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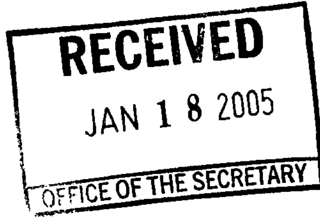

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January 14, 2005

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

Re: File No. SR-FICC 2004-15

Dear Mr. Katz:

The Fixed Income Clearing Corporation ("FICC") appreciates the opportunity to respond to the adverse comment letters submitted by Cantor Fitzgerald Securities ("Cantor")[1] and Rosenthal Collins Group, L.L.C ("Rosenthal")[2] with respect to FICC's rule filing 2004-15 (the "Rule Filing"), in which FICC is proposing to expand the trade submission requirements of FICC's Government Securities Division (the "GSD") and to further prohibit pre-netting practices. Since the Rosenthal letters contain arguments similar to those presented by the Cantor letter but in a more abbreviated fashion, FICC will focus its response on the Cantor letter.

I. EXECUTIVE SUMMARY

FICC believes that, contrary to Cantor's assertions, the Securities and Exchange Commission ("SEC" or the "Commission") may reasonably determine that adoption of the affiliate pre-netting prohibition and related rule changes proposed in the Rule Filing:

(1) would significantly reduce the systemic risk that affiliate pre-netting currently imposes on the Government securities clearance and settlement process; and

(2) would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Securities and Exchange Act of 1934 (the "Exchange Act").

FICC believes that Cantor has offered no substantiation for its assertion that the proposed rule changes, together with FICC's fee structure, may increase systemic risk in

[1] Letter from Stephen Merkel, Cantor Fitzgerald Securities, to Jonathan G. Katz, Securities and Exchange Commission, dated November 26, 2004.
[2] Letters from Scott Gordon, Rosenthal Collins Group, L.L.C. to Jonathan G. Katz, Securities and Exchange Commission, dated November 26, 2004 and November 29, 2004.

the Government securities markets by discouraging smaller firms from joining FICC and encouraging smaller firms that are members of FICC to withdraw.

In order to support its argument that it should be permitted to pre-net eligible activity, Cantor first argues that netting, or "pairing off", between market participants is desirable, has been encouraged by the regulators and industry organizations, and is protected from a legal perspective. In fact, as further discussed in the Rule Filing and below, FICC's predecessor (the Government Securities Clearing Corporation ("GSCC")) was established in part due to concerns that broker-dealer netting outside of a registered clearing agency process is unsound from operational, legal and credit perspectives and introduces systemic risk to the marketplace.

Cantor implies that it is desirable for parties engaging in pre-netting to then submit such pre-netted activity to FICC. This practice, however, harms FICC's risk management process and, thus, is unacceptable. FICC's risk management process relies upon FICC being able to adequately address the risk presented by each individual trade. As stated in the Rule Filing, the most powerful risk management tool employed by FICC is its multilateral netting by novation process. The integrity of this netting process depends heavily upon the submission to FICC of activity on a trade-for-trade basis.

Cantor is also seeking further fee reductions for FICC's services, a matter that is separate from the issues addressed by the Rule Filing. In order to convey this argument, Cantor argues that FICC's fee structure itself has the potential to increase systemic risk in the Government securities marketplace. The essence of Cantor's arguments is that, for certain trading activity, FICC member firms should not have to pay for the benefits of centralized risk management.

As a practical matter, however, FICC is an industry utility that is owned and governed by its members. While organized under the New York Business Corporation Law, FICC does rebate revenues after an appropriate level of capital has been established. In fact, FICC's rebates to its members have been substantial. For example, in 2003, FICC returned $20.7 million in fees paid by its members in its GSD and $57.1 million in fees paid by its members in its Mortgage-Backed Securities Division.

FICC's fee structure periodically is amended by its Board in response to developments in the marketplace. In this regard, FICC recently amended its netting fees in recognition of the proliferation of large volume-small dollar trading.[3] The new netting fees fairly and appropriately provide cost savings to those firms that engage in this type of trading and appear to have shown the most interest in pre-netting.

Cantor also expresses concern with the exclusion of foreign affiliates of FICC members from the proposal in the Rule Filing. As indicated below, however, FICC believes that the principal systemic risk presented to the marketplace by pre-netting has

[3] The fee filing, SR-FICC-2004-21, became effective January 1, 2005.

arisen from the activities of domestic affiliates of certain of its members rather than of foreign affiliates.

