

Required fields are shown with yellow backgrounds and asterisks.

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SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549
 Form 19b-4

File No. * SR - 2013 - * 04

Amendment No. (req. for Amendments)

Filing by Fixed Income Clearing Corporation

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * Amendment * Withdrawal Section 19(b)(2) * Section 19(b)(3)(A) * Section 19(b)(3)(B) *

Pilot Extension of Time Period for Commission Action * Date Expires
 Rule
 19b-4(f)(1) 19b-4(f)(4)
 19b-4(f)(2) 19b-4(f)(5)
 19b-4(f)(3) 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
 Section 806(e)(1) Section 806(e)(2)
 Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
 Section 3C(b)(2)

Exhibit 2 Form As Paper Document Exhibit 5 Form As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

The purpose of this filing is to amend the GSD Rulebook and the MBS Clearing Rules in connection with the implementation of FATCA.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Donaldine Last Name * Temple
 Title * Senior Associate Counsel
 E-mail * dtemple@dtcc.com
 Telephone * (212) 855-3277 Fax (201) 533-6632

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,
 has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 04/22/2013 (Title *)
 By Nikki Poulos Managing Director and General Counsel
 (Name *)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Persona Not Validated - 1363961507761

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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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 *

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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 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies

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

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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

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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

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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

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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

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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 the Proposed Rule Change.

(a) The proposed rule changes are annexed hereto as Exhibit 5 and consist of modifications to the Rulebook of the Government Securities Division (“GSD”) and the Clearing Rules of the Mortgage-Backed Securities Division (“MBSD”) (collectively, the “Rules”) of Fixed Income Clearing Corporation (the “Corporation”) in connection with implementation of sections 1471 through 1474 of the Internal Revenue Code of 1986, as amended, that were enacted as part of The Foreign Account Tax Compliance Act, and the Treasury Regulations or other official interpretations thereunder, as in effect from time to time (collectively “FATCA”).

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization.

The proposed rule changes have been approved by the Risk Committee of the Board of Directors of the Corporation at a meeting duly called and held on August 15, 2012.

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

(a) (i) Background. FATCA was enacted on March 18, 2010, as part of the Hiring Incentives to Restore Employment Act, and became effective, subject to transition rules, on January 1, 2013. The U.S. Treasury Department finalized and issued various implementing regulations (the “FATCA Regulations”) on January 17, 2013. FATCA’s intent is to curb tax evasion by U.S. citizens and residents through their use of offshore bank accounts. FATCA generally requires foreign financial institutions (“FFIs”)¹ to become “participating FFIs” by entering into agreements with the Internal Revenue Service (“IRS”). Under these agreements, FFIs are required to report to the IRS information on U.S. persons and entities that have (directly or indirectly) accounts with these FFIs. If an FFI does not enter into such an agreement with the IRS, FATCA will impose a 30% withholding tax on U.S.-source interest, dividends and other periodic amounts paid to such “nonparticipating FFI” (“Income Withholding”), as well as on the payment of gross proceeds arising from the sale, maturity or redemption of securities or any instrument yielding U.S.-source interest and dividends (“Gross Proceeds Withholding”, and, together with Income Withholding, “FATCA Withholding”). The 30% FATCA Withholding taxes will apply to payments made to a nonparticipating FFI acting in any capacity, including payments made to a nonparticipating FFI that is not the beneficial owner of the amount paid and acting only as a custodian or other intermediary with respect to such payment. To the extent that U.S.-source interest, dividend and other periodic amount or gross proceeds payments are due to a nonparticipating FFI in any capacity, a U.S. payor, such as the Corporation, transmitting such payments to the nonparticipating FFI will be liable to the IRS for any amounts of FATCA Withholding that the U.S. payor should, but does not, withhold and remit to the IRS. For the reasons described below, the Corporation is not in a position to accept this liability and, by

¹ Non-U.S. financial institutions are referred to as “foreign financial institutions” or “FFIs” in the FATCA Regulations.

making the proposed rule changes set forth herein, is implementing preventive measures to protect itself against such liability.

In addition, under FATCA, a U.S. payor, such as the Corporation, could be required to deduct Income Withholding with regard to a *participating* FFI if either: (x) the participating FFI makes a statutory election to shift its withholding responsibility under FATCA to the U.S. payor; or (y) the U.S. payor is required to ignore the actual recipient and treat the payment as if made instead to certain owners, principals, customers, account holders or financial counterparties of the participating FFI. The Corporation is not in a position to accept this burden shift and, by making the proposed rule changes set forth herein, is implementing preventive measures to protect itself against such a burden.

As an alternative to FFIs entering into individual agreements with the IRS, the U.S. Treasury Department provided another means of complying with FATCA for FFIs which are resident in Non-U.S. jurisdictions that enter into intergovernmental agreements (“IGAs”) with the United States.² Generally, such a jurisdiction (a “FATCA Partner”) would pass laws to eliminate the conflicts of law issues that would otherwise make it difficult for FFIs in its jurisdiction to collect the information required under FATCA and transfer this information, directly or indirectly, to the United States. Under two different IGA models, an FFI resident in a FATCA Partner jurisdiction would either transmit FATCA reporting to its local competent tax authority, which in turn would transmit the information to the IRS, or the FFI would be authorized/required by FATCA Partner law to enter into an FFI agreement and transmit FATCA reporting directly to the IRS. Under both IGA models, payments to such FFIs would not be subject to FATCA Withholding so long as the FFI complies with the FATCA Partner’s laws mandated in the IGA.

Under the FATCA Regulations, (A) beginning January 1, 2014, the Corporation will be required to do Income Withholding on any payments made to any nonparticipating FFI approved for membership by the Corporation as of such date or thereafter, (B) beginning July 1, 2014, the Corporation will be required to do Income Withholding on any payments made to any nonparticipating FFI approved for membership by the Corporation prior to January 1, 2014 and (C) beginning January 1, 2017, the Corporation will be required to do Gross Proceeds Withholding on all nonparticipating FFIs, regardless when any such FFI’s membership was approved.

(ii) Preparing for Implementation of FATCA. In preparation for FATCA’s implementation, FFIs are increasingly being asked to identify their expected FATCA status as a condition of continuing to do business. Customary legal agreements in the financial services industry already contain provisions allocating the risk of any FATCA withholding tax that will need to be collected, and requiring that, upon FATCA’s effectiveness, foreign counterparties must certify (and periodically recertify) their FATCA status using the relevant tax forms that the

² As of the date of this proposed rule change filing, the United Kingdom, Mexico, Ireland, Switzerland, Spain, Norway Denmark, Italy and Germany have signed or initialed an IGA with the United States, and the U.S. Treasury Department has announced that it is engaged in negotiations with more than 50 countries and jurisdictions regarding entering into an IGA. The Treasury Department has released two models of the IGA.

IRS has announced it will provide.³ Advance disclosure by an FFI client or counterparty would permit a withholding agent to readily determine whether it must, under FATCA, withhold on payments it makes to the FFI. If an FFI fails to provide appropriate compliance documentation to a withholding agent, such FFI would be presumed to be a nonparticipating FFI and the withholding agent will be obligated to withhold on certain payments.

As it applies to the Corporation specifically, FATCA will require the Corporation to deduct FATCA Withholding on payments to certain members arising from certain transactions processed by the Corporation on behalf of such members.⁴ Because FATCA treats any entity holding financial assets for the account of others as a “financial institution,” the Corporation believes that almost all of its members which are treated as non-U.S. entities for federal income tax purposes, including those members that are U.S. branches of non-U.S. entities, will likely be FFIs under FATCA (collectively, “FFI Members”).⁵ As such, the Corporation will be liable to the IRS for any failures to withhold correctly under FATCA on payments made to its FFI Members.

