

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 2021 - \* 008

Amendment No. (req. for Amendments \*)

Filing by Fixed Income Clearing Corporation

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

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input checked="" type="checkbox"/> 19b-4(f)(4)
<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) \*

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Section 806(e)(2) \*

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Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) \*

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Exhibit 2 Sent As Paper Document

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Exhibit 3 Sent As Paper Document

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### Description

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

Make Certain Revisions and Clarifications to the Rules

### 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 \* [REDACTED] Last Name \* [REDACTED]

Title \* [REDACTED]

E-mail \* RuleFilingAdmin@dtcc.com

Telephone \* [REDACTED] Fax [REDACTED]

### Signature

Pursuant to the requirements of the Securities Exchange of 1934, Fixed Income Clearing Corporation has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 11/15/2021

(Title \*)

By [REDACTED]

[REDACTED]

(Name \*)

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

Date: 2021.11.15  
11:44:25 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

Add Remove View

Narrative (FICC) - Membership Agreee

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 \***

Add Remove View

Exh 1A (FICC) - Membership Agreeem

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 Advanced Notice by Clearing Agencies \***

Add Remove View

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

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

Add Remove View

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.

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Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

Add Remove View

Exh 3 (FICC) (Redacted) - Membershi

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.

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Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

Add Remove View

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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Exh 5 (FICC) - Membership Agreeemer

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**

Add Remove View

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 change of Fixed Income Clearing Corporation (“FICC”) is annexed hereto as Exhibit 5 and consists of modifications to the FICC Government Securities Division (“GSD”) Rulebook (“GSD Rules”), the FICC Mortgage-Backed Securities Division (“MBSD”) Clearing Rules (“MBSD Rules”) and the FICC MBSD EPN Rules (“EPN Rules,” and together with the GSD Rules and the MBSD Rules, the “Rules”) to (1) incorporate in the Rules the affirmative undertakings that Members currently make in onboarding membership agreements; (2) incorporate into the Rules the governing law of agreements and other documents provided to FICC pursuant to the Rules; (3) clarify FICC’s ability to rely on electronic signatures on agreements and other documents provided to FICC pursuant to the Rules; and (4) clarify in the GSD Rules and MBSD Rules that Members shall appoint a duly authorized representative in connection with their membership, and remove the requirement that FICC approve the form of power of attorney or resolutions of the Member’s board of directors that evidences such authorization, as described in greater detail below.<sup>1</sup>

(b) Not applicable.

(c) Not applicable.

## **2. Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by the Deputy General Counsel of FICC on November 10, 2021 pursuant to delegated authority from FICC’s Board of Directors.

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

### **(a) Purpose**

FICC is proposing amendments that would clarify, simplify and improve the disclosures in the Rules, primarily related to onboarding and other membership documentation between FICC and its Members. FICC, along with its affiliates, The Depository Trust Company and National Securities Clearing Corporation, has recently completed a review of the templates of onboarding agreements and other documents that are provided to FICC in connection with a firm’s application for membership and the templates of agreements and documents Members may provide to FICC during the course of their membership pursuant to the Rules. In connection with this review, FICC is proposing to make certain revisions and clarifications to the Rules.

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<sup>1</sup> Capitalized terms not defined herein are defined in the GSD Rules, MBSD Rules and EPN Rules, as applicable, available at <https://www.dtcc.com/legal/rules-and-procedures>. GSD and MBSD have several membership categories. For ease of description, unless otherwise indicated by the context, the term “Member” is used to refer to all membership categories.

More specifically, the proposed rule changes would (1) incorporate in the Rules the affirmative undertakings that Members currently make in onboarding membership agreements; (2) incorporate into the Rules the governing law of agreements and other documents provided to FICC pursuant to the Rules; (3) clarify FICC's ability to rely on electronic signatures on agreements and other documents provided to FICC pursuant to the Rules; and (4) clarify in the GSD Rules and MBSD Rules that Members shall appoint a duly authorized representative in connection with their membership, and remove the requirement that FICC approve the form of power of attorney or resolutions of the Member's board of directors that evidences such authorization, as described in greater detail below.

*Proposed Revisions to Incorporate Member Undertakings into the Rules*

FICC is proposing to revise GSD Rules 2A, 3A and 4(d), MBSD Rules 2A and 3, and EPN Rule 1 of Article III, to incorporate affirmative undertakings that Members currently make in their onboarding membership agreements.<sup>2</sup> Each of these Rules currently provide that an applicant for membership with FICC shall sign and deliver to FICC an agreement under which the applicant would agree to the affirmative undertakings that are listed in those Rules. These undertakings include, for example, to abide by the Rules and be bound by all the provisions thereof, and to pay any amounts that become payable by the Member to FICC pursuant to the Rules.<sup>3</sup>

To simplify and standardize the membership onboarding documentation, FICC is proposing to revise each of the Rules that includes these undertakings to state directly that Members agree to the undertakings listed in that Rule. In connection with this proposed change, FICC would remove these undertakings from the template membership agreements, which already provide that Members are bound by the Rules.