II. REBUTTAL OF SPECIFIC POINTS OF THE CANTOR LETTER

A. Existing gap in FICC trade submission requirements results in significant systemic risk

FICC believes that any gap in FICC's trade submission requirements results in the introduction of significant systemic risk issues for FICC, its members and the marketplace.

The Rule Filing addresses these risk issues by focusing on the main source of this risk--transactions by members' affiliates that are U.S. banks, broker-dealers and futures commission merchants--and by providing for reasonable exceptions to the reach of the proposed submission requirement. The types of entities included in the proposed submission requirement comprise the large majority of GSD netting members, and FICC believes that their trades should be submitted to FICC on a trade-by-trade basis for the protection of the entire marketplace. Otherwise, among other things, an opportunity is left open for members to seek to allocate to FICC only certain covered affiliate trades that are regarded as riskier.

1. "Pair-offs" between market participants introduce systemic risk to the marketplace

Cantor's argument regarding the benefit of pair-offs between individual market participants occurring outside of the clearing agency is flawed. As the Commission is aware, FICC employs several methods to reduce risk, and these methods have been highly successful in protecting FICC and its members from loss. The most powerful risk management tool employed by FICC is its multilateral netting by novation process, which eliminates the need to settle the large majority of receive and deliver obligations created by the trading activity of members. This is the key benefit that market participants seek in joining FICC as members. The significant benefits of multilateral netting and centralized risk management are not available to the extent that pre-netting distorts the integrity of the clearing agency's processes.

Pair-offs between market participants outside of the clearing agency are not as sound from legal and credit perspectives as compared to the netting process of the clearing agency. Market participants that may have insufficient capital or financial strength and/or inadequate internal processes to mitigate such risks might be involved. In a crisis, it is not clear whether counterparties will cherry-pick among risky transactions or even unwind their pair-offs. These types of concerns are not present with FICC--FICC cannot cherry-pick among transactions submitted to it and FICC cannot unwind net settlement positions.

Moreover, pair-offs between market participants are not as legally secure as compared to netting performed by a clearing agency. From a legal perspective, although the various statutory provisions (Federal Deposit Insurance Corporation Improvement Act of 1991, Bankruptcy Code and Federal Deposit Insurance Act) provide "safe" harbors protecting bilateral netting rights, their applicability is highly dependent upon the types of entities involved and the nature and adequacy of the bilateral documentation. This should be contrasted with the fact that these statutory provisions provide a number of express protections to registered clearing agencies, such as FICC.

2. The Rule Filing will reduce counterparty, operational, legal and "fails" risks

a. Counterparty credit risk

Cantor states that FICC's description of the mitigating impact the Rule Filing proposal will have on counterparty credit risk is inaccurate. In fact, Cantor's assertions in this respect are misleading. The Cantor argument boils down to saying that the clearing agency is not necessary because parties can conduct their own risk management. In fact, the existence of counterparty credit risk, and the potential for failure of a market participant, was a prime motivating force for the creation of FICC. Entities join FICC in order to have their counterparty credit risk managed in a centralized, transparent manner and to avail themselves of the myriad of risk protections built into the clearing agency process that have been carefully reviewed and approved by the industry and the SEC. Indeed, the safety and soundness of the Government securities marketplace depends upon these protections.

b. Operational risk

Cantor states that FICC's proposal would not reduce operational risk and focuses on the problems that occurred industry-wide on September 11, 2001 ("9/11"). Specifically, Cantor mischaracterizes and minimizes FICC's actions following the market disruptions caused by the events of 9/11. Indeed, the distortions in Cantor's characterization are particularly notable given that several inter-dealer brokers, including Cantor itself, would have had serious problems with the clearance and settlement of their significant 9/11 trading activity absent the presence of FICC and the emergency actions it took at that time.

To facilitate an orderly settlement process and mitigate the potential for the enormous systemic risk associated with thousands of unmatched trades, on the evening of 9/11, GSCC made the decision to create and administratively compare over 2,000 broker trades valued at over $70 billion, based on the presumption that the dealer counterparty submission was accurate. In taking this action, GSCC moved a massive reconciliation effort that would have been conducted between GSCC's dealer and broker members into one central location within GSCC.

Cantor, and the other broker members that were affected on that date, were (and are) among the most active participants in the Government securities marketplace. In the absence of action by GSCC, they and their counterparties would have had to settle their transactions outside of the GSCC net. It may have been impossible for these firms to compare some of the trades because they were executed on a blind basis and because the records of many of these trades had been destroyed. Moreover, FICC's affiliates provided significant and critical assistance to Cantor to help enable it to resume operations during this time period.