In light of this, the Corporation has evaluated its existing systems and services to determine whether and how it may comply with its FATCA obligations. As a result of this evaluation, the Corporation has determined that its existing systems currently cannot process the new FATCA Withholding obligations with regard to the securities transactions processed by it, as no similar withholding obligation of this magnitude has ever been imposed upon it to date, and the Corporation has therefore not built its systems to support such an obligation.

Further, the vast majority of the transactions that are processed at the Corporation are processed through its netting and settlement systems at its GSD and MBSD divisions (the “Systems”). At GSD, the netting and settlement system service provides centralized, automated clearance and guaranteed settlement of eligible U.S. Treasury bills, notes, bonds, strips and book-entry non-mortgage-backed agency securities. Through netting, the GSD establishes a single net long or short position for each participant’s daily trading activity in a given security. The participant’s net position is the difference between all long and all short positions in a given security.

At MBSD, the mortgage-backed securities trades entering the MBSD clearing and settlement systems are settled using either the Settlement Balance Order system (SBO) or the Trade-for-Trade system (TFTD). The SBO settlement system is MBSD’s trade netting system, which nets by automatically pairing off settlement obligations with like terms, such as MBS product, coupon rate, maturity and settlement date, on a multilateral basis, i.e., regardless of contra party identity, resulting in the fewest possible number of receive/deliver obligations. Through the Trade-for-Trade settlement system, members are given the opportunity to settle individual trades on a gross basis, as originally executed, following matching and comparison of each trade. Further netting is accomplished through MBSD’s CCP Pool Netting service (“Pool

³ For example, credit agreements now routinely require foreign lenders to agree to provide certifications of their FATCA status under approved IRS forms to U.S. borrowers, and subscription agreements for alternative investment funds that are anticipated to earn U.S.-source income are routinely requiring similar covenants.

⁴ FFI Members resident in IGA countries, that are compliant with the terms of applicable IGAs, should not be subject to FATCA Withholding.

⁵ Currently, only a small percentage of the Corporation’s members are treated as non-U.S. entities for federal income tax purposes.

Netting”). Members submit pool details (“Pool Instructs”) into the Pool Netting system for bilateral matching versus their counterparties’ submissions. As many of the matched Pool Instructs as possible are then netted by the Pool Netting system. For pools that meet all the criteria, FICC steps in as the central counter-party to settle the net pool obligations with its members.

The Corporation believes that each division’s net settlement functionality could make FATCA Withholding virtually impossible, or, at the very least, would create onerous efficiency and liquidity issues for both the Corporation and its membership.

Undertaking FATCA Withholding, given the Corporation’s settlement functionality, could require the Corporation in certain circumstances to resort to a draw on the Corporation’s clearing fund for GSD or MBSD, as applicable (the “Clearing Fund”) in order to fund FATCA withholding taxes with regard to nonparticipating FFI Members in non-FATCA Partner jurisdictions whenever the net credit owed to such FFI Member is less than the 30% FATCA tax. For example, if a nonparticipating FFI (in a non-FATCA Partner jurisdiction) is owed a \$100M payment from the sale of U.S. securities, but such nonparticipating FFI is in a net debit position at the end of that day because of the Corporation’s net settlement functionality, there would be no payment to this FFI Member that the Corporation can withhold from. In this example, the Corporation would likely need to fund the \$30M FATCA Withholding tax until such time as the FFI Member can reimburse the Corporation and, as the Corporation has no funds for this purpose, it would require a draw on the Clearing Fund.⁶ The Corporation would need to consider an increase in the amount of cash required to be deposited into the Clearing Fund, either by FFI Members or perhaps all of its members, which would reduce such member’s liquidity and could have significant systemic effects. The amount of the FATCA Withholding taxes would be removed from market liquidity, which could lead to increased risk of member failure and increased financial instability.

For the reasons explained above and the following additional reasons, the Corporation is proposing amendments to its Rules (detailed below) to implement preventive measures that would generally require all of the Corporation’s (i) existing members, and (ii) any applicants applying to become members that are treated as Non-U.S. entities for federal income tax purposes to be participating FFIs:

- Undertaking FATCA Withholding by the Corporation (even if possible) would make it economically unfeasible for affected FFI Members to engage in transactions involving U.S. securities. It would likely also quickly cause a significant negative impact on such FFI Members’ liquidity because such withholding taxes would be imposed on the very large sums that the Corporation pays to such FFI Members. Furthermore, members would be burdened with extra costs and the negative impact on liquidity caused by the likely need to substantially increase the amount of cash required to be deposited into the Clearing Fund.

⁶ We note that the FATCA Regulations provide that “clearing organizations”, which settle money on a net basis, may withhold on a similar net basis for FATCA purposes. However, it is unclear whether certain amounts being netted at the Corporation would qualify for the special FATCA netting rule. Even if the end of day net settlement amount would qualify as the correct amount to do FATCA Withholding on, the liquidity risks described herein are still present. This is because the sheer volume of the Corporation’s net daily payments among the Corporation and members means that withholding FATCA tax from such net settlement payments, in any material proportion, would likely reduce liquidity and thus increase financial instability.

- The cost of implementing a FATCA withholding system for a small number of nonparticipating FFI Members would be substantial and disproportionate to the related benefit. Under the Model I IGA form and its executed versions with various FATCA Partners, the Corporation would not be required to withhold with regard to FFI residents in such FATCA Partner jurisdictions. Accordingly, the Corporation's withholding obligations under FATCA would effectively be limited to nonparticipating FFI Members in non-FATCA Partner jurisdictions. Since the cost of developing and maintaining a complex FATCA Withholding system would be passed on to the Corporation's members at large, it would unfairly burden members that otherwise comply with, or are not subject to, FATCA withholding.

- As briefly noted above, if the proposed rule changes were not to take effect, in order to avoid counterparty credit risk, the Corporation would likely require each of the nonparticipating FFI Members in non-FATCA Partner jurisdictions to make initial or additional cash deposits to the Clearing Fund as collateral for the approximate potential FATCA tax liability of such nonparticipating FFI Member or otherwise adjust required deposits to the Clearing Fund. The amount of such deposits, which could amount to billions of dollars, would be removed from market liquidity.

- From the nonparticipating FFI Member's perspective, having 30% of its payments withheld and sent to the IRS would have a severe negative impact on such nonparticipating FFI Member's financial status. In many cases, the gross receipts would be for client accounts, and the nonparticipating FFI Member would need to make such accounts whole. Without receipt of full payment for its dispositions, the nonparticipating FFI Member would not have sufficient assets to fund its client accounts.

- The proposed rule changes set forth herein should not create business issues or be onerous to the Corporation's membership because requiring FFIs to certify (and to periodically recertify) their FATCA status, and imposing the costs of non-compliance on them, are becoming standard market practice in the United States, separate and apart from membership in the Corporation.

(iii) Proposed Rule Changes. Managing the risks inherent in executing securities transactions is a key component of the Corporation's business. The globalization of financial markets, the trading of more complex instruments and the application of new technology all make risk management more critical and challenging. The Corporation's "risk tolerances" (i.e., the levels of risk the Corporation is prepared to confront, under a range of possible scenarios, in carrying out its business functions) are determined by the Board of Directors, in consultation with the Group Chief Risk Officer. The Corporation uses a combination of risk management tools, including strict criteria for membership, to mitigate the risks inherent in its business.