*Proposed Revisions to Rules Regarding Governing Law*

FICC is proposing to revise GSD Rule 38, MBSD Rule 29 and EPN Rule 9 of Article V, each of which currently state that the Rules are governed by New York law.<sup>4</sup> The proposed change would revise these Rules to include a statement that all agreements and other documents that are entered into between FICC and its Members are also governed by New York law, unless otherwise expressly provided. Currently, agreements and other documents entered into between FICC and its Members either include a governing law provision or are governed by New York law through the application of both (i) GSD Rule 38, MBSD Rule 29 and EPN Rule 9 of Article V, which provide that the rights and obligations under the Rules are governed by New York law, and (ii) the FICC membership agreements, which provide that the Rules (including the Rules

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<sup>2</sup> See Section 7 of GSD Rule 2A, Section 4 of GSD Rule 3A and Section 13 of GSD Rule 4(d); Section 5 of MBSD Rule 2A and MBSD Rule 3(A)(d)(i); and Section 3 of EPN Rule 1 of Article III (All references to "Articles" herein shall be referring to Articles of the EPN Rules.); id.

<sup>3</sup> Id.

<sup>4</sup> Id.

referenced in this paragraph) govern the matters and transactions between FICC and its Members.

This proposed change would both clarify the governing law of the agreements and other documents entered into between FICC and its Members pursuant to the Rules, and would allow FICC to simplify those documents by removing the governing law provisions in such documents.

*Proposed Revisions to Rules Regarding FICC's Reliance on Electronic Signatures*

FICC is proposing to revise GSD Rule 32, MBSD Rule 24 and EPN Rule 15 of Article V, each of which currently lists the circumstances in which FICC would rely on an electronic signature.<sup>5</sup> The proposed revisions to these Rules would clarify that FICC may rely on an electronic signature with respect to any and all agreements and other documents delivered pursuant to the Rules. FICC would also remove reference to the circumstances in which it would accept an electronic signature, to make clear that FICC would do so in any circumstances. The proposed revisions would clarify and modernize the language in these Rules, which still refer to outdated modes of electronic communication, such as telex, and would align the language in this Rule to language used in the New York Electronic Signatures and Records Act.<sup>6</sup>

*Proposed Revisions to Requirements Related to Members' Authorized Representatives*

FICC is proposing to revise Section 1 of GSD Rule 40 and Section 1 of MBSD Rule 31, which describe Members' requirement to appoint an authorized representative in connection with their membership with FICC.<sup>7</sup> Currently, these Rules provide that a Member may designate an authorized representative that is not either a general partner or an officer of the Member by either a power of attorney or resolutions of the Member's board of directors, and requires such power of attorney and resolutions be in a form approved by FICC.<sup>8</sup> These Rules also require Members to provide FICC with the signatures of individuals who are authorized representatives for purposes of conducting business with FICC.<sup>9</sup>

In order to simplify the onboarding membership requirements, FICC is proposing to amend these Rules to clarify that Members must appoint a duly authorized representative, and to remove references to a power of attorney or resolutions of the Member's board of directors. The proposed change would also remove the requirement that FICC approve the form of power of attorney or resolutions of the Member's board of directors that evidences the due authorization of

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<sup>5</sup> Id.

<sup>6</sup> N.Y. State Tech. Law § 304(2) (McKinney 2021).

<sup>7</sup> Supra note 1.

<sup>8</sup> Id.

<sup>9</sup> Id.

that representative. Finally, FICC is proposing to remove the requirement that Members provide FICC with the signatures of representatives who are authorized to conduct business with FICC.<sup>10</sup>

(b) Statutory Basis

Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (“Act”) requires that the rules of FICC be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions.<sup>11</sup> FICC believes the proposed changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act because such changes would clarify and improve the transparency of the Rules and would allow FICC to simplify the membership agreements and other documentation provided to it by Members pursuant to the Rules.

More specifically, the proposed changes would make clarifications to the Rules regarding (i) FICC’s ability to rely on electronic signatures on agreements and other documents provided to it pursuant to the Rules; and (ii) Members’ duly authorized representatives in connection with their memberships. The proposed changes would also update the Rules in order to allow FICC to simplify the onboarding and other membership agreements and documents by incorporating in the Rules (1) the governing law of agreements and other documents provided to FICC pursuant to the Rules; and (2) the affirmative undertakings that Members currently make in onboarding membership agreements.

