

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-87234; File No. SR-FICC-2019-801)

October 4, 2019

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of No Objection to Advance Notice to Amend the GSD Rulebook to Establish a Process to Address Liquidity Needs in Certain Situations in the GCF Repo and CCIT Services and Make Other Changes

On August 9, 2019, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) advance notice SR-FICC-2019-801 (“Advance Notice”) pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010 (“Clearing Supervision Act”)<sup>1</sup> and Rule 19b-4(n)(1)(i)<sup>2</sup> under the Securities Exchange Act of 1934 (“Exchange Act”)<sup>3</sup> to make changes to how FICC processes tri-party repo market transactions, specifically GCF Repo transactions and CCIT transactions. The Advance Notice was published for public comment in the Federal Register on September 10, 2019,<sup>4</sup> and the Commission has

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<sup>1</sup> 12 U.S.C. 5465(e)(1).

<sup>2</sup> 17 CFR 240.19b-4(n)(1)(i).

<sup>3</sup> 15 U.S.C. 78a et seq.

<sup>4</sup> Securities Exchange Act Release No. 34-86876 (September 5, 2019), 84 Fed. Reg. 47618 (September 10, 2019) (File No. SR-FICC-2019-801) (“Notice of Filing”). On August 9, 2019, FICC also filed a related proposed rule change (SR-FICC-2019-004) with the Commission pursuant to Section 19(b)(1) of the Exchange Act and Rule 19b-4 thereunder (“Proposed Rule Change”). See 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b-4 respectively. In the Proposed Rule Change, which was published in the Federal Register on August 29, 2019, FICC seeks approval of proposed changes to its rules necessary to implement the Advance Notice. Securities Exchange Act Release No. 86745 (August 23, 2019), 84 Fed. Reg. 45608 (August 29, 2019). The comment period for the related

received no comments regarding the changes proposed in the Advance Notice.<sup>5</sup> This publication serves as notice of no objection to the Advance Notice.

## **I. THE ADVANCE NOTICE**

The proposals reflected in the Advance Notice would make changes to how FICC’s Government Securities Division (“GSD”) processes tri-party repo transactions, specifically GCF Repo transactions<sup>6</sup> and CCIT transactions.<sup>7</sup> First, the proposals would establish new deadlines and associated late fees for FICC members to satisfy their obligations in connection with such transactions, i.e., to deliver cash or securities. Second, the Advance Notice would establish a process for FICC to access liquidity in

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Proposed Rule Change filing closed on September 19, 2019, and the Commission received no comments.

<sup>5</sup> As the proposal contained in the Advance Notice was also filed as a proposed rule change, all public comments received on the proposal are considered regardless of whether the comments are submitted on the proposed rule change or the Advance Notice.

<sup>6</sup> “GCF Repo transactions” are tri-party repo transactions through FICC’s general collateral finance repo (“GCF Repo”) service (“GCF Repo Service”). The GCF Repo Service enables dealers to trade general collateral repos, based on rate, term, and underlying product, throughout the day without requiring intra-day, trade-for-trade settlement on a Delivery-versus-Payment basis. See generally GCF Repo (DTCC description of the service), available at <http://www.dtcc.com/clearing-services/ficc-gov/gcf-repo> (last visited August 13, 2019).

<sup>7</sup> “CCIT” means Centrally Cleared Institutional Triparty. “CCIT transactions” are tri-party repo transactions in GCF Repo securities between members that participate in the GCF Repo Service and CCIT members, which are institutional counterparties (other than registered investment companies (“RICs”) under the Investment Company Act of 1940, as amended) and are the cash lenders in the transactions. See generally Securities Exchange Act Release No. 80361 (April 3, 2017), 82 Fed. Reg. 17053, 17054 (April 7, 2017) (SR-FICC-2017-803) (notice of filing of the advance notice regarding creating the CCIT service).