In line with its risk management focus, the Corporation has determined that compliance with FATCA, such that the Corporation shall not be responsible for FATCA Withholding, should be a general membership requirement (A) for all applicants seeking membership at GSD or MBSD, as applicable, that are treated as non-U.S. entities for federal income tax purposes, and (B) for all existing FFI Members. In connection therewith, the Corporation proposes to amend its Rules as follows:

- Amend GSD Rule 1 and MBSD Rule 1 to add “FATCA”, “FATCA Certification”, “FATCA Compliance Date”⁷, “FATCA Compliant” and “FFI Member”, as defined terms;
- Amend GSD Rule 2A, Section 2(a)(v) and MBSD Rule 2A, Section 1 to (1) require foreign members to certify to the Corporation that they are FATCA Compliant and (2) add FATCA Compliance as a qualification requirement for any applicant that will be an FFI Member;
- Amend GSD Rule 2A Section 5 and MBSD Rule 2A Section 3 to add that each applicant must complete and deliver a FATCA Certification to the Corporation as part of its membership application unless the Corporation has waived this requirement with regard to membership type;
- Amend GSD Rule 2A Section 6 and MBSD Rule 2A Section 4 to add FATCA Compliance as a qualification requirement for any applicant that will be an FFI Member;
- Amend GSD Rule 3, Section 7 and MBSD Rule 3, Section 6 to specify that failure to be FATCA Compliant creates a duty upon an FFI Member (both new and existing) to inform the Corporation;
- Amend GSD Rule 3, Section 9 and MBSD Rule 3, Section 8 to require that all FFI Members (both new and existing), in general: (i) agree not to conduct any transaction or activity through the Corporation if such FFI Member is not FATCA Compliant, (ii) certify and, as required under the timelines set forth under FATCA, periodically recertify, to the Corporation that they are FATCA Compliant; and (iii) indemnify the Corporation for any losses sustained by the Corporation resulting from such FFI Member’s failure to be FATCA Compliant; and

(b) The proposed rule changes are consistent with the requirements of the Securities Exchange Act of 1934, as amended (the “Act”), because they facilitate the prompt and accurate clearing and settlement of securities transactions by eliminating an uncertainty in payment settlement that would arise if the Corporation were subject to FATCA Withholding obligations under FATCA. The proposed rule changes also provide for the equitable allocation of reasonable dues, fees, and other charges among the Corporation’s members.

4. Self-Regulatory Organization’s Statement on Burden on Competition.

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

5. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others.

⁷ Although Income Withholding with regard to FFI Members approved for membership by the Corporation prior to January 1, 2014 is first required under FATCA beginning July 1, 2014, the proposed amendments to the GSD Rules and MBSD Rules would require such existing FFI Members to be FATCA compliant approximately 60 days prior to July 1, 2014 in order for the Corporation to comply with its disciplinary and notice processes as set forth in its Rules.

The Corporation has not solicited, and does not intend to solicit, comments regarding the proposed rule changes. The Corporation has not received any unsolicited written comments from interested parties. To the extent the Corporation receives written comments on the proposed rule changes, the Corporation will forward such comments to the Commission.

6. Extension of Time Period for Commission Action.

The Corporation 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) or Section 19(b)(7)(D).

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

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

Companion rule filings are in the process of being filed by FICC's affiliate, National Securities Clearing Corporation and The Depository Trust Company.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act.

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

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act.

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

11. Exhibits.

Exhibit 1 - Not applicable

Exhibit 1A – Notice of proposed rule change for publication in the Federal Register

Exhibit 2 – Not applicable

Exhibit 3 – Not applicable

Exhibit 4 – Not applicable

Exhibit 5 – Text of proposed rule change

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-_____ ; File No. SR-FICC-2013-04]

[DATE]

SELF-REGULATORY ORGANIZATIONS; Fixed Income Clearing Corporation; Proposed Rule Change to the Government Securities Division Rules and the Mortgage-Backed Securities Division Clearing Rules in connection with the implementation of The Foreign Account Tax Compliance Act (FATCA).

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 _____, the Fixed Income Clearing Corporation (“FICC” or the “Corporation”) 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 proposed rule changes consist of modifications to the Rulebook of the Government Securities Division (“GSD”) and the Clearing Rules of the Mortgage-Backed Securities Division (“MBSD”) (collectively, the “Rules”) of Fixed Income Clearing Corporation (the “Corporation”) in connection with implementation of sections 1471 through 1474 of the Internal Revenue Code of 1986, as amended, that were enacted as part of The Foreign Account Tax Compliance Act, and the Treasury Regulations or other official interpretations thereunder, as in effect from time to time (collectively “FATCA”).

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) (i) Background. FATCA was enacted on March 18, 2010, as part of the Hiring Incentives to Restore Employment Act, and became effective, subject to transition rules, on January 1, 2013. The U.S. Treasury Department finalized and issued various implementing regulations (the “FATCA Regulations”) on January 17, 2013. FATCA’s intent is to curb tax evasion by U.S. citizens and residents through their use of offshore bank accounts. FATCA generally requires foreign financial institutions (“FFIs”)¹ to become “participating FFIs” by entering into agreements with the Internal Revenue Service (“IRS”). Under these agreements, FFIs are required to report to the IRS information on U.S. persons and entities that have (directly or indirectly) accounts with these FFIs. If an FFI does not enter into such an agreement with the IRS, FATCA will impose a 30% withholding tax on U.S.-source interest, dividends and other periodic amounts paid to such “nonparticipating FFI” (“Income Withholding”), as well as on the payment of gross proceeds arising from the sale, maturity or redemption of securities or any instrument yielding U.S.-source interest and dividends (“Gross Proceeds Withholding”, and, together with Income Withholding, “FATCA Withholding”). The 30% FATCA Withholding taxes will apply to payments made to a nonparticipating FFI acting in any capacity, including payments made to a nonparticipating FFI that is not the beneficial owner of the amount paid and acting only as a custodian or other intermediary with respect to such payment. To the extent that U.S.-source interest, dividend and other periodic amount or gross proceeds payments are due to a nonparticipating FFI in any capacity, a U.S. payor, such as the Corporation, transmitting such payments to the nonparticipating FFI will be liable to the IRS for any amounts of FATCA Withholding that the U.S. payor should, but does not, withhold and remit to the IRS. For the reasons described below, the Corporation is not in a position to accept this liability and, by

¹ Non-U.S. financial institutions are referred to as “foreign financial institutions” or “FFIs” in the FATCA Regulations.

making the proposed rule changes set forth herein, is implementing preventive measures to protect itself against such liability.

In addition, under FATCA, a U.S. payor, such as the Corporation, could be required to deduct Income Withholding with regard to a *participating* FFI if either: (x) the participating FFI makes a statutory election to shift its withholding responsibility under FATCA to the U.S. payor; or (y) the U.S. payor is required to ignore the actual recipient and treat the payment as if made instead to certain owners, principals, customers, account holders or financial counterparties of the participating FFI. The Corporation is not in a position to accept this burden shift and, by making the proposed rule changes set forth herein, is implementing preventive measures to protect itself against such a burden.

As an alternative to FFIs entering into individual agreements with the IRS, the U.S. Treasury Department provided another means of complying with FATCA for FFIs which are resident in Non-U.S. jurisdictions that enter into intergovernmental agreements (“IGAs”) with the United States.² Generally, such a jurisdiction (a “FATCA Partner”) would pass laws to eliminate the conflicts of law issues that would otherwise make it difficult for FFIs in its jurisdiction to collect the information required under FATCA and transfer this information, directly or indirectly, to the United States. Under two different IGA models, an FFI resident in a FATCA Partner jurisdiction would either transmit FATCA reporting to its local competent tax authority, which in turn would transmit the information to the IRS, or the FFI would be authorized/required by FATCA Partner law to enter into an FFI agreement and transmit FATCA reporting directly to the IRS. Under both IGA models, payments to such FFIs would not be subject to FATCA Withholding so long as the FFI complies with the FATCA Partner’s laws mandated in the IGA.

