

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69972; File No. SR-FICC-2013-05)

July 11, 2013

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change to Include trueEX LLC as a Designated Locked-In Trade Source Pursuant to the Rulebook of the Government Securities Division

On May 15, 2013, the Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-FICC-2013-05 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> The proposed rule change was published for comment in the Federal Register on June 4, 2013.<sup>3</sup> The Commission received one comment on the proposed rule change that did not address the content of the proposal.<sup>4</sup> For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposed Rule Change

FICC’s proposed rule change would amend the rulebook of the Government Securities Division (“GSD”) to include trueEX LLC (“trueEX”) as one of the GSD’s designated locked-in trade sources. The GSD’s rules currently provide for the submission of locked-in trades<sup>5</sup> by

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

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

<sup>3</sup> Securities Exchange Act Release No. 69653 (May 29, 2013), 78 FR 33456 (June 4, 2013) (SR-FICC-2013-05).

<sup>4</sup> Email submission by Laura Skinner (June 10, 2013), *available at* <http://www.sec.gov/comments/sr-ficc-2013-05/ficc201305-1.htm>.

<sup>5</sup> The GSD’s rulebook defines the term “Locked-In Trade” as “a trade, involving Eligible Securities, that is deemed a Compared Trade once the data on such trade is received from a single, designated source and meets the requirements for submission of data on a Locked-In Trade pursuant to [the GSD’s] Rules, without the necessity of matching the

certain locked-in trade sources<sup>6</sup> on behalf of GSD members. Currently, the GSD's designated locked-in trade sources are the following entities: (i) Federal Reserve Banks (as fiscal agents of the United States); (ii) the Federal Home Loan Mortgage Corporation ("Freddie Mac"); (iii) GCF-Authorized Inter-Dealer Brokers;<sup>7</sup> (iv) the U.S. Department of the Treasury; and (v) New York Portfolio Clearing, LLC.

trueEX is an electronic exchange for interest rate swaps, and has been designated a contract market by the Commodity Futures Trading Commission.<sup>8</sup> The swap transactions executed by trueEX are cleared by a clearinghouse other than the GSD, but in the event one of these swap transactions results in the physical delivery of the underlying instrument,<sup>9</sup> the GSD will clear and settle the exchange of that instrument in certain instances.<sup>10</sup> Accordingly, for the

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data regarding the trade with data provided by each Member that is or is acting on behalf of an original counterparty to the trade." GSD Rulebook, Rule 1, p.33.

<sup>6</sup> The GSD Rulebook defines the term "Locked-in Trade Source" as "a source of data on Locked-In Trades that the Corporation has so designated, subject to such terms and conditions as to which the Locked-In Trade Source and the [GSD] may agree." GSD Rulebook, Rule 1, p.33.

<sup>7</sup> The GSD Rulebook defines the term "GCF-Authorized Inter-Dealer Broker" as "an Inter-Dealer Broker Netting Member that the [GSD] has designated as eligible to submit to the [GSD] data on GCF Repo Transactions on a Locked-In Basis." GSD Rulebook, Rule 1, p.27.

<sup>8</sup> *See In the Matter of the Request of trueEX LLC for Designation as a Contract Market* (September 25, 2012) (approving trueEX's application for designation as a contract market), available at <http://www.cftc.gov/ucm/groups/public/@otherif/documents/ifdocs/trueexapplicationorder.pdf>.

<sup>9</sup> Generally, fewer than 3% of interest rate swaps result in a physical delivery when they are unwound.

<sup>10</sup> The GSD would clear only those transactions involving the physical delivery of U.S. Treasury bills, notes, bonds, Treasury inflation-protected securities (TIPS) and separate trading of registered interest and principal securities (STRIPS), as well as federal agency notes, bonds and zero-coupon securities that are book-entry, Fedwire eligible and non-mortgage backed.

delivery-versus-payment (“DVP”)<sup>11</sup> leg of these physical delivery transactions, trueEX will offer members who are also members of GSD the ability to have such transactions submitted to the GSD by trueEX as netting-eligible transactions (*e.g.*, as Treasury DVP transactions). In its capacity as a designated locked-in trade source, trueEX will transmit transactions to the GSD throughout the day by submitting single tickets in a batch format. Once trueEX transmits a locked-in trade to the GSD, the GSD will process the trade normally, along with the respective GSD member’s other DVP trades. Because the ticket submitted by trueEX lists trueEX as the submitter on behalf of two GSD counterparties, the single-ticket format ensures that trueEX will not have a resulting settlement obligation, even though it is a party to the trade.<sup>12</sup> If trueEX is approved as a locked-in trade source by the GSD during the onboarding phase,<sup>13</sup> it will be the first designated contract market<sup>14</sup> to act as a locked-in trade source for the GSD.

As is the case with other locked-in trade submissions accepted by the GSD, GSD members will be required to execute appropriate documentation evidencing to the GSD their authorization of trueEX to submit trades on their behalf. The GSD will notify members of the availability of this documentation via Important Notice.