By enhancing the clarity and transparency of the Rules, and allowing FICC to simplify the membership agreements and other documents, the proposed changes would allow Members to more efficiently and effectively conduct their business in accordance with the Rules, which FICC believes would promote the prompt and accurate clearance and settlement of securities transactions. As such, FICC believes that the proposed changes would be consistent with Section 17A(b)(3)(F) of the Act.<sup>12</sup>

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

FICC does not believe the proposed rule changes would impact competition. The proposed rule changes would merely enhance the clarity and transparency of the Rules and would simplify the documentation that is provided to FICC by Members pursuant to the Rules. Therefore, the proposed changes would not affect FICC’s operations or the rights and obligations of membership. As such, FICC believes the proposed rule changes would not have any impact on competition.

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<sup>10</sup> Id.

<sup>11</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>12</sup> Id.

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

FICC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Securities and Exchange Commission ("Commission") does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at <https://www.sec.gov/regulatory-actions/how-to-submit-comments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at [tradingandmarkets@sec.gov](mailto:tradingandmarkets@sec.gov) or 202-551-5777.

FICC reserves the right to not respond to any comments received.

## **6. Extension of Time Period for Commission Action**

Not applicable.

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

(a) The proposed rule change is to take effect immediately upon filing pursuant to paragraph (A) of Section 19(b)(3) of the Act.<sup>13</sup>

(b) The proposed rule change effects a change in an existing service of FICC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of FICC or for which it is responsible and (B) does not significantly affect the respective rights or obligations of FICC or Members<sup>14</sup> because the proposed rule change would not affect the rights or obligations of the Members or FICC other than establishing when the rule changes described above would begin to impact the Members.

(c) Not applicable.

(d) Not applicable.

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(4).

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

Not applicable.

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

Not applicable.

**10. Advance Notice Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act of 2010**

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 3a – Revised Templates of GSD Membership Agreements. *Omitted and filed separately with the Commission. Confidential treatment of this Exhibit 3a pursuant to 17 CFR 240.24b-2 is being requested.*

Exhibit 3b – Revised Templates of MBSD Membership Agreements. *Omitted and filed separately with the Commission. Confidential treatment of this Exhibit 3b pursuant to 17 CFR 240.24b-2 is being requested.*

Exhibit 4 – Not applicable.

Exhibit 5 – Proposed changes to the Rules.

**EXHIBIT 1A**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-[\_\_\_\_]; File No. SR-FICC-2021-008)

[DATE]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Make Certain Revisions and Clarifications to the Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November \_\_, 2021, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(4) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to the FICC Government Securities Division (“GSD”) Rulebook (“GSD Rules”), the FICC Mortgage-Backed Securities Division (“MBSD”) Clearing Rules (“MBSD Rules”) and the FICC MBSD EPN Rules (“EPN Rules,” and together with the GSD Rules and the MBSD Rules, the

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(4).

“Rules”) to (1) incorporate in the Rules the affirmative undertakings that Members currently make in onboarding membership agreements; (2) incorporate into the Rules the governing law of agreements and other documents provided to FICC pursuant to the Rules; (3) clarify FICC’s ability to rely on electronic signatures on agreements and other documents provided to FICC pursuant to the Rules; and (4) clarify in the GSD Rules and MBSD Rules that Members shall appoint a duly authorized representative in connection with their membership, and remove the requirement that FICC approve the form of power of attorney or resolutions of the Member’s board of directors that evidences such authorization, as described in greater detail below.<sup>5</sup>

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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<sup>5</sup> Capitalized terms not defined herein are defined in the GSD Rules, MBSD Rules and EPN Rules, as applicable, available at <https://www.dtcc.com/legal/rules-and-procedures>. GSD and MBSD have several membership categories. For ease of description, unless otherwise indicated by the context, the term “Member” is used to refer to all membership categories.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FICC is proposing amendments that would clarify, simplify and improve the disclosures in the Rules, primarily related to onboarding and other membership documentation between FICC and its Members. FICC, along with its affiliates, The Depository Trust Company and National Securities Clearing Corporation, has recently completed a review of the templates of onboarding agreements and other documents that are provided to FICC in connection with a firm's application for membership and the templates of agreements and documents Members may provide to FICC during the course of their membership pursuant to the Rules. In connection with this review, FICC is proposing to make certain revisions and clarifications to the Rules.

