend this deadline if operational or systems difficulties arise that reasonably prevent members from satisfying the 10:30 a.m. Eastern Time deadline.

FICC believes 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 it promotes timely satisfaction of clearing fund deficiency calls and reduces the amount of risk to FICC and its members. As such, FICC believes the proposed rule assures the safeguarding of securities and funds that are in the custody and control of FICC or for which it is responsible.

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

FICC does not believe that the proposed rule change will 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 such 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-2005-07 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-2005-07. 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 filings 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-2005-07 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Margaret H. McFarland
Deputy Secretary

⁵ 17 CFR 200.30-3(a)(12).