Cantor cites an article written by two Federal Reserve Bank of New York officials as support for its characterization of GSCC's actions during the post-9/11 period. Cantor fails to note that the authors focused on the valuable initiatives taken by GSCC at that time:

> "GSCC took two actions on the night of September 11 to minimize the problems caused by the destruction of broker records and by the loss of communications links . . . First, it created, as best it could from dealer messages that it had received, the missing broker messages on more than 2,000 trades valued at more than $70 billion. This action brought the trades into GSCC's netting and novation process and centralized the reconciliation of transactions that might have otherwise proved irreconcilable. Second, GSCC assumed responsibility for starting–leg fails on almost $100 billion of blind-brokered [repos], even though it had not been able to compare many of the agreements with the brokers and their counterparties."[4]

Contrary to the impression left by the Cantor letter, GSCC's efforts during the post-9/11 period have been praised extensively. As industry representatives noted of FICC's efforts during that time period:

> "The unsung heroes in the crisis were the back-office systems and operations people, at GSCC, Chase and BoNY."[5]

> "[D]espite the lingering difficulties in the operating and reconciliation environment in the weeks following September 11, 2001, GSCC continued to successfully compare submitted trades, net down the obligations of its members and novate the relevant transactions."[6]

> "This [real-time trade matching] service helped prevent broader reconciliation problems at GSCC stemming from incomplete information in the days following

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[4] "When the Back Office Moved to the Front Burner: Settlement Fails in the Treasury Market After 9/11," Michael J. Fleming and Kenneth D. Garbade, FRBNY Economics Policy Review (November 2002), p. 46.

[5] "Unsnarling the Mess," by Bill Shepherd, Investment Dealers' Digest, p. 36 (May 13, 2002).

[6] Letter from The Bond Market Association to Jennifer J. Johnson, Board of Governors of the Federal Reserve System, and Jonathan G. Katz, Securities and Exchange Commission (August 19, 2002) (commenting on the Inter-Agency White Paper on Structural Change in the Settlement of Government Securities: Issues and Options), footnote 19.

the September 11, 2001 attacks, given that it helped ensure that transactions entered into prior to the intraday disruption in the clearance system still had a confirmed counterparty match for all trade submitted to GSCC up to the point of such disruption."[7]

Moreover and more significantly, the events of 9/11 demonstrate clearly the need to have all Government securities activity of active market participants submitted on a real-time basis to the clearing corporation for comparison within minutes of trade execution, in order to mitigate operational risk. It is noteworthy that FICC now receives approximately 98 percent of its submitted trade data on a real-time basis. That development alone has significantly improved FICC's ability to manage the risk arising from the two-trillion-plus dollars of daily activity in the Government securities marketplace.

c. Legal risk

Cantor argues that forcing submission of covered affiliate transactions to FICC would do little to further reduce legal risk given the legal framework that exists for Government securities transactions. Although the safe harbors in the Federal and State laws do protect bilateral netting, their applicability is highly dependent upon the types of entities involved and the nature and adequacy of the bilateral documentation. Thus, as stated in the Rule Filing, pre-netting has the potential to increase risk absent the capacity for comprehensive monitoring to ensure that such documentation and entities are in fact used throughout the Government securities marketplace. Also, as stated in the Rule Filing, FICC strongly expects that a bankruptcy court or other insolvency tribunal would be more deferential to close-out and netting by a registered securities clearing agency, such as FICC, than it would be to close-out and netting by another market participant.

d. "Fails" resolution risk

Cantor questions the ability of FICC to help market participants resolve fails problems. In fact, FICC is in an ideal position to help market participants in this respect. Cantor questions FICC's ability to do so only because FICC does not have as members or trade submitters certain groups of market participants, a situation that the Rule Filing seeks to ameliorate. It should also be noted that FICC can best help resolve fails problems if it receives information on a trade-by-trade basis.

B. The exceptions to the proposed trade submission requirement in the Rule Filing are reasonable and do not eviscerate its potential effectiveness in addressing systemic risk

As noted above, Cantor expresses concern with the exclusion from the Rule Filing of pre-netting by non-domestic affiliates of FICC members. All of the exclusions in the Rule Filing were carefully drafted after taking into account the comments of FICC's

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[7] *Id.* at footnote 34.

members and to avoid undue hardship to them. In this regard, FICC tailored its rule filing to encompass those entities that make up the large majority of its current membership--the ones that are the market makers for the substantial part of the market (the sell-side) that FICC currently services and the absence of whose trades lead to systemic risk issues.