More specifically, the proposed rule changes would (1) incorporate in the Rules the affirmative undertakings that Members currently make in onboarding membership agreements; (2) incorporate into the Rules the governing law of agreements and other documents provided to FICC pursuant to the Rules; (3) clarify FICC's ability to rely on electronic signatures on agreements and other documents provided to FICC pursuant to the Rules; and (4) clarify in the GSD Rules and MBSD Rules that Members shall appoint a duly authorized representative in connection with their membership, and remove the requirement that FICC approve the form of power of attorney or resolutions of the Member's board of directors that evidences such authorization, as described in greater detail below.

*Proposed Revisions to Incorporate Member Undertakings into the Rules*

FICC is proposing to revise GSD Rules 2A, 3A and 4(d), MBSD Rules 2A and 3, and EPN Rule 1 of Article III, to incorporate affirmative undertakings that Members currently make in their onboarding membership agreements.<sup>6</sup> Each of these Rules currently provide that an applicant for membership with FICC shall sign and deliver to FICC an agreement under which the applicant would agree to the affirmative undertakings that are listed in those Rules. These undertakings include, for example, to abide by the Rules and be bound by all the provisions thereof, and to pay any amounts that become payable by the Member to FICC pursuant to the Rules.<sup>7</sup>

To simplify and standardize the membership onboarding documentation, FICC is proposing to revise each of the Rules that includes these undertakings to state directly that Members agree to the undertakings listed in that Rule. In connection with this proposed change, FICC would remove these undertakings from the template membership agreements, which already provide that Members are bound by the Rules.

*Proposed Revisions to Rules Regarding Governing Law*

FICC is proposing to revise GSD Rule 38, MBSD Rule 29 and EPN Rule 9 of Article V, each of which currently state that the Rules are governed by New York law.<sup>8</sup> The proposed change would revise these Rules to include a statement that all agreements and other documents that are entered into between FICC and its Members are also

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<sup>6</sup> See Section 7 of GSD Rule 2A, Section 4 of GSD Rule 3A and Section 13 of GSD Rule 4(d); Section 5 of MBSD Rule 2A and MBSD Rule 3(A)(d)(i); and Section 3 of EPN Rule 1 of Article III (All references to “Articles” herein shall be referring to Articles of the EPN Rules.); id.

<sup>7</sup> Id.

<sup>8</sup> Id.

governed by New York law, unless otherwise expressly provided. Currently, agreements and other documents entered into between FICC and its Members either include a governing law provision or are governed by New York law through the application of both (i) GSD Rule 38, MBSD Rule 29 and EPN Rule 9 of Article V, which provide that the rights and obligations under the Rules are governed by New York law, and (ii) the FICC membership agreements, which provide that the Rules (including the Rules referenced in this paragraph) govern the matters and transactions between FICC and its Members.

This proposed change would both clarify the governing law of the agreements and other documents entered into between FICC and its Members pursuant to the Rules, and would allow FICC to simplify those documents by removing the governing law provisions in such documents.

*Proposed Revisions to Rules Regarding FICC's Reliance on Electronic Signatures*

FICC is proposing to revise GSD Rule 32, MBSD Rule 24 and EPN Rule 15 of Article V, each of which currently lists the circumstances in which FICC would rely on an electronic signature.<sup>9</sup> The proposed revisions to these Rules would clarify that FICC may rely on an electronic signature with respect to any and all agreements and other documents delivered pursuant to the Rules. FICC would also remove reference to the circumstances in which it would accept an electronic signature, to make clear that FICC would do so in any circumstances. The proposed revisions would clarify and modernize the language in these Rules, which still refer to outdated modes of electronic

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<sup>9</sup> Id.

communication, such as telex, and would align the language in this Rule to language used in the New York Electronic Signatures and Records Act.<sup>10</sup>

*Proposed Revisions to Requirements Related to Members' Authorized Representatives*

FICC is proposing to revise Section 1 of GSD Rule 40 and Section 1 of MBSD Rule 31, which describe Members' requirement to appoint an authorized representative in connection with their membership with FICC.<sup>11</sup> Currently, these Rules provide that a Member may designate an authorized representative that is not either a general partner or an officer of the Member by either a power of attorney or resolutions of the Member's board of directors, and requires such power of attorney and resolutions be in a form approved by FICC.<sup>12</sup> These Rules also require Members to provide FICC with the signatures of individuals who are authorized representatives for purposes of conducting business with FICC.<sup>13</sup>

In order to simplify the onboarding membership requirements, FICC is proposing to amend these Rules to clarify that Members must appoint a duly authorized representative, and to remove references to a power of attorney or resolutions of the Member's board of directors. The proposed change would also remove the requirement that FICC approve the form of power of attorney or resolutions of the Member's board of directors that evidences the due authorization of that representative. Finally, FICC is

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<sup>10</sup> N.Y. State Tech. Law § 304(2) (McKinney 2021).