situations where a member with a net cash delivery obligation in GCF Repo/CCIT activity, that is otherwise in good standing,<sup>8</sup> is either (1) delayed in satisfying its cash delivery obligation or (2) unable to satisfy, in whole or in part, such obligation. More specifically, this process would allow FICC to access liquidity from either (i) the GCF Clearing Agent Bank<sup>9</sup> in the form of overnight financing, which would be subject to the GCF Clearing Agent Bank's discretion, and/or (ii) end-of-day borrowing of Clearing Fund cash,<sup>10</sup> subject to specified limits. Further, if those liquidity sources are insufficient to cover the affected member's outstanding cash delivery obligations, the proposal would enable FICC to obtain additional liquidity by entering into overnight repos with those members to whom cash is owed by the member with the unsatisfied net cash delivery obligations. Third, the Advance Notice would make a clarification and several technical changes and corrections to FICC's rules.<sup>11</sup>

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<sup>8</sup> A member in good standing is a member for which FICC has not ceased to act for the member (in which case FICC's close-out rules would apply) or has not restricted the member's access to services.

<sup>9</sup> The GCF Clearing Agent Bank settles the repo transaction on its books. Currently, the only GCF Clearing Agent Bank is The Bank of New York Mellon.

<sup>10</sup> The Clearing Fund is an aggregate of all members' margin deposits to FICC designed to account for the costs associated with a member defaulting to FICC.

<sup>11</sup> The FICC GSD Rulebook ("Rules") is available at <http://www.dtcc.com/legal/rules-and-procedures>. Capitalized terms not defined herein are defined in the Rules.

**A. New Deadlines and Late Fees for Satisfaction of Obligations in GCF Repo and CCIT Transactions**

**1. Securities Delivery Obligations**

Under FICC's current Rules, a Netting Member must meet its securities delivery obligations in connection with its GCF Repo and/or CCIT transactions within the timeframes established by FICC.<sup>12</sup> Currently, FICC has set two deadlines by which Netting Members are required to meet their securities delivery obligations: 4:30 p.m. and 6:00 p.m.<sup>13</sup> If a Netting Member fails to satisfy a securities delivery obligation by 4:30 p.m., it is subject to a late fee of \$500.<sup>14</sup> If the Netting Member delivers the securities after the 6:00 p.m. deadline, no additional late fee applies, but FICC cannot guarantee that it would be able to settle the transaction. Instead, FICC will only process such late transactions if FICC is able to contact both affected Netting Members and they agree to settle the transaction.

In the Advance Notice, FICC proposes to eliminate the 6:00 p.m. deadline. The 4:30 p.m. deadline would remain in place. If a Netting Member fails to satisfy a securities delivery obligation by 4:30 p.m., it would remain subject to the \$500 late fee. But if the Netting Member delivers the securities after 4:30 p.m., FICC would only

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<sup>12</sup> Rule 20, Section 3, supra note 11.

<sup>13</sup> The close of the Fedwire Funds Service at 6:30 p.m. is the final cutoff point at which a Netting Member's failure to deliver securities would be deemed by FICC to result in a failed transaction. In that scenario, the Netting Member would not be entitled to receive the funds borrowed, and would instead owe interest on the funds.

<sup>14</sup> Fee Structure, supra note 11.

process the transaction if it is able to contact both affected Netting Members and they agree to settle the transaction.

## 2. Cash Delivery Obligations

FICC's Rules do not currently contain a deadline for a Netting Member's or CCIT Member's satisfaction of cash delivery obligations in the GCF Repo and CCIT Services. FICC proposes to establish 4:30 p.m., or, if later, one hour after the close of the Fedwire Securities Service reversals, as the deadline for a "Net Funds Payor"<sup>15</sup> to satisfy its cash delivery obligations. FICC also proposes to establish late fees, subject to progressive increases. Specifically, the late fees would apply as follows for occurrences within the same 30 calendar day period: (a) \$500 for the first occurrence, (b) \$1,000 for the second occurrence, (c) \$2,000 for the third occurrence, and (d) \$3,000 for the fourth occurrence or additional occurrences. The late fee would not apply if FICC determines that failure to meet this timeframe is not the fault of the Net Funds Payor.<sup>16</sup>

In addition, FICC proposes to establish additional late fees that would be imposed on Net Funds Payors that fail to meet their cash delivery obligation by the close of the Fedwire Funds Service.<sup>17</sup> These fees would be in addition to the late fees described in the preceding paragraph, and FICC would impose both fees in the event that a Net Funds

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<sup>15</sup> FICC's proposal would add "Net Funds Payor" as a new defined term, meaning a Netting Member or CCIT Member with cash delivery obligations.

