

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change.
 - (a) The purpose of the present filing is to amend the rules of the Government Securities Division (the "GSD") of Fixed Income Clearing Corporation ("FICC") to impose a charge on fails.
 - (b) Not applicable.
 - (c) Not applicable.
2. Procedures of the Self-Regulatory Organization.
 - (a) FICC received approval to file the present rule filing from its Credit and Market Risk Management Committee on February 25, 2009.
3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.
 - (a) The Treasury Markets Practices Group (the "TMPG"), a group of market participants active in the Treasury securities market that is sponsored by the Federal Reserve Bank of New York (the "FRBNY"), has been in the process of addressing the persistent settlement fails in Treasury securities transactions that have arisen (according to the TMPG) due to the recent market turbulence and low short-term interest rates.

In order to encourage market participants to resolve fails promptly, the TMPG has proposed to adopt a "best practice" market-wide of assessing a charge on failed positions. As part of this implementation of this "best practice," the TMPG has asked the GSD to impose this charge on failed positions involving Treasury securities within the clearing corporation. The proposed charge will be equal to 3 percent per annum minus the Target Fed funds target rate that is effective at 5 p.m. EST on the business day prior to the originally scheduled settlement date and will be capped at 3 percent per annum. The charge will be applied daily to the net money due on the failed settlement obligation and will be a debit (or a credit for those with fails to receive) on the member's GSD monthly bill.

The following example illustrates the manner in which the proposed fails charge will apply:

Assume that Member A fails today on a \$50 million position on which he is owed \$50.1 million. Assume further that the Target Fed funds rate yesterday at 5 p.m. was 1 percent. The fails charge will be 2 percent per annum and it will be applied to the funds amount of \$50.1 million, thus equaling a charge of \$2,783.33 for that day. The member's bill will reflect a debit of \$2,783.33. The debits and credits will be accrued and will apply to the member's monthly bill.

In the event that FICC is the failing party because, for example, it received securities too close to the close of the Fedwire for redelivery, the fail charge will be distributed pro rata to the netting members based upon usage of the GSD's services, which is the same methodology that is used when FICC incurs finance charges.¹

The proposed rule change provides that the Credit and Market Risk Management Committee of FICC's Board of Directors will retain the right to revoke application of the charge if industry events or practices warrant such revocation.

(b) The present filing is consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act"), and the rules and regulations thereunder applicable to FICC. This rule filing will discourage persistent fails and therefore does not adversely affect the safeguarding of securities or funds in FICC's control, or for which it is responsible.

5. Self-Regulatory Organization's Statement on Burden on Competition.

FICC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

4. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Members, or Others.

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

6. Extension of Time Period for Commission Action.

FICC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2).

- (a) Not applicable.
- (b) Not applicable.
- (c) Not applicable.

¹ See Section 6 of Rule 12.

(d) Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission.

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

9. Exhibits

Exhibit 1 - Notice of proposed rule change for publication in the Federal Register.

Exhibit 5 - Proposed GSD Rule Changes.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____ ; File No. SR-FICC-2009-03)

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by THE FIXED INCOME CLEARING CORPORATION ("FICC") relating to a Treasury fails charge being imposed by the Government Securities Division of FICC.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on _____, FICC filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared 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 text of the proposed rule change is attached hereto as Exhibit 5.

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 significant aspects of such statements.

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

(i) The Treasury Markets Practices Group (the "TMPG"), a group of market participants active in the Treasury securities market that is sponsored by the Federal Reserve Bank of New York (the "FRBNY"), has been in the process of addressing the persistent settlement fails in Treasury securities transactions that have arisen (according to the TMPG) due to the recent market turbulence and low short-term interest rates.

In order to encourage market participants to resolve fails promptly, the TMPG has proposed to adopt a "best practice" market-wide of assessing a charge on failed positions.

As part of this implementation of this "best practice," the TMPG has asked the GSD to impose this charge on failed positions involving Treasury securities within the clearing corporation. The proposed charge will be equal to 3 percent per annum minus the Target Fed funds target rate that is effective at 5 p.m. EST on the business day prior to the originally scheduled settlement date and will be capped at 3 percent per annum. The charge will be applied daily to the net money due on the failed settlement obligation and will be a debit (or a credit for those with fails to receive) on the member's GSD monthly bill.

The following example illustrates the manner in which the proposed fails charge will apply:

Assume that Member A fails today on a \$50 million position on which he is owed \$50.1 million. Assume further that the Target Fed funds rate yesterday at 5 p.m. was 1 percent. The fails charge will be 2 percent per annum and it will be applied to the funds amount of \$50.1 million, thus equaling a charge of \$2,783.33 for that day. The member's bill will reflect a debit of \$2,783.33. The debits and credits will be accrued and will apply to the member's monthly bill.

In the event that FICC is the failing party because, for example, it received securities too close to the close of the Fedwire for redelivery, the fail charge will be distributed pro rata to the netting members based upon usage of the GSD's services, which is the same methodology that is used when FICC incurs finance charges.¹

The proposed rule change provides that the Credit and Market Risk Management Committee of FICC's Board of Directors will retain the right to revoke application of the charge if industry events or practices warrant such revocation.

(ii) The present filing is consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act"), and the rules and regulations thereunder applicable to FICC. This rule filing will discourage persistent fails and therefore does not adversely affect the safeguarding of securities or funds in FICC's control, or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition.

FICC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

¹ See Section 6 of Rule 12.

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 yet 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 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date 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 such proposed rule change, or
- (B) institute proceedings to determine whether the proposed change should be disapproved.

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 may be submitted by using the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>), or send an e-mail to rule-comment@sec.gov. Please include File No. FICC 2009-03 on the subject line.
- Paper comments should be sent in triplicate to Florence E. Harmon, Acting Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington DC 20549-1090.

All submissions should refer to File Number FICC 2009-03. 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 inspection and copying in the Commission's Public Reference Room Section 100 F Street, NE, Washington DC 20549-1090. Copies of such filing also will be available for inspection and copying at the

principal office of FICC. 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 submission should refer to the file number above and should be submitted within _____ days after the date of publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Florence E. Harmon
Deputy Secretary

Underlined, boldface text indicates additional language
[Bracketed, boldface text] indicates deleted language

GOVERNMENT SECURITIES DIVISION RULEBOOK

RULE 11 - NETTING SYSTEM

* * *

Section 14 – Fails Charge

If a Netting Member does not satisfy a Deliver Obligation of Treasury securities on a particular Business Day, the Corporation shall apply a debit charge on the funds amount associated with the Netting Member's failed position (the "fails charge"). If a Netting Member fails to receive Securities representing its Receive Obligation of Treasury securities on a particular Business Day, the Corporation shall credit the Member in the amount of the fails charge.

The fails charge shall be the product of the (i) funds associated with a failed position and (ii) 3 percent per annum minus the Target Fed funds target rate that is effective at 5 p.m. EST on the Business Day prior to the originally scheduled settlement date, capped at 3 percent per annum.

In the event that the Corporation is the failing party because the Corporation received Securities too near the close of Fedwire for redelivery or for any other reason, the fail charge will be distributed pro rata to the Netting Members based upon usage of the Government Securities Division's services.

At the end of each calendar month, the Corporation shall accrue a Netting Member's debits and credits and the resulting amount (either a debit or credit) shall be included in the Member's monthly bill.

The Board shall have the right, in its sole discretion, to revoke application of the charge if industry events or practices warrant such revocation.