Under the FATCA Regulations, (A) beginning January 1, 2014, the Corporation will be required to do Income Withholding on any payments made to any nonparticipating FFI approved for membership by the Corporation as of such date or thereafter, (B) beginning July 1, 2014, the Corporation will be required to do Income Withholding on any payments made to any

² As of the date of this proposed rule change filing, the United Kingdom, Mexico, Ireland, Switzerland, Spain, Norway Denmark, Italy and Germany have signed or initialed an IGA with the United States, and the U.S. Treasury Department has announced that it is engaged in negotiations with more than 50 countries and jurisdictions regarding entering into an IGA. The Treasury Department has released two models of the IGA.

nonparticipating FFI approved for membership by the Corporation prior to January 1, 2014 and (C) beginning January 1, 2017, the Corporation will be required to do Gross Proceeds Withholding on all nonparticipating FFIs, regardless when any such FFI's membership was approved.

(ii) Preparing for Implementation of FATCA. In preparation for FATCA's implementation, FFIs are increasingly being asked to identify their expected FATCA status as a condition of continuing to do business. Customary legal agreements in the financial services industry already contain provisions allocating the risk of any FATCA withholding tax that will need to be collected, and requiring that, upon FATCA's effectiveness, foreign counterparties must certify (and periodically recertify) their FATCA status using the relevant tax forms that the IRS has announced it will provide.³ Advance disclosure by an FFI client or counterparty would permit a withholding agent to readily determine whether it must, under FATCA, withhold on payments it makes to the FFI. If an FFI fails to provide appropriate compliance documentation to a withholding agent, such FFI would be presumed to be a nonparticipating FFI and the withholding agent will be obligated to withhold on certain payments.

As it applies to the Corporation specifically, FATCA will require the Corporation to deduct FATCA Withholding on payments to certain members arising from certain transactions processed by the Corporation on behalf of such members.⁴ Because FATCA treats any entity holding financial assets for the account of others as a "financial institution," the Corporation believes that almost all of its members which are treated as non-U.S. entities for federal income tax purposes, including those members that are U.S. branches of non-U.S. entities, will likely be FFIs under FATCA (collectively, "FFI Members").⁵ As such, the Corporation will be liable to the IRS for any failures to withhold correctly under FATCA on payments made to its FFI Members.

In light of this, the Corporation has evaluated its existing systems and services to determine whether and how it may comply with its FATCA obligations. As a result of this

³ For example, credit agreements now routinely require foreign lenders to agree to provide certifications of their FATCA status under approved IRS forms to U.S. borrowers, and subscription agreements for alternative investment funds that are anticipated to earn U.S.-source income are routinely requiring similar covenants.

⁴ FFI Members resident in IGA countries, that are compliant with the terms of applicable IGAs, should not be subject to FATCA Withholding.

⁵ Currently, only a small percentage of the Corporation's members are treated as non-U.S. entities for federal income tax purposes.

evaluation, the Corporation has determined that its existing systems currently cannot process the new FATCA Withholding obligations with regard to the securities transactions processed by it, as no similar withholding obligation of this magnitude has ever been imposed upon it to date, and the Corporation has therefore not built its systems to support such an obligation.

Further, the vast majority of the transactions that are processed at the Corporation are processed through its netting and settlement systems at its GSD and MBSD divisions (the “Systems”). At GSD, the netting and settlement system service provides centralized, automated clearance and guaranteed settlement of eligible U.S. Treasury bills, notes, bonds, strips and book-entry non-mortgage-backed agency securities. Through netting, the GSD establishes a single net long or short position for each participant’s daily trading activity in a given security. The participant’s net position is the difference between all long and all short positions in a given security.

At MBSD, the mortgage-backed securities trades entering the MBSD clearing and settlement systems are settled using either the Settlement Balance Order system (SBO) or the Trade-for-Trade system (TFTD). The SBO settlement system is MBSD’s trade netting system, which nets by automatically pairing off settlement obligations with like terms, such as MBS product, coupon rate, maturity and settlement date, on a multilateral basis, i.e., regardless of contra party identity, resulting in the fewest possible number of receive/deliver obligations. Through the Trade-for-Trade settlement system, members are given the opportunity to settle individual trades on a gross basis, as originally executed, following matching and comparison of each trade. Further netting is accomplished through MBSD’s CCP Pool Netting service (“Pool Netting”). Members submit pool details (“Pool Instructs”) into the Pool Netting system for bilateral matching versus their counterparties’ submissions. As many of the matched Pool Instructs as possible are then netted by the Pool Netting system. For pools that meet all the criteria, FICC steps in as the central counter-party to settle the net pool obligations with its members.

The Corporation believes that each division’s net settlement functionality could make FATCA Withholding virtually impossible, or, at the very least, would create onerous efficiency and liquidity issues for both the Corporation and its membership.

Undertaking FATCA Withholding, given the Corporation's settlement functionality, could require the Corporation in certain circumstances to resort to a draw on the Corporation's clearing fund for GSD or MBSD, as applicable (the "Clearing Fund") in order to fund FATCA withholding taxes with regard to nonparticipating FFI Members in non-FATCA Partner jurisdictions whenever the net credit owed to such FFI Member is less than the 30% FATCA tax. For example, if a nonparticipating FFI (in a non-FATCA Partner jurisdiction) is owed a \$100M payment from the sale of U.S. securities, but such nonparticipating FFI is in a net debit position at the end of that day because of the Corporation's net settlement functionality, there would be no payment to this FFI Member that the Corporation can withhold from. In this example, the Corporation would likely need to fund the \$30M FATCA Withholding tax until such time as the FFI Member can reimburse the Corporation and, as the Corporation has no funds for this purpose, it would require a draw on the Clearing Fund.⁶ The Corporation would need to consider an increase in the amount of cash required to be deposited into the Clearing Fund, either by FFI Members or perhaps all of its members, which would reduce such member's liquidity and could have significant systemic effects. The amount of the FATCA Withholding taxes would be removed from market liquidity, which could lead to increased risk of member failure and increased financial instability.

For the reasons explained above and the following additional reasons, the Corporation is proposing amendments to its Rules (detailed below) to implement preventive measures that would generally require all of the Corporation's (i) existing members, and (ii) any applicants applying to become members that are treated as Non-U.S. entities for federal income tax purposes to be participating FFIs:

- Undertaking FATCA Withholding by the Corporation (even if possible) would make it economically unfeasible for affected FFI Members to engage in transactions involving U.S. securities. It would likely also quickly cause a significant negative impact on such FFI Members' liquidity because such withholding taxes would be imposed on the very large sums

⁶ We note that the FATCA Regulations provide that "clearing organizations", which settle money on a net basis, may withhold on a similar net basis for FATCA purposes. However, it is unclear whether certain amounts being netted at the Corporation would qualify for the special FATCA netting rule. Even if the end of day net settlement amount would qualify as the correct amount to do FATCA Withholding on, the liquidity risks described herein are still present. This is because the sheer volume of the Corporation's net daily payments among the Corporation and members means that withholding FATCA tax from such net settlement payments, in any material proportion, would likely reduce liquidity and thus increase financial instability.

that the Corporation pays to such FFI Members. Furthermore, members would be burdened with extra costs and the negative impact on liquidity caused by the likely need to substantially increase the amount of cash required to be deposited into the Clearing Fund.