<sup>16</sup> This determination would be made by FICC Product Management based on input from the GCF Clearing Agent Bank, internal FICC Operations staff and the Netting Member.

<sup>17</sup> See Fedwire Services Operating Hours, available at <https://www.frbservices.org/resources/financial-services/wires/operating-hours.html> (last visited September 2, 2019).

Payor did not satisfy its cash delivery obligations by the close of the Fedwire Funds Service. Specifically, these late fees would apply as follows for occurrences within the same 90 calendar day period: (a) 100 basis points on the unsatisfied cash delivery obligation amount for the first occurrence,<sup>18</sup> (b) 200 basis points on the unsatisfied cash delivery obligation amount for the second occurrence, (c) 300 basis points on the unsatisfied cash delivery obligation amount for the third occurrence, and (d) 400 basis points on the unsatisfied cash delivery obligation amount for the fourth occurrence or any additional occurrences. The late fees would not apply if FICC determines that the failure to meet this timeframe is not primarily the fault of the Net Funds Payor.<sup>19</sup>

**B. Proposed Process to Provide Liquidity**

The Advance Notice would establish a process for FICC to access liquidity in situations where a Member with a net cash delivery obligation in GCF Repo/CCIT activity (i.e., Net Funds Payor), that is otherwise in good standing, is either (1) delayed in satisfying its cash delivery obligation or (2) unable to satisfy, in whole or in part, such obligation.<sup>20</sup> Unless FICC has ceased to act for the Member (in which case FICC's close-

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<sup>18</sup> The late fee is based on the ACT/360 day count convention, where "ACT" represents the actual number of days in the period. For example, assuming a first occurrence unsatisfied cash delivery obligation of \$100 million, the late fee would be \$100 million \* 100/3600000 = \$2,777.78. This example uses the first occurrence amount. This calculation would apply to the rest of the proposed late fees in this section.

<sup>19</sup> The determination would be made by FICC Product Management based on input from the GCF Clearing Agent Bank, internal FICC Operations staff and the Netting Member.

<sup>20</sup> Such delay could, for example, be due to operational issues experienced by the Net Funds Payor. If a Netting Member with a collateral obligation does not deliver its securities, FICC considers it a fail. However, if a Netting Member or CCIT Member with a cash delivery obligation is unable to deliver its cash (and is

out rules would apply) or has restricted the Member's access to services,<sup>21</sup> the Net Funds Payor shall be permitted to continue to submit additional tri-party repo transactions for clearing to FICC during this process.

Pursuant to the proposal, once FICC determines that a Net Funds Payor is in good standing with GSD but is experiencing an issue, such as an operational issue, that may result in a late payment, partial payment or non-payment of its cash delivery obligation on the settlement date, the following process would occur. First, in the case where the Net Funds Payor only satisfies part of its cash delivery obligation, the GCF Clearing Agent Bank would settle the cash it received pursuant to such GCF Clearing Agent Bank's settlement algorithm (as is done today).

Next, FICC would consider whether it would seek liquidity to cover any of the Net Funds Payor's delivery shortfall amounts in one of the two forms discussed. The two potential forms of liquidity would be (i) end-of-day borrowing of Clearing Fund cash

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in good standing), FICC has represented that it intends to employ the proposed process. Notice of Filing, supra note 4 at 47620.

