

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-51440; File No. SR-FICC-2004-23)

March 28, 2005

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Granting Approval of a Proposed Rule Change to Change the Notice Period Required for the Closing of Participant Accounts or Withdrawing from Membership in its Mortgage-Backed Securities Division

I. Introduction

On November 22, 2004, the Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change File No. SR-FICC-2004-23 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).<sup>1</sup> Notice of the proposed rule change was published in the Federal Register on February 22, 2005.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is now granting approval of the proposed rule change.

II. Description

The purpose of the rules change is to amend the timeframe in which a participant, limited purpose participant, or EPN user can cease to maintain an account or can voluntarily withdraw as a participant from the Mortgage-Backed Securities Division (“MBSD”) of FICC.

Currently, the MBSD’s Rules expressly state that in order to cease to maintain an account or to voluntarily withdraw as a participant, a participant must notify FICC of its intent to do so in writing and that thereafter FICC management and the participant must wait ten days for the cessation or withdrawal to become effective. Upon review, FICC has determined that imposing this mandatory time period is unnecessary. FICC believes it should have the flexibility to close

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

<sup>2</sup> Securities Exchange Act Release No. 51206 (February 15, 2005), 70 FR 8648.

an account or to permit withdrawal within a shorter period. The rule changes provide this flexibility by providing that: (1) a participant must provide ten days' written notice of account cessation or withdrawal from membership but the MBSD can accept termination within a shorter period; (2) the requested account cessation or withdrawal would not be effective until accepted by the MBSD; and (3) the MBSD's acceptance will be evidenced by a notice to all members announcing the account cessation or withdrawal effective date.

### 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.<sup>3</sup> The Commission finds that FICC's proposed rule change is consistent with this requirement because while it will provide the FICC with greater flexibility with respect to closing accounts of participants and to permitting the voluntary withdrawal of participants, it has been designed with sufficient safeguards to allow the MBSD to continue to safeguard the securities and funds in its custody and control or for which it is responsible.

### 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.

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

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> that the proposed rule change (File No. SR-FICC-2004-23) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 17 CFR 200.30-3(a)(12).