- The cost of implementing a FATCA withholding system for a small number of nonparticipating FFI Members would be substantial and disproportionate to the related benefit. Under the Model I IGA form and its executed versions with various FATCA Partners, the Corporation would not be required to withhold with regard to FFI residents in such FATCA Partner jurisdictions. Accordingly, the Corporation's withholding obligations under FATCA would effectively be limited to nonparticipating FFI Members in non-FATCA Partner jurisdictions. Since the cost of developing and maintaining a complex FATCA Withholding system would be passed on to the Corporation's members at large, it would unfairly burden members that otherwise comply with, or are not subject to, FATCA withholding.

- As briefly noted above, if the proposed rule changes were not to take effect, in order to avoid counterparty credit risk, the Corporation would likely require each of the nonparticipating FFI Members in non-FATCA Partner jurisdictions to make initial or additional cash deposits to the Clearing Fund as collateral for the approximate potential FATCA tax liability of such nonparticipating FFI Member or otherwise adjust required deposits to the Clearing Fund. The amount of such deposits, which could amount to billions of dollars, would be removed from market liquidity.

- From the nonparticipating FFI Member's perspective, having 30% of its payments withheld and sent to the IRS would have a severe negative impact on such nonparticipating FFI Member's financial status. In many cases, the gross receipts would be for client accounts, and the nonparticipating FFI Member would need to make such accounts whole. Without receipt of full payment for its dispositions, the nonparticipating FFI Member would not have sufficient assets to fund its client accounts.

- The proposed rule changes set forth herein should not create business issues or be onerous to the Corporation's membership because requiring FFIs to certify (and to periodically recertify) their FATCA status, and imposing the costs of non-compliance on them, are becoming standard market practice in the United States, separate and apart from membership in the Corporation.

(iii) Proposed Rule Changes. Managing the risks inherent in executing securities transactions is a key component of the Corporation's business. The globalization of financial markets, the trading of more complex instruments and the application of new technology all make risk management more critical and challenging. The Corporation's "risk tolerances" (i.e., the levels of risk the Corporation is prepared to confront, under a range of possible scenarios, in carrying out its business functions) are determined by the Board of Directors, in consultation with the Group Chief Risk Officer. The Corporation uses a combination of risk management tools, including strict criteria for membership, to mitigate the risks inherent in its business.

In line with its risk management focus, the Corporation has determined that compliance with FATCA, such that the Corporation shall not be responsible for FATCA Withholding, should be a general membership requirement (A) for all applicants seeking membership at GSD or MBSD, as applicable, that are treated as non-U.S. entities for federal income tax purposes, and (B) for all existing FFI Members. In connection therewith, the Corporation proposes to amend its Rules as follows:

- Amend GSD Rule 1 and MBSD Rule 1 to add "FATCA", "FATCA Certification", "FATCA Compliance Date"⁷, "FATCA Compliant" and "FFI Member", as defined terms;
- Amend GSD Rule 2A, Section 2(a)(v) and MBSD Rule 2A, Section 1 to (1) require foreign members to certify to the Corporation that they are FATCA Compliant and (2) add FATCA Compliance as a qualification requirement for any applicant that will be an FFI Member;
- Amend GSD Rule 2A Section 5 and MBSD Rule 2A Section 3 to add that each applicant must complete and deliver a FATCA Certification to the Corporation as part of its membership application unless the Corporation has waived this requirement with regard to membership type;

⁷ Although Income Withholding with regard to FFI Members approved for membership by the Corporation prior to January 1, 2014 is first required under FATCA beginning July 1, 2014, the proposed amendments to the GSD Rules and MBSD Rules would require such existing FFI Members to be FATCA compliant approximately 60 days prior to July 1, 2014 in order for the Corporation to comply with its disciplinary and notice processes as set forth in its Rules.

- Amend GSD Rule 2A Section 6 and MBSD Rule 2A Section 4 to add FATCA Compliance as a qualification requirement for any applicant that will be an FFI Member;
- Amend GSD Rule 3, Section 7 and MBSD Rule 3, Section 6 to specify that failure to be FATCA Compliant creates a duty upon an FFI Member (both new and existing) to inform the Corporation;
- Amend GSD Rule 3, Section 9 and MBSD Rule 3, Section 8 to require that all FFI Members (both new and existing), in general: (i) agree not to conduct any transaction or activity through the Corporation if such FFI Member is not FATCA Compliant, (ii) certify and, as required under the timelines set forth under FATCA, periodically recertify, to the Corporation that they are FATCA Compliant; and (iii) indemnify the Corporation for any losses sustained by the Corporation resulting from such FFI Member's failure to be FATCA Compliant; and

(ii) The proposed rule changes are consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act"), because they facilitate the prompt and accurate clearing and settlement of securities transactions by eliminating an uncertainty in payment settlement that would arise if the Corporation were subject to FATCA Withholding obligations under FATCA. The proposed rule changes also provide for the equitable allocation of reasonable dues, fees, and other charges among the Corporation's members.

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

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

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 changes have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

D. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

- (a) Not applicable.

- (b) Not applicable.
- (c) Not applicable.
- (d) Not applicable.
- (e) Not applicable.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate 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 or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule 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

- Use 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 Number SR-FICC-2013-04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington DC 20549-1090.

All submissions should refer to File Number SR-FICC- 2013-04. 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 SR-FICC-2013-04 and should be submitted on or before _____.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Elizabeth M. Murphy
Secretary

⁸ 17 CFR 200.30-3(a)(12)

Exhibit 5

Underlined boldface text indicates additions.

~~Struck through boldface~~ text indicates deletions

FIXED INCOME CLEARING CORPORATION
GOVERNMENT SECURITIES DIVISION RULEBOOK

RULE 1 – DEFINITIONS

* * * *

FATCA

The term “FATCA” means (i) the provisions of sections 1471 through 1474 of the Internal Revenue Code of 1986, as amended, (the “Code”) that were implemented as part of The Foreign Account Tax Compliance Act (or any amendment thereto or successor sections thereof), and the related Treasury Regulations or other official interpretations thereof, as in effect from time to time, and (ii) the provisions of any intergovernmental agreement to implement The Foreign Account Tax Compliance Act as in effect from time to time between the United States and the jurisdiction of the FFI Member’s (or applicant’s) residency.

FATCA Certification

The term “FATCA Certification” means an executed copy of the relevant tax form required by the Internal Revenue Service under FATCA, as in effect from time to time, that each Member (or applicant to become such) shall provide from time to time to the Corporation as set forth under these Rules.

FATCA Compliance Date

The term “FATCA Compliance Date” shall mean, as applicable, either (i) January 1, 2014, with respect to any FFI Member approved for membership by the Corporation on January 1, 2014 or thereafter (or, if the commencement of all FATCA withholding with respect to such FFI Members is delayed beyond January 1, 2014 under FATCA, two calendar months plus one day before such delayed effective date), or (ii) May 1, 2014, with respect to any FFI Member approved for membership by the Corporation at any time prior to January 1, 2014 (or, if the commencement of all FATCA withholding with respect to such FFI Members is delayed beyond July 1, 2014 under FATCA, two calendar months plus one day before such delayed effective date).

FATCA Compliant

The term “FATCA Compliant” or “FATCA Compliance” means, with respect to an FFI Member, that such FFI Member has qualified under such procedures promulgated by the Internal Revenue Service as are in effect from time to time to establish exemption from withholding under FATCA such that the Corporation will not be required to withhold under FATCA either (i) on “gross proceeds from the sale or other disposition of any property of a type which can produce interest or dividends from sources within the United States” within the meaning of Code section 1473(1)(A)(ii), as may be amended or re-codified from time to time, or (ii) on interest, dividends, etc. from sources within the United States within the meaning of Code section 1473(1)(A)(i), as may be amended or re-codified from time to time, in each case, paid to such FFI Member.