<sup>21</sup> See Rule 22A, supra note 11. FICC has represented that, before it uses the proposed process, it would first evaluate whether to recommend to the Board's Risk Committee that FICC cease to act for such Net Funds Payor. FICC would consider, but would not be limited to, the following factors in its evaluation: (i) the Net Funds Payor's current financial position, (ii) the amount of the outstanding payment, (iii) the cause of the late payment, (iv) current market conditions, and (v) the size of the potential overnight reverse repurchase agreements under the GCF Repo Allocation Waterfall MRAs (as defined below) on the GSD membership. Notice of Filing, supra note 4 at 47620. FICC already has the authority to cease to act for a member that does not fulfill an obligation to FICC and will continually evaluate throughout the proposed process whether FICC will cease to act. Id.

(“EOD Clearing Fund Cash”) and/or (ii) GCF Clearing Agent Bank loans.<sup>22</sup> The cash amount that FICC would be able to access via the EOD Clearing Fund Cash and/or GCF Clearing Agent Bank loans would then be applied to the unsatisfied cash delivery obligations due to the Net Funds Receivers on a pro rata basis, based upon the percentage due to each Net Fund Receiver out of the total amount of all unsatisfied obligations.

If FICC were to use GCF Clearing Agent Bank loans to provide liquidity, any overnight financing from the GCF Clearing Agent Bank would be subject to the GCF Clearing Agent Bank’s discretion because FICC’s overnight financing arrangements with its GCF Clearing Agent Bank are uncommitted. As such, the financing would be secured by FICC’s pledge of Clearing Fund securities subject to the GCF Clearing Agent Bank’s current haircut schedule.<sup>23</sup> If FICC were to use EOD Clearing Fund Cash to provide liquidity, such use would be subject to certain internal limitations. Specifically, GSD would establish a cap on the amount of EOD Clearing Fund Cash that may be used for this purpose to the lesser of \$1 billion or 20 percent of available Clearing Fund Cash. Any resulting costs incurred by FICC in accessing EOD Clearing Fund Cash and/or GCF Clearing Agent Bank loans would be debited from the Net Funds Payor whose shortfall caused the liquidity need.

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<sup>22</sup> FICC has represented that it would not prioritize accessing these two sources of potential liquidity because FICC’s decision to use either or both sources would be considered on a case-by-case basis, taking into consideration factors such as the specific circumstances at issue (i.e., the time of day and the size of the shortfall), availability of a bank loan, market conditions (i.e., whether there are stress events occurring in the market), commercial considerations (i.e., the current loan rates), and ease of operational execution. Notice of Filing, supra note 4 at 47620.

<sup>23</sup> See Rule 4, Section 5, supra note 11.



Finally, to the extent that the amount of liquidity FICC obtains via the Clearing Fund cash and overnight financing arrangement (if any) is insufficient to cover the outstanding cash delivery obligations, the relevant Net Funds Receivers would be required under FICC's Rules to enter into overnight repurchase agreements with FICC on the Generic CUSIP Number for which such Net Funds Payor failed to fulfill its cash delivery obligation. This arrangement would be done pursuant to the "GCF Repo Allocation Waterfall MRA," which is a committed financing arrangement that would be added as part of this proposal to the binding terms of FICC's rulebook.<sup>24</sup> The amount FICC would seek to obtain via this committed facility would be the remaining unsettled amount per Net Funds Receiver, thus satisfying the outstanding amount of the Net Funds Payor's cash delivery obligations.<sup>25</sup> The associated overnight interest of the reverse repurchase agreement would be debited from the Net Funds Payor that did not satisfy its cash delivery obligation and credited to the affected Net Funds Receivers in the funds-only settlement process as a Miscellaneous Adjustment Amount.<sup>26</sup>

Any resulting costs, such as financing costs, incurred by the Net Funds Receivers would be debited from the Net Funds Payor whose shortfall caused the need for the reverse repurchase agreement. A Net Funds Receiver requesting compensation in this

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<sup>24</sup> Such reverse repurchase agreements would be entered into pursuant to the terms of a 1996 SIFMA Master Repurchase Agreement ([available at http://www.sifma.org/services/standard-forms-and-documentation/mra,-gmra,-msla-and-msftas/](http://www.sifma.org/services/standard-forms-and-documentation/mra,-gmra,-msla-and-msftas/)), which would be incorporated into the Rules, subject to specific changes set forth in the Rules.

