

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-62767; File No. SR-FICC-2010-04)

August 26, 2010

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change to Provide Clarity with Respect to the Close Out Netting of the Government Securities Division in the Event of the Fixed Income Clearing Corporation's Default or Insolvency

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup> notice is hereby given that on August 12, 2010, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II 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 persons.

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

The purpose of the proposed rule change is to provide clarity with respect to the close out netting of the Government Securities Division ("GSD") in the event of FICC's default or insolvency.

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

---

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

<sup>2</sup> 17 CFR 240.19b-4.

significant aspects of these statements.<sup>3</sup>

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

FICC is proposing to add a provision to the rules of GSD to make explicit the close out netting that would be applied to obligations between FICC and its members in the event that FICC becomes insolvent or defaults in its obligations to its members.<sup>4</sup>

FICC has been approached by some of its dealer members that have requested that FICC add a provision to the rules of GSD to make explicit the close out netting of obligations between FICC and its members in the event that FICC becomes insolvent or defaults in its obligations to its members. Such members have stated that the proposed rule change will provide clarity in their application of balance sheet netting to their positions with FICC under U.S. GAAP in accordance with the criteria specified in the Financial Accounting Standards Board's Interpretation No. 39, *Offsetting of Amounts Related to Certain Contracts* (FIN 39). The members have stated further that the proposed rule change would allow them to comply with Basel Accord Standards relating to netting. Specifically, firms are able to calculate their capital requirements on the basis of their net credit exposure where they have legally enforceable netting arrangements with their counterparties, which includes a close out netting provision in the event of the default of a counterparty (in this case, the division of FICC acting as a CCP).

FICC believes the proposed rule change is consistent with the requirements of Section

---

<sup>3</sup> The Commission has modified the text of the summaries prepared by FICC.

<sup>4</sup> The specific language of the proposed provision can be found at [http://www.dtcc.com/downloads/legal/rule\\_filings/2010/ficc/2010-04.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2010/ficc/2010-04.pdf).

17A of the Act<sup>5</sup> and the rules and regulations thereunder applicable to FICC because the proposed rule change would provide FICC members with clarity in the calculation of their capital requirements with respect to their net credit exposure where members have legally enforceable netting arrangements with their counterparties. Moreover, other clearing agencies have similar provisions in their rules for the same purpose.<sup>6</sup>

(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 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate 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 or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

---

<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> The Commission has previously approved a similar provision for another clearing agency for the same purpose of providing such clearing agency's members with the needed clarity. Securities Exchange Act Release No. 34-56069 (July 13, 2007), 72 FR 39869 (July 20, 2007).

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-FICC-2010-04 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-2010-04. 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 FICC and on FICC's website at

[http://www.dtcc.com/downloads/legal/rule\\_filings/2010/ficc/2010-04.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2010/ficc/2010-04.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-2010-04 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.<sup>7</sup>

Florence E. Harmon  
Deputy Secretary

---

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