* * * *

FFI Member

The term “FFI Member” means any Person that is treated as a non-U.S. entity for U.S. federal income tax purposes. For the avoidance of doubt, FFI Member includes any Member that is a U.S. branch of an entity that is treated as a non-U.S. entity for U.S. federal income tax purposes.

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RULE 2A - INITIAL MEMBERSHIP REQUIREMENTS

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Section 2 – Eligibility for Membership: Netting Members

(a) Eligibility for Netting membership shall be as follows:

(i) A Person shall be eligible to apply to become a Bank Netting Member if it is a bank or trust company chartered as such under the laws of the United States, or a State thereof, or is a bank or trust company established or chartered under the laws of a non-U.S. jurisdiction and participates in the Corporation through its U.S. branch or agency. A bank or trust company that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be a Bank Netting Member.

(ii) A Person shall be eligible to apply to become a Dealer Netting Member if it is a Registered Government Securities Dealer and is not a bank or trust company. A Registered Government Securities Dealer that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be a Dealer Netting Member.

(iii) A Person shall be eligible to apply to become a Futures Commission Merchant Netting Member if it is a Futures Commission Merchant. A Futures Commission Merchant that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be a Futures Commission Merchant Netting Member.

(iv) A Person shall be eligible to apply to become an Inter-Dealer Broker Netting Member if it is a Inter-Dealer Broker. A Inter-Dealer Broker that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be an Inter-Dealer Broker Netting Member.

(v) A Person shall be eligible to apply to become a Foreign Netting Member if it is a Foreign Person that the Corporation, in its sole discretion, has determined: (i) has a home country regulator that has entered into a memorandum of understanding with the SEC regarding the sharing or exchange of information, and (ii) maintains a presence in the United States, either directly or through a suitable agent, that both has available individuals fluent in English who are knowledgeable in the Foreign Person's business and can assist the Corporation's representatives as necessary, and ensures that the Foreign Person will be able to meet its data submission, settlement, and other obligations to the Corporation as a Member in a timely manner. The Person applying to become a Foreign Netting Member must represent and certify to the Corporation that it is in compliance with the financial reporting and responsibility standards of its home country and that it is regulated in its home country by a financial regulatory authority in the areas of maintenance of relevant books and records, regular inspections and examinations, and minimum capital standards, and make such other representations, **certifications or assurances** as the Corporation deems necessary **to address jurisdictional and tax concerns.** **Without limiting the generality of the foregoing, the Corporation shall require each applicant that shall be an FFI Member to certify and periodically recertify to the Corporation that it is FATCA Compliant under such procedures as are set forth under FATCA, unless such requirements have been explicitly waived in writing by the Corporation, provided, however, that no such waiver will be issued if it shall cause the Corporation to be obligated to withhold under FATCA on gross proceeds from the sale or other disposition of any property. In addition, as part of its membership application, each applicant that shall be an FFI Member must agree that it shall indemnify the Corporation for any loss, liability or expense sustained by the Corporation as a result of its failing to be FATCA Compliant. Except as with respect to FATCA, For the avoidance of doubt,** a foreign Bank Netting Member that participates in the Corporation through its U.S. branch or agency shall not be deemed a Foreign Member for purposes of the Corporation's Rules and procedures, unless otherwise stated by the Corporation.

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Section 5 – Application Documents

Each applicant to become a Member shall, as required by the Corporation from time to time, complete and deliver to the Corporation an Applicant Questionnaire in such form as may

be prescribed by the Corporation. An applicant seeking membership in the Netting System shall also deliver to the Corporation the financial reports, other reports, opinions and other information as the Corporation determines appropriate.

Each applicant (as determined by the Corporation with regard to membership type) shall complete and deliver to the Corporation a FATCA Certification as part of its membership application.

Each applicant to become a Member must also fulfill, within the time frames established by the Corporation, any operational testing requirements (the scope of such testing to be determined by the Corporation in its sole discretion) and related reporting requirements (such as reporting the test results to the Corporation in a manner specified by the Corporation) that may be imposed by the Corporation to ensure the operational capability of the applicant.

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Section 6 – Evaluation of Applicant

An application to become any type of Member shall first be reviewed by the Corporation. The Corporation may approve applications for Comparison-Only membership. With regard to Netting membership, the Corporation shall recommend approval or disapproval of the application to the Board. Except as otherwise provided in Rule 3 or in Rule 15, Corporation or Board approval of an application for membership shall constitute approval only of the type of membership specifically applied for.

In evaluating a membership application, the Corporation may:

(i) contact the applicant's Designated Examining Authority, Appropriate Regulatory Agency, primary regulatory authority (the CFTC and the applicable self-regulatory organization designated under the Commodity Exchange Act in the case of a Futures Commission Merchant, and the insurance regulator in the company's state of domicile in the case of an Insurance Company), or other examining authority or regulator, or any Self-Regulatory Organization or self-regulatory organization of which the applicant is a member and request from such authority or organization any records, reports, or other information that, in their judgment, may be relevant to the application;

(ii) examine the books, records, and operational procedures of, and inspect the premises of, the applicant as they may be related to the business conducted through the Corporation; and

(iii) take such other evidence or make such other inquiries as is necessary, including sworn or unsworn testimony, to ascertain relevant facts bearing upon the applicant's qualifications.

The Board or the Corporation, as applicable, shall approve an application to become a Member pursuant to this Rule only upon a determination that the applicant meets such standards of financial responsibility and operational capability as are set forth in this Rule. **In addition, with regard to any applicant that shall be an FFI Member, such applicant must be FATCA Compliant.**

Notwithstanding that an application to become a Member shall have been approved by the Board or the Corporation, if a material change in condition of the applicant occurs which in the judgment of the Board or the Corporation could bring into question the applicant's ability to perform as a Member, and such material change becomes known to the Corporation prior to the applicant's commencing use of the Corporation's services, the Corporation shall have the right to stay commencement by the applicant of use of the Corporation's services until a reconsideration by the Board or the Corporation of the applicant's financial responsibility and operational capability can be completed. As a result of such reconsideration, the Board or the Corporation may determine to withdraw approval of an application to become a Member or condition the approval upon the furnishing of additional information or assurances.

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RULE 3 – ONGOING MEMEBERSHIP REQUIREMENTS

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Section 7 - General Continuance Standards

A Member shall promptly inform the Corporation, both orally and in writing, if it no longer is in compliance with any of the relevant qualifications and standards for admission to membership set forth in Rule 2 and in this Rule, including whether it is subject to any of the criteria set forth in subsection (d) of Section 3 of Rule 2A. Such notification must be given by the participant as soon as practicable and in any event. Notification must take place within two business days from the date on which the Member first learns of its non-compliance. The Corporation shall assess a fine against any Member who fails to so notify the Corporation. In addition, a Member shall notify the Corporation within two business days of learning of an investigation or proceeding to which it is or is becoming subject that would cause the Member to fall out of compliance with any of the relevant qualifications and standards for membership set forth in Rules 2, 2A and 3. Notwithstanding the previous sentence, the Member shall not be required to notify the Corporation if doing so would cause the Member to violate an applicable law, rule or regulation. If, with respect to any type of Member: (a) it fails to maintain the relevant standards and qualifications for admission to membership, including but not limited to minimum capital standards and operational testing and related reporting requirements imposed by the Corporation from time to time; (b) it violates any Rule of the Corporation or other agreement with the Corporation; (c) it fails to satisfy in a timely manner any obligation to the Corporation; (d) there is Reportable Event relating to such Member; or (e) the Corporation otherwise deems it necessary or advisable, in order to protect the Corporation, its other Members, or its creditors or investors, to safeguard securities and funds in the custody or control of the Corporation, or to promote the prompt and accurate processing, clearance or settlement of securities transactions, the Corporation will undertake appropriate action to determine the status

of the Member and its continued eligibility. In addition, the Corporation may review the financial responsibility and operational capability of the Member to the extent provided in these Rules and otherwise require from the Member additional reporting of its financial or operational condition at such intervals and in such detail as the Corporation shall determine, and shall make a determination as to whether such Member should be placed on the Watch List by the Corporation consistent with the provisions of Section 12 of this Rule.