<sup>25</sup> FICC represents that these reverse repurchase agreements would be at a market rate, which would be the overnight par weighted average rate at the Generic CUSIP Number level. Notice of Filing, supra note 4 at 47621.

<sup>26</sup> See Rule 13, Section 1(m) and Rule 3B, Section 13(a)(ii), supra note 11.

regard would need to submit a formal claim to FICC. Upon review and approval by FICC, the Net Funds Receiver would receive a credit that would be processed in the funds-only settlement process as a Miscellaneous Adjustment Amount.<sup>27</sup> The debit of the Net Funds Payor would be processed in the same way.

**C. Clarification, Technical Changes and Corrections**

FICC also proposes to make certain clarifying, technical changes, and corrections both to reflect the changes proposed in this Advance Notice and to revise certain aspects of the Rules that FICC has determined to be inaccurate or incorrect as related to the GCF Repo Service. These changes include adding particular parentheticals, changes to titles of sections, corrections to refer to the title of the Fedwire Securities Service, updating references and descriptions, adding new defined terms, and updating certain defined terms. These changes are described in detail in the Notice of Filing.<sup>28</sup>

**II. DISCUSSION AND COMMISSION FINDINGS**

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, the stated purpose of the Clearing Supervision Act is instructive: to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for SIFMUs and strengthening the liquidity of SIFMUs.<sup>29</sup>

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<sup>27</sup> Id.

<sup>28</sup> Notice of Filing, supra note 4 at 47622.

<sup>29</sup> See 12 U.S.C. 5461(b).

Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe regulations containing risk management standards for the payment, clearing, and settlement activities of designated clearing entities engaged in designated activities for which the Commission is the supervisory agency.<sup>30</sup> Section 805(b) of the Clearing Supervision Act provides the following objectives and principles for the Commission’s risk management standards prescribed under Section 805(a):<sup>31</sup>

- to promote robust risk management;
- to promote safety and soundness;
- to reduce systemic risks; and
- to support the stability of the broader financial system.

Section 805(c) provides, in addition, that the Commission’s risk management standards may address such areas as risk management and default policies and procedures, among others areas.<sup>32</sup>

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act and Section 17A of the Exchange Act (the “Clearing Agency Rules”).<sup>33</sup> The Clearing Agency Rules require, among other things, each

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<sup>30</sup> 12 U.S.C. 5464(a)(2).

<sup>31</sup> 12 U.S.C. 5464(b).

<sup>32</sup> 12 U.S.C. 5464(c).

<sup>33</sup> 17 CFR 240.17Ad-22. See Securities Exchange Act Release No. 68080 (October 22, 2012), 77 Fed. Reg. 66220 (November 2, 2012) (S7-08-11). See also Securities Exchange Act Release No. 78961 (September 28, 2016), 81 Fed. Reg. 70786 (October 13, 2016) (S7-03-14) (“Covered Clearing Agency Standards”). The Commission established an effective date of December 12, 2016 and a compliance date of April 11, 2017 for the Covered Clearing Agency Standards. FICC is a “covered clearing agency” as defined in Rule 17Ad-22(a)(5).

covered clearing agency to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for its operations and risk management practices on an ongoing basis.<sup>34</sup> As such, it is appropriate for the Commission to review advance notices against the Clearing Agency Rules and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act. As discussed below, the Commission believes the proposal in the Advance Notice is consistent with the objectives and principles described in Section 805(b) of the Clearing Supervision Act,<sup>35</sup> and in the Clearing Agency Rules, in particular Rule 17Ad-22(e)(7).<sup>36</sup>

**A. Consistency with Section 805(b) of the Clearing Supervision Act**

For the reasons discussed immediately below, the Commission believes that the Advance Notice is consistent with the stated objectives and principles of Section 805(b) of the Clearing Supervision Act.