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<sup>11</sup> Delivery-versus-payment is a settlement procedure in which the buyer’s cash payment for the securities it has purchased is due at the time the securities are delivered.

<sup>12</sup> In its capacity as a locked-in trade source, trueEX will initially not be subject to any fees pursuant to the existing GSD Rules. The GSD may, however, consider imposing a fee on certain locked-in trade sources in the future based on volumes and processing costs.

<sup>13</sup> During the onboarding phase, trueEX will be subject to the GSD’s existing due diligence process, including testing trueEX’s trade input and receipt of output capabilities prior to the go-live date.

<sup>14</sup> Designated contract markets are exchanges that may list for trading both futures and option contracts based on all types of commodities, and that may allow access to their facilities by all types of traders, including retail customers. *See* <http://www.cftc.gov/IndustryOversight/TradingOrganizations/DCMs/index.htm>.

## II. Discussion

Section 19(b)(2)(C) of the Act<sup>15</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act<sup>16</sup> requires, among other things, that the rules of a clearing agency be designed to achieve several goals, including (i) promoting the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, (ii) assuring the safeguarding of securities and funds that are in the custody or control of the clearing agency or for which it is responsible, and (iii) protecting investors and the public interest.

The Commission concludes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. The Commission believes that adding trueEX as a source of locked-in trades for the GSD will promote the prompt and accurate clearance and settlement of securities transactions by expediting the GSD's receipt of accurate trade data. In the absence of a locked-in trade source, trades must be compared bilaterally, which requires that both parties to the transaction independently transmit trade information to the GSD.<sup>17</sup> This confirmation process can occasion delays when the parties fail to submit trade information in a timely fashion, or when they submit inaccurate or incomplete information that

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<sup>15</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>16</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>17</sup> The bilateral comparison process requires that both counterparties to the trade submit trade details to the GSD, and that the details submitted by the parties either match or fall within predefined parameters. *See* GSD Rulebook, Rule 6A (providing that, for the GSD to process a trade for bilateral comparison, it “must receive data from the long and short sides of the trade” and that, with certain limited exceptions, “there must be an exact match of all Required Match Data submitted on the trade . . .”).

the GSD must then verify. The Commission believes that allowing the GSD to accept trade information from trueEX on a locked-in basis will help the GSD process transactions more rapidly, and will enhance the accuracy of the trade information the GSD uses in performing its clearing services.

In addition, the Commission believes that allowing trueEX to serve as a locked-in trade source is generally consistent with the safeguarding of the securities and funds in the GSD's control, or for which it is responsible.<sup>18</sup> Trades originating on the trueEX exchange will remain subject to all of the GSD's normal risk management procedures, which include marking member portfolios to the market on an intraday basis and charging variation margins accordingly.<sup>19</sup> These risk management procedures should help ensure the safety of the securities and funds handled by the GSD in connection with transactions effected on the trueEX exchange.

Finally, the Commission believes that trueEX satisfies the general criteria for serving as a locked-in trade source to the GSD, provided the GSD determines that trueEX meets all of the GSD's applicable onboarding protocols. The Commission has previously determined that the GSD may utilize locked-in comparison for trades executed on a "pure electronic trading system that is [computer] terminal-driven" and which permits "no discretion over trade details . . . once the trade is submitted."<sup>20</sup> trueEX meets all of these requirements. The trueEX exchange is

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<sup>18</sup> See 15 U.S.C. 78q-1(b)(3)(F) (requiring 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.").

<sup>19</sup> See GSD Rulebook, Rule 4, Section 2a, p.89.

<sup>20</sup> Securities Exchange Act Release No. 44946 (October 17, 2001), 66 FR 53816, 53817 (October 24, 2001) (SR-GSCC-2001-01) (internal quotation marks omitted).

exclusively an electronic trading platform, and counterparties executing trades there may not unilaterally modify or cancel trades once trueEX has matched them.<sup>21</sup>

### III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, particularly those set forth in Section 17A,<sup>22</sup> and the rules and regulations thereunder.

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<sup>21</sup> As with bilateral trades, counterparties to a locked-in trade may submit a “DK Notice” for any trades they believe to be “invalid or incorrect.” *See* GSD Rulebook Rule 6C, Section 6. But, unlike with bilateral trades, the GSD considers a DK Notice in the context of a locked-in trade to be “a request for cancellation” to the locked-in trade source. *See id.*; *see also* GSD Rulebook, Rule 1, p.19. Thus, only trueEX may modify or cancel a trade in response to a DK Notice. *See* GSD Rulebook Rule 6C, Section 10.

<sup>22</sup> 15 U.S.C. 78q-1.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>23</sup> that the proposed rule change (File No. SR-FICC-2013-05) be, and hereby is, APPROVED.<sup>24</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

Elizabeth M. Murphy  
Secretary

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<sup>23</sup> 15 U.S.C. 78s(b)(2).

<sup>24</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

<sup>25</sup> 17 CFR 200.30-3(a)(12).