Furthermore, a Netting Member must submit to the Corporation written notice of any Reportable Event at least 90 calendar days prior to the effective date of such Reportable Event unless the Member demonstrates that it could not have reasonably done so, and provided notice, both orally and in writing, to FICC as soon as possible.

Beginning on the FATCA Compliance Date, each FFI Member shall inform the Corporation, both orally and in writing, if it (i) undergoes a change in circumstance that would affect its FATCA Certification or (ii) otherwise has reason to know that it is not, or will not be, FATCA Compliant, in each case, within two days of knowledge thereof.

The Corporation shall assess a fine against any Netting Member who fails to so notify the Corporation.

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Section 9 - Compliance with Laws

(i) **General**

In connection with their use of the Corporation's services, Members must comply with all applicable laws, including applicable laws relating to securities, taxation, and money laundering, as well as sanctions administered and enforced by the Office of Foreign Assets Control ("OFAC").

(ii) **OFAC**

As part of their compliance with OFAC sanctions regulations, all Members agree not to conduct any transaction or activity through GSD which it knows to violate sanctions administered and enforced by OFAC.

Members subject to the jurisdiction of the U.S., with the exception of GSD Comparison Only Members, are required to periodically confirm that the Member has implemented a risk-based program reasonably designed to comply with applicable OFAC sanctions regulations. Failure to do so in the manner and timeframes set forth by the Corporation from time to time will result in a fine.

(iii) **FATCA**

Beginning on the FATCA Compliance Date, each FFI Member must agree not to conduct any transaction or activity through the Corporation if such FFI Member is not FATCA Compliant, unless such requirement has been explicitly waived in writing by the Corporation with respect to the specific FFI Member, provided, however, that no such

waiver will be issued if it shall cause the Corporation to be obligated to withhold under FATCA on gross proceeds from the sale or other disposition of any property.

All FFI Members are required, as applicable under FATCA, to certify and periodically recertify to the Corporation that they are FATCA Compliant by providing to the Corporation a FATCA Certification. Failure to do so in the manner and timeframes set forth by the Corporation from time to time will result in a fine, unless such requirement has been explicitly waived in writing by the Corporation with respect to the specific FFI Member, provided, however, that no such waiver will be issued if it shall cause the Corporation to be obligated to withhold under FATCA on gross proceeds from the sale or other disposition of any property.

An FFI Member shall indemnify the Corporation for any loss, liability or expense sustained by the Corporation as a result of such FFI Member failing to be FATCA Compliant.

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FIXED INCOME CLEARING CORPORATION
MORTGAGE-BACKED SECURITIES DIVISION
CLEARING RULES

RULE 1 – DEFINITIONS

* * * *

FATCA

The term “FATCA” means (i) the provisions of sections 1471 through 1474 of the Internal Revenue Code of 1986, as amended, (the “Code”) that were implemented as part of The Foreign Account Tax Compliance Act (or any amendment thereto or successor sections thereof), and the related Treasury Regulations or other official interpretations thereof, as in effect from time to time, and (ii) the provisions of any intergovernmental agreement to implement The Foreign Account Tax Compliance Act as in effect from time to time between the United States and the jurisdiction of the FFI Member’s (or applicant’s) residency.

FATCA Certification

The term “FATCA Certification” means an executed copy of the relevant tax form required by the Internal Revenue Service under FATCA, as in effect from time to time, that each Member (or applicant to become such) shall provide from time to time to the Corporation as set forth under these Rules.

FATCA Compliance Date

The term “FATCA Compliance Date” shall mean, as applicable, either (i) January 1, 2014, with respect to any FFI Member approved for membership by the Corporation on January 1, 2014 or thereafter (or, if the commencement of all FATCA withholding with respect to such FFI Members is delayed beyond January 1, 2014 under FATCA, two calendar months plus one day before such delayed effective date, or (ii) May 1, 2014, with respect to any FFI Member approved for membership by the Corporation at any time prior to January 1, 2014 (or, if the commencement of all FATCA withholding with respect to such FFI Members is delayed beyond July 1, 2014 under FATCA, two calendar months plus one day before such delayed effective date).

FATCA Compliant

The term “FATCA Compliant” or “FATCA Compliance” means, with respect to an FFI Member, that such FFI Member has qualified under such procedures promulgated by the

Internal Revenue Service as are in effect from time to time to establish exemption from withholding under FATCA such that the Corporation will not be required to withhold under FATCA either (i) on “gross proceeds from the sale or other disposition of any property of a type which can produce interest or dividends from sources within the United States” within the meaning of Code section 1473(1)(A)(ii), as may be amended or re-codified from time to time or (ii) on interest, dividends, etc. from sources within the United States within the meaning of Code section 1473(1)(A)(i), as may be amended or re-codified from time to time in each case, paid to such FFI Member.

* * * *

FFI Member

The term “FFI Member” means any Person that is treated as a non-U.S. entity for U.S. federal income tax purposes. For the avoidance of doubt, FFI Member includes any Member that is a U.S. branch of an entity that is treated as a non-U.S. entity for U.S. federal income tax purposes.

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RULE 2A – INITIAL MEMBERSHIP REQUIREMENTS

Section 1 - Eligibility for Membership: Clearing Members

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If any Person in categories (a) through (i) above is a Foreign Person, then it shall be eligible to become a Clearing Member if the Corporation, in its sole discretion, has determined that such Person maintains a presence in the United States, either directly or through a suitable agent, that both has available individuals fluent in English who are knowledgeable in the Foreign Person’s business and can assist the Corporation’s representatives as necessary, and ensures that the Foreign Person will be able to meet its data submission, settlement, and other obligations to the Corporation as a Member in a timely manner. The Person applying to become a Foreign Member must represent and certify to the Corporation that it is in compliance with the financial reporting and responsibility standards of its home country and, if it is a regulated entity, that it is regulated in its home country by a financial regulatory authority in the areas of maintenance of relevant books and records, regular inspections and examinations, and minimum capital standards, and make such other representations, **certifications or assurances** as the Corporation deems necessary **to address jurisdictional and tax concerns. Without limiting the generality of the foregoing, the Corporation shall require each applicant that shall be an FFI Member to certify and periodically recertify to the Corporation that it is FATCA Compliant under such procedures as are set forth under FATCA, unless such requirements have been explicitly waived in writing by the Corporation, provided, however, that no such waiver**

will be issued if it shall cause the Corporation to be obligated to withhold under FATCA on gross proceeds from the sale or other disposition of any property. In addition, as part of its membership application, each applicant that shall be an FFI Member must agree that it shall indemnify the Corporation for any loss, liability or expense sustained by the Corporation as a result of its failing to be FATCA Compliant. The Corporation shall determine, in its sole discretion, which category of membership set forth above the Foreign Person shall be for purposes of these Rules. **Except as with respect to FATCA, A a** Bank Clearing Member that participates in the Corporation through its U.S. branch or agency shall not be deemed a Foreign Member for purposes of the Corporation's Rules and procedures, unless otherwise stated by the Corporation.