1. New Deadlines and Late Fees for Satisfaction of Obligations in GCF Repo and CCIT Transactions

FICC has represented that Netting Members generally meet their securities delivery obligations by the current 4:30 p.m. securities allocation deadline. However, according to FICC, because of the interconnectivity between the GCF Repo market within FICC and the tri-party repo market outside of FICC, in which obligations to deliver securities collateral typically occur after collateral allocations at FICC, the

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<sup>34</sup> 17 CFR 240.17Ad-22.

<sup>35</sup> 12 U.S.C. 5464(b).

<sup>36</sup> 17 CFR 240.17Ad-22(e)(7).

securities collateral that is used to settle GCF Repo positions may subsequently be used by Netting Members to complete tri-party repo transactions. Therefore, settling GCF Repo Service transactions earlier in the day reduces the likelihood that an operational issue may result in a failed or incomplete tri-party repo transaction outside of FICC. When a Netting Member depends on the proceeds from the GCF Repo Service transaction to satisfy its cash obligations in its tri-party repo transactions outside of FICC, the Netting Member could default on its obligations and transmit losses to other market participants. Accordingly, the Commission believes that these measures would be consistent with reducing systemic risks and supporting the stability of the broader financial market by requiring GCF Repo obligations to be satisfied earlier in the day and thus helping to reduce the potential operational risk of incomplete tri-party repo transactions outside of FICC.

Additionally, the Commission believes that the proposed new deadlines (i.e., 4:30 p.m. for securities delivery obligations, and 4:30 p.m., or one hour after the close of the Fedwire Securities Service, whichever is later, for cash delivery obligations), as well as the associated late fees, should lower the potential operational risk that could arise from delayed GCF Repo settlements and should help FICC manage the risk of delayed settlement. The Commission believes that these measures should incentivize Netting Members and CCIT Members to meet their cash delivery obligations on a timely basis, which, in turn, should help FICC reduce its overall settlement risk. As such, the Commission believes that the proposed deadlines and late fees would be consistent with promoting robust risk management and safety and soundness.

## 2. Proposed Process to Provide Liquidity

The Commission believes that the proposed changes to establish a process for FICC to access liquidity in situations where a Member with a cash delivery obligation in GCF Repo/CCIT activity, that is otherwise in good standing, is either (1) delayed in satisfying its cash delivery obligation or (2) unable to satisfy, in whole or in part, such obligation, should help FICC to better manage its liquidity risk and to mitigate the related settlement risk. Specifically, the Commission believes that establishing a process for FICC to access liquidity in these particular circumstances is designed to provide FICC with additional sources of liquidity and, therefore, an improved ability to manage its liquidity risk in the event that a Netting Member cannot meet its cash delivery obligations. As such, the Commission believes that this proposed process is consistent with promoting robust risk management and safety and soundness.

In addition, the proposed process for FICC to access liquidity in these particular circumstances should help decrease the risk of unsettled obligations and belated settlement due to a lack of liquidity and, therefore, minimize the potential impact that a sudden liquidity demand could have on FICC and its Members. As such, the Commission believes that these changes are consistent with reducing systemic risk and supporting the stability of the broader financial system by aiming to avoid potential market disruption that could occur if FICC cannot settle.

## 3. Clarification, Technical Changes and Corrections

The Commission believes that the proposed clarifications, technical changes, and corrections are consistent with promoting safety and soundness. The changes are designed to provide clear and coherent Rules regarding GCF Repo transactions for

Netting Members and CCIT Members. The Commission believes that clear and coherent Rules would help enhance the ability of FICC and its Netting Members and CCIT Members to more effectively plan for, manage, and address the risks related to GCF Repo and CCIT transactions. As such, the Commission believes that the conforming and technical changes are designed to promote both robust risk management and safety and soundness.