The non-domestic affiliate exclusion was included because of the limited ability of domestic FICC members to submit the activity of their foreign affiliates, as well as potential regulatory or other legal barriers under foreign law to extra-territorial application of FICC's affiliate pre-netting rules. FICC believes that the Rule Filing properly addresses the significant systemic risk caused by the lack of a trade submission requirement for domestic affiliates of those entities-- banks, broker-dealers and futures commission merchants--which form the core of FICC's membership.

Cantor also expresses concern that the Rule Filing excludes all institutional investors. However, many of these entities face regulatory issues regarding their participation in a clearing agency. FICC cannot require entities to submit their transactions to it if such a requirement would cause them to violate a regulation or statute. On a separate track, recognizing the importance of trying to include these entities into membership, FICC has made, and is continuing to make, efforts to bring in their activity in other ways.[8]

FICC believes that despite its limitations in reach of certain potential affiliates, the Rule Filing will still achieve a significant reduction in systemic risk.

C. The Rule Filing will not increase systemic risk

There is no merit to Cantor's assertions that the proposals in the Rule Filing would somehow increase systemic risk.

First, FICC questions the relevance of Cantor's assertion that the combination of the proposal in the Rule Filing plus maintenance of FICC's existing fee structure, which has been revised pursuant to a recent rule filing proposal (FICC-2004-21), would create systemic risk by discouraging smaller firms from joining FICC and encouraging smaller firms that are members of FICC to withdraw. Cantor's assertion seems doubly flawed--first by not taking into account FICC's recent fee structure changes, and second by offering a highly speculative prediction of the behavior of participants in the Government securities marketplace relating to that proposal. Of note is that Cantor did not file any comments on FICC's fee structure rule filing.

Cantor argues that FICC's existing fee structure, which previously charged a per transaction fee, creates systemic risk. Cantor was aware of, and acknowledged, the new fee filing and yet continued to argue against the Rule Filing on the basis of the fee

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[8] *See* Straight-Through Processing for Institutional Settlement (White Paper published by FICC in May 2003). *See also* SR-FICC-2004-22 (proposal to establish a "sponsored membership" category in the GSD's rules for registered investment companies).

structure which was being replaced by the fee filing. Cantor notes that it is troubled by the fact that the fee filing will have an overall revenue neutral effect on FICC (individual members will pay more or less than before, depending upon the nature of their activity), a fact that is irrelevant to the merits of the Rule Filing. It should be noted that FICC's fees are established by its Committee and ratified by its Board—these bodies are industry comprised and the fees are set as low as possible to cover FICC's costs and to enable FICC to provide rebates to its members.

Second, FICC questions Cantor's assertion that the Rule Filing could have adverse effects on FICC's members if a covered affiliate were to default. This assertion does not accurately reflect FICC's existing membership structure. If a covered affiliate chooses to join FICC, it becomes a member in its own right with its own relationship to FICC, separate from that of the principal member. The covered affiliate would thus be subject to all of the risk management protections that FICC applies to its netting members—these are the same risk management protections that have helped to ensure FICC's never having to declare a member insolvent and never having to invoke its loss allocation process during its entire 16-year existence.

If a principal member were to choose to submit its covered affiliate trades instead of having its affiliate become a separate FICC member, the principal member would be risk managed according to the activity it submits (including that of its affiliates). This happens today. FICC treats all netting members as principals in their relationship with FICC regardless of whether they are submitting for another entity, and FICC's rules and membership documentation are structured to protect FICC in this respect. Moreover, under the Rule Filing, a member would not be required to submit its covered affiliate's trades if to do so would raise legal or regulatory issues for the member. Nothing in FICC's existing loss allocation scheme is changed by the Rule Filing.

D. <u>FICC does not have a monopoly on Government securities clearance and settlement</u>

Cantor asserts that FICC has a "monopoly in government securities clearance and settlement services". Cantor further asserts that FICC is a "for-profit enterprise" and that, as such, "FICC's policies [and] proposals do not necessarily reflect the best interests of the government securities markets as a whole". Cantor argues also that FICC's "proposals hold the potential for abuse".