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Section 3 – Application Documents

Each applicant to become a Clearing Member shall, as required by the Corporation from time to time, complete and deliver to the Corporation an Applicant Questionnaire in such form as may be prescribed by the Corporation. An applicant seeking membership in the Clearing System shall also deliver to the Corporation the financial reports, other reports, opinions and other information as the Corporation requires.

Each applicant (as determined by the Corporation with regard to membership type) shall complete and deliver to the Corporation a FATCA Certification as part of its membership application.

If the Corporation determines that a legal opinion, or update thereto, submitted by an applicant indicates that the Corporation could be subject to Legal Risk as defined in Rule 4 with respect to such applicant, the Corporation shall have the right to take, and/or require the applicant to take, appropriate action(s) to mitigate such Legal Risk, including, but not limited to, requiring the applicant to post additional Clearing Fund as set forth in Rule 4.

Section 4 – Evaluation of Applicant

An application to become any type of Clearing Member shall first be reviewed by the Corporation. The Corporation shall recommend approval or disapproval of the application to the Board. Except as otherwise provided in this Rule 2A, Board approval of an application for membership shall constitute approval only of the type of membership specifically applied for.

In evaluating a membership application, the Corporation may:

(i) contact the applicant's Designated Examining Authority, Appropriate Regulatory Agency, primary regulatory authority, (the insurance regulator in the company's state of domicile in the case of an Insurance Company), or other examining authority or regulator, or any Self-Regulatory Organization of which the applicant is a Member and request from such authority or organization any records, reports, or other information that, in their judgment, may be relevant to the application;

(ii) examine the books, records, and operational procedures of, and inspect the premises of, the applicant as they may be related to the business to be conducted through the Corporation; and

(iii) take such other evidence or make such other inquiries as is necessary, including sworn or unsworn testimony, to ascertain relevant facts bearing upon the applicant's qualifications.

The Board shall approve an application to become a Clearing Member pursuant to this Rule only upon a determination that the applicant meets such standards of financial responsibility and operational capability as are set forth in this Rule. **In addition, with regard to any applicant that shall be an FFI Member, such applicant must be FATCA Compliant.**

Notwithstanding that an application to become a Clearing Member shall have been approved by the Board or the Corporation, as applicable, if a material change in condition of the applicant occurs which in the judgment of the Board or the Corporation could bring into question the applicant's ability to perform as a Member, and such material change becomes known to the Corporation prior to the applicant's commencing use of the Corporation's services, the Corporation shall have the right to stay commencement by the applicant of use of the Corporation's services until a reconsideration by the Board or the Corporation of the applicant's financial responsibility and operational capability can be completed. As a result of such reconsideration, the Board may determine to withdraw approval of an application to become a Member or condition the approval upon the furnishing of additional information or assurances.

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RULE 3 – ONGOING MEMEBSRHIP REQUIREMENTS

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Section 6 - General Continuance Standards

A Member shall promptly inform the Corporation, both orally and in writing, if it no longer is in compliance with any of the relevant qualifications and standards for admission to membership set forth in Rule 2A and in this Rule, including whether it is subject to any of the criteria set forth in subsection (d) of Section 2 of Rule 2A Notification must take place within two business days from the date on which the Member first learns of its non-compliance. The Corporation may assess a fine against any Member who fails to so notify the Corporation. In addition, a Member shall notify the Corporation within two business days of learning of an investigation or proceeding to which it is or is becoming subject that would cause the Member to fall out of compliance with any of the relevant qualifications and standards for membership set forth in Rule 2A and this Rule. Notwithstanding the previous sentence, the Member shall not be required to notify the Corporation if doing so would cause the Member to violate an applicable law, rule or regulation. If, with respect to any type of Member: (a) it fails to maintain the relevant standards and qualifications for admission to membership, including but not limited to minimum capital standards and operational testing and related reporting requirements imposed by the Corporation from time to time; (b) it violates any Rule of the Corporation or other

agreement with the Corporation; (c) it fails to satisfy in a timely manner any obligation to the Corporation; (d) there is a Reportable Event relating to such Member; or (e) the Corporation otherwise deems it necessary or advisable, in order to protect the Corporation, its other Members, or its creditors or investors, to safeguard securities and funds in the custody or control of the Corporation, or to promote the prompt and accurate processing, clearance or settlement of securities Transactions, the Corporation will undertake appropriate action to determine the status of the Member and its continued eligibility. In addition, the Corporation may review the financial responsibility and operational capability of the Member to the extent provided in these Rules and otherwise require from the Member additional reporting of its financial or operational condition at such intervals and in such detail as the Corporation shall determine, and shall make a determination as to whether such Member should be placed on the Watch List by the Corporation consistent with the provisions of Section 11 of this Rule. The Corporation may also, in its sole discretion, if it believes it necessary to protect itself and its Members, require a Member to deliver to the Corporation a guaranty of an Affiliate of the Member, satisfactory in form and substance to the Corporation, of the obligations of the Member to the Corporation.

Furthermore, a Clearing Member must submit to the Corporation written notice of any Reportable Event at least 90 calendar days prior to the effective date of such Reportable Event unless the Member demonstrates that it could not have reasonably done so, and provided notice, both orally and in writing, to FICC as soon as possible.

Beginning on the FATCA Compliance Date, each FFI Member shall inform the Corporation, both orally and in writing, if it (i) undergoes a change in circumstance that would affect its FATCA Certification or (ii) otherwise has reason to know that it is not, or will not be, FATCA Compliant, in each case, within two days of knowledge thereof.

The Corporation shall assess a fine against any Clearing Member who fails to so notify the Corporation.

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Section 8 - Compliance with Rules, Procedures and Applicable Laws

(i) General

Subject to the provisions of Rule 33, "Suspension of Rules in Emergency Circumstances", the use of the facilities of the Corporation by a Member shall constitute such Member's agreement with the Corporation and with all other Members to be bound by the provisions of, and by any action taken or order issued by the Corporation pursuant to, these Rules and any amendment thereto, and to such procedures as the Corporation may adopt from time to time. In addition, in connection with its use of the Corporation's services, a Member must comply with all applicable laws, including applicable laws relating to securities, taxation, and money laundering, as well as sanctions administered and enforced by the Office of Foreign Assets Control ("OFAC").

(ii) **OFAC**

As part of their compliance with OFAC sanctions regulations, all Members agree not to conduct any transaction or activity through MBSB which it knows to violate sanctions administered and enforced by OFAC.

Members subject to the jurisdiction of the U.S., with the exception of EPN Only Members, are required to periodically confirm that the Member has implemented a risk-based program reasonably designed to comply with applicable OFAC sanctions regulations. Failure to do so in the manner and timeframes set forth by the Corporation from time to time will result in a fine.

(iii) **FATCA**

Beginning on the FATCA Compliance Date, each FFI Member must agree not to conduct any transaction or activity through the Corporation if such FFI Member is not FATCA Compliant, unless such requirement has been explicitly waived in writing by the Corporation with respect to the specific FFI Member, provided, however, that no such waiver will be issued if it shall cause the Corporation to be obligated to withhold under FATCA on gross proceeds from the sale or other disposition of any property.

All FFI Members are required, as applicable under FATCA, to certify and periodically recertify to the Corporation that they are FATCA Compliant by providing to the Corporation a FATCA Certification. Failure to do so in the manner and timeframes set forth by the Corporation from time to time will result in a fine, unless such requirement has been explicitly waived in writing by the Corporation with respect to the specific FFI Member, provided, however, that no such waiver will be issued if it shall cause the Corporation to be obligated to withhold under FATCA on gross proceeds from the sale or other disposition of any property.

An FFI Member shall indemnify the Corporation for any loss, liability or expense sustained by the Corporation as a result of such FFI Member failing to be FATCA Compliant.

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