

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51754; File No. SR-FICC-2005-07)

May 27, 2005

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

I. Introduction

On March 18, 2005, the Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-FICC-2005-07 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).¹ Notice of the proposal was published in the Federal Register on April 21, 2005.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

FICC is establishing a firm deadline by which members of FICC’s Government Securities Division (“GSD”) must satisfy 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.

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 51550 (April 15, 2005), 70 FR 20781.

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.

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

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.⁴ The Commission finds that FICC's proposed rule change is consistent with this requirement because it will promote timely satisfaction of clearing fund deficiency calls and will reduce the amount of risk to FICC and its members.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

³ Under GSD's 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.

⁴ 15 U.S.C. 78q-1(b)(3)(F).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁵ that the proposed rule change (File No. SR-FICC-2005-07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland
Deputy Secretary

⁵ 15 U.S.C. 78s(b)(2).

⁶ 17 CFR 200.30-3(a)(12).