FICC is currently the central clearing organization for the cash U.S. Government securities marketplace, but this does not render FICC a monopoly over clearance and settlement of transactions in this marketplace. Membership in FICC always has been, and remains, entirely voluntary. Numerous active market participants that are not members of FICC clear and settle their Government securities transactions through their clearing banks without the involvement of FICC.

If any group of active Government securities market participants considered it to be in their interest, they would have the opportunity to establish a competing (or at least complementary) clearing agency and apply for SEC registration for the new entity. The SEC initially established standards for the interface of registered clearing agencies in the national market system nearly thirty years ago.[9]

As a registered clearing agency and an industry-owned utility, FICC's policies and proposals have been designed to reflect the best interests of the Government securities markets as a whole. First, this is, in effect, a statutory requirement for both FICC, as a registered clearing agency, and the Commission, as FICC's regulator. FICC is organized and regulated pursuant to the Congressionally-mandated national system for the prompt and accurate clearance and settlement of securities transactions set forth in Section 17A of the Exchange Act.

FICC makes a substantial contribution to the national system for the clearance and settlement of securities transactions mandated under the Exchange Act. FICC's sole mission is to ensure orderly settlement in the U.S. Government securities marketplace.

Every FICC rule must be approved by the Commission. In every rule filing that FICC submits seeking Commission approval, FICC must assert, and the Commission must find prior to approving a rule filing, that the proposed rule change is consistent with the requirements of the Exchange Act. As described further below, under Section 17A(b)(3)(I) of the Exchange Act, FICC rules cannot "impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Exchange Act]." This determination has been made by the Commission with respect to all rules adopted since FICC's establishment.

FICC is a subsidiary of The Depository Trust & Clearing Corporation, a holding company which is owned by its principal users. FICC's Board of Directors and its key Board Committees are made up of representatives from its members. FICC is ultimately user owned and governed. Every significant rule filing proposal is thus reviewed and approved by representatives of FICC's members. The Rule Filing was carefully considered by both FICC Board Committees and FICC's Board, and was approved by each.

It should also be noted that the establishment of FICC and the use and growth of its services was encouraged and supported by the senior market regulators. For example, in January 1992, the Federal Reserve, the Commission and the U.S. Treasury Department issued a "Joint Report on the Government Securities Market", which stated that they "do not believe that the Government securities market is flawed or broken in any fundamental economic sense". Included among the report's findings was that GSCC has made the market "even more efficient", and that GSCC's netting process "substantially reduces counterparty risk" for GSCC members. The Report further noted the benefits of GSCC's

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[9] *See* Bradford National Clearing Corp., *et al.* *v.* Securities and Exchange Commission, 590 F.2d 1085 (D.C. Cir. 1978) ("Bradford") and the SEC releases cited therein.

proposal to include original issue Treasury auctions in its netting system (which was implemented in 1994) in addition to encouraging GSCC to (1) "develop efficient processing systems for market participants' repo activity"; (2) "expand to a greater universe of trades the benefits of netting"; and (3) to accelerate its efforts to expand membership.

More recently, in a Report to the Federal Reserve Board issued December 2003, the Working Group on Government Securities Clearance and Settlement stated:

> "The Working Group recognizes that the multilateral netting of government securities transactions by FICC is an efficient and safe means of settling a large majority of them, without the need for actual movements of securities. Thus, the Working Group recommends that market participants ensure that FICC's existing netting and guaranteed settlement services are used as much as practical, both for domestic transactions and those conducted abroad."

E. The SEC must in any event balance maintenance of competition with other clearing agency statutory purposes

In reviewing the Rule Filing, the SEC must fulfill its statutory responsibility to balance maintenance of competition with other clearing agency statutory purposes. In section 17A(b)(3)(I) of the Exchange Act, Congress gave the SEC authority to register clearing agencies that meet certain specified criteria, including an ability to clear and settle securities transactions promptly and accurately and an absence of rules that impose "any burden on competition *not necessary or appropriate* in furtherance of the purposes" of the Exchange Act (emphasis added).

