

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63038; File No. SR-FICC-2010-04)

October 5, 2010

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving 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

I. Introduction

On August 12, 2010, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-FICC-2010-04 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ The proposed rule change was published for comment in the Federal Register on August 31, 2010.² No comment letters were received on the proposal. This order approves the proposal.

II. Description

FICC is proposing to add a provision to the rules of the Government Securities Division ("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.³

FICC has been asked by some of its dealer members to 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 such a provision would provide clarity in their application of balance sheet

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 62767 (August 26, 2010), 75 FR 53368.

³ The specific language of the proposed provision is available at http://www.dtcc.com/downloads/legal/rule_filings/2010/ficc/2010-04.pdf.

netting to their transactions at 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 a close out provision 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).

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act⁴ and the rules and regulations thereunder applicable to FICC.⁵ In particular, the Commission believes that by adding a close out provision to its rules, FICC is providing its members with clarity with respect to close out netting that would be applied to obligations of FICC and its members in the event of an FICC insolvency or default and in the calculation of their capital requirements with respect to their net credit exposure where members have legally enforceable netting arrangements with their counterparties. The proposal is therefore consistent with the requirements of Section 17A(b)(3)(F),⁶ which requires, among other things, that the rules of a clearing agency are designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

⁴ 15 U.S.C. 78q-1.

⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78q-1(b)(3)(F).

IV. 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 Act⁷ and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (File No. SR-FICC-2010-04) be, and hereby is, approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon
Deputy Secretary

⁷ 15 U.S.C. 78q-1.

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).