Accordingly, and for the reasons stated above, the Commission believes the changes proposed in the Advance Notice are consistent with Section 805(b) of the Clearing Supervision Act.<sup>37</sup>

**B. Consistency with Rule 17Ad-22(e)(7)(i)**

Rule 17Ad-22(e)(7) requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity. Specifically, Rule 17Ad-22(e)(7)(i) requires policies and procedures for maintaining sufficient liquid resources at the minimum in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the

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<sup>37</sup> 12 U.S.C. 5464(b).

largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions.<sup>38</sup>

As described above, the proposed process for FICC to access liquidity in the event that Netting Members will be delayed in satisfying or cannot satisfy their cash delivery obligations is designed to help ensure that FICC has sufficient liquid resources available in such circumstances. Moreover, for any outstanding liquidity obligations after the utilization of EOD Clearing Fund cash and/or overnight financing with the GCF Clearing Agent Bank, any transactions pursuant to the GCF Repo Allocation Waterfall MRA would be sized based on the actual liquidity need presented in a particular situation, which would help FICC maintain sufficient liquid resources to settle the cash delivery obligations of a Netting Member. Therefore, the Commission believes that adoption of the proposed changes is consistent with Rule 17Ad-22(e)(7)(i).<sup>39</sup>

**C. Consistency with Rule 17Ad-22(e)(7)(ii)**

Rule 17Ad-22(e)(7)(ii) requires policies and procedures for holding qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under 17Ad-22(e)(7)(i) in each relevant currency for which the covered clearing agency has payment obligations owed to clearing members.<sup>40</sup> Rule 17Ad-22(a)(14) defines qualifying liquid resources to include, among other things, assets that are readily available and convertible into cash through prearranged funding arrangements, such as

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<sup>38</sup> 17 CFR 240.17Ad-22(e)(7)(i).

<sup>39</sup> Id.

<sup>40</sup> 17 CFR 240.17Ad-22(e)(7)(ii).



committed arrangements without material adverse change provisions, including repurchase agreements.<sup>41</sup>

As described above, the proposed process for FICC to access liquidity in the event that Netting Members will be delayed in satisfying or cannot satisfy their cash delivery obligations includes, in part, the GCF Repo Allocation Waterfall MRA. This agreement would be a committed arrangement that is a repurchase agreement and all transactions entered into pursuant to the GCF Repo Allocation Waterfall MRA are designed to be readily available to meet the cash delivery obligations owed to Netting Members. This arrangement therefore constitutes a qualifying liquid resource, as defined in Rule 17Ad-22(a)(14), and the Commission believes, therefore, that adoption of the proposed changes is consistent with Rule 17Ad-22(e)(7)(ii).<sup>42</sup>

**D. Consistency with Rule 17Ad-22(e)(7)(viii)**

Rule 17Ad-22(e)(7)(viii) requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, addressing foreseeable liquidity shortfalls that would not be covered by the covered clearing agency's liquid resources and seek to avoid unwinding, revoking, or delaying the same-day settlement of payment obligations.<sup>43</sup>

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<sup>41</sup> 17 CFR 240.17Ad-22(a)(14).

<sup>42</sup> 17 CFR 240.17Ad-22(e)(7)(ii).

<sup>43</sup> 17 CFR 240.17Ad-22(e)(7)(viii).

The proposed process for FICC to access liquidity when Netting Members are delayed in satisfying or cannot satisfy their cash delivery obligations provides FICC with a process to address liquidity shortfalls which may arise in such circumstances and allow FICC to complete settlement on a timely basis. Therefore, this proposed process should help to avoid unwinding, revoking, or delaying same-day settlement obligations. The Commission believes, therefore, that adoption of the proposed changes are consistent with Rule 17Ad-22(e)(7)(viii).<sup>44</sup>

### III. CONCLUSION

IT IS THEREFORE NOTICED, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission DOES NOT OBJECT to Advance Notice (SR-FICC-2019-801) and that FICC is AUTHORIZED to implement the proposed change as of the date of this notice or the date of an order by the Commission approving proposed rule change SR-FICC-2019-004, whichever is later.

By the Commission.

Jill M. Peterson  
Assistant Secretary

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<sup>44</sup> Id.