The leading judicial interpretation of this "burden on competition" test may be found in the D.C. Circuit's 1978 Bradford opinion (cited in note 9 above), in which the court affirmed the principal SEC findings in the initial registration orders for the National Securities Clearing Corporation. The Bradford court noted that despite the undoubted relevance of competitive concerns to the appellate proceedings seeking review of SEC approval of clearing agency registration and rulemaking, such review proceedings are not cases brought initially in the courts under the antitrust laws, but are administrative review proceedings brought under the 1975 Amendments to the Exchange Act.[10]

"Thus," the court observed, "the tendency in antitrust adjudication to view business relationships in the black and white terms of legality or illegality, based solely on their competitive or anticompetitive impact, has no place here."[11] "Stated another way," the court said, "we see no reason generally to treat competitive concerns as any more important or any less subject to judicial deference to administrative choices, than any other factor that is relevant to the legality of administrative action."[12]

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[10] *Id.* at 1104.
[11] *Id.*
[12] *Id.*

In Bradford, the petitioners had argued that the "burden on competition" language in Section 17A(b)(3)(I) charges the SEC with enforcing the antitrust laws or at least with avoiding any unnecessary anticompetitive consequences, i.e., that the SEC must achieve its objectives in the least anticompetitive manner possible. The Bradford court rejected this argument, concluding that "[t]he statute. . .does not support such an interpretation." "At most," the court held, "it only requires the Commission to decide that any anticompetitive effects of its actions are 'necessary or appropriate' to the achievement of its objectives."[13]

"In fact," the Bradford court observed, "Congress--responding to importunities by the Justice Department--explicitly refused to include a 'least anticompetitive' requirement in the 1975 legislation."[14] The court added that "[c]ompetition was simply not to 'become paramount to the great purposes of the [Exchange Act],'" citing the relevant Senate committee report.[15] "Accordingly," the Bradford court continued, "an independent review of the statute and legislative history bears out the Commission's view that it need do no more than 'balance the maintenance of fair competition and a number of other equally important express purposes of the Act.'"[16]

F. The beneficial impact of the Rule Filing will outweigh any alleged burden on competition

The Rule Filing noted that FICC's proposed rule change is consistent with the requirements of the Exchange Act, and the rules and regulations thereunder, as it will reduce systemic risk in the Government securities marketplace. In addition, the Rule Filing indicated that the proposed rule change would promote FICC's financial and operational integrity, values that the Commission has long considered important in the application of its standard for the registration of clearing agencies, citing the SEC's 1980 clearing agency standards release.

Cantor claims that the Rule Filing is "anticompetitive" because it will "unfairly disadvantage" some market participants versus others. Cantor explains that this is because, under the Rule Filing, some FICC members will have more covered affiliate activity required to be submitted to FICC than other members. FICC believes, however, that the SEC, in applying the relevant factors, could reasonably conclude that the beneficial impact of the Rule Filing will outweigh any asserted anticompetitive effects.

As also noted in the Ruling Filing, membership in FICC is voluntary. To the extent a market participant does not wish to submit to FICC covered affiliate trades, it is not compelled to become or remain a member of the GSD.

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[13] *Id.* at 1105.
[14] *Id.*
[15] *Id.*
[16] *Id.* at 1106.

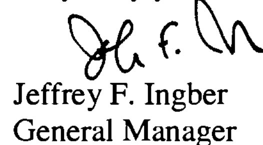
FICC believes that any burden on competition that the proposed affiliate trade submission requirements could be regarded as imposing is not unreasonable or inappropriate in light of the substantial benefits that the imposition of such requirements will yield.[17] In this regard, FICC further believes that the Exchange Act provides it with adequate authority to condition participation in FICC on submission of covered affiliate trades and to prohibit pre-netting. Again, membership in FICC is voluntary, and entities can, and do, participate in the marketplace without being members of FICC.

III. CONCLUSION

As the foregoing discussion has set forth, the issues presented in the Rule Filing are of great importance to FICC, its members and the Government securities marketplace, and FICC respectfully requests that the Commission approve the Rule Filing. FICC believes that the Rule Filing satisfies all of the factors that the SEC must consider in approving a clearing agency rule filing.

Should you have any questions, please do not hesitate to call me at (212) 855-7630, or Nikki Poulos, Vice President and General Counsel, at (212) 855-7633.

Very truly yours,



Jeffrey F. Ingber
General Manager

Cc: **VIA E-MAIL**

Larry Bergmann, Securities and Exchange Commission
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Scott Gordon, Rosenthal Collins Group
Eric Foster, The Bond Market Association
Members of the Board of Directors of the Fixed Income Clearing Corporation
Members of the FICC Membership and Risk Management Committee
Members of the FICC Fixed Income Operations and Planning Committee

[17] As stated above, this is the standard that applies in the SEC's determination of whether to approve the Rule Filing.