<sup>11</sup> Supra note 5.

<sup>12</sup> Id.

<sup>13</sup> Id.

proposing to remove the requirement that Members provide FICC with the signatures of representatives who are authorized to conduct business with FICC.<sup>14</sup>

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires that the rules of FICC be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions.<sup>15</sup> FICC believes the proposed changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act because such changes would clarify and improve the transparency of the Rules and would allow FICC to simplify the membership agreements and other documentation provided to it by Members pursuant to the Rules.

More specifically, the proposed changes would make clarifications to the Rules regarding (i) FICC's ability to rely on electronic signatures on agreements and other documents provided to it pursuant to the Rules; and (ii) Members' duly authorized representatives in connection with their memberships. The proposed changes would also update the Rules in order to allow FICC to simplify the onboarding and other membership agreements and documents by incorporating in the Rules (1) the governing law of agreements and other documents provided to FICC pursuant to the Rules; and (2) the affirmative undertakings that Members currently make in onboarding membership agreements.

By enhancing the clarity and transparency of the Rules, and allowing FICC to simplify the membership agreements and other documents, the proposed changes would

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<sup>14</sup> Id.

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

allow Members to more efficiently and effectively conduct their business in accordance with the Rules, which FICC believes would promote the prompt and accurate clearance and settlement of securities transactions. As such, FICC believes that the proposed changes would be consistent with Section 17A(b)(3)(F) of the Act.<sup>16</sup>

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe the proposed rule changes would impact competition. The proposed rule changes would merely enhance the clarity and transparency of the Rules and would simplify the documentation that is provided to FICC by Members pursuant to the Rules. Therefore, the proposed changes would not affect FICC's operations or the rights and obligations of membership. As such, FICC believes the proposed rule changes would not have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

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<sup>16</sup> Id.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at <https://www.sec.gov/regulatory-actions/how-to-submit-comments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at [tradingandmarkets@sec.gov](mailto:tradingandmarkets@sec.gov) or 202-551-5777.

FICC reserves the right to not respond to any comments received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>17</sup> of the Act and paragraph (f)<sup>18</sup> of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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

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<sup>17</sup> 15 U.S.C 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FICC-2021-008 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FICC-2021-008. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FICC-2021-008 and

should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

Secretary

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<sup>19</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 3a**

**Revised Templates of GSD Membership Agreements**

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**EXHIBIT 3b**

**Revised Templates of MBSD Membership Agreements**

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**EXHIBIT 5**

**Bold and underlined text** indicates proposed added language

**~~Bold and strikethrough text~~** indicates proposed deleted language

**FIXED INCOME CLEARING CORPORATION  
GOVERNMENT SECURITIES DIVISION RULEBOOK**

## RULE 2A – INITIAL MEMBERSHIP REQUIREMENTS

\* \* \*

### Section 7 Membership Agreement

Each ~~applicant to become a~~ Member ~~shall sign and deliver to the Corporation a Membership Agreement whereby the applicant shall agree~~:

- (a) to abide by these Rules ~~of the Corporation~~ and to be bound by all the provisions thereof;
- (b) to pay to the Corporation in a timely manner the compensation provided for by these Rules ~~of the Corporation~~ for services rendered and such costs and fines as may be imposed in accordance with ~~such these~~ Rules ~~of the Corporation~~ for the failure to comply therewith;
- (c) to be bound by any amendment to these Rules ~~of the Corporation~~ with respect to any transaction occurring subsequent to the time such amendment takes effect as fully as though such amendment were now a part of these Rules ~~of the Corporation~~;
- (d) to continue to be bound by these Rules ~~of the Corporation~~, notwithstanding that it may have terminated its membership, as to all matters and transactions occurring while it was a Member;
- (e) if it is ~~applying to become~~ a Netting Member, to: (i) submit to the Corporation for comparison, pursuant to Rule 5, data on all of its eligible trades with other Netting Members, (ii) deliver to the Corporation or receive from the Corporation the securities underlying all trades that have been reported as being netted and all monies related thereto, in accordance with these Rules ~~of the Corporation~~, and (iii) pay or deliver to the Corporation in a timely manner all amounts due pursuant to Rule 4 with regard to its Required Fund Deposit and any loss or liability allocated to it;
- (f) that the determination of the Board as to any questions arising with regard to any payment, charge, fee, deposit, or fine to which it may be subject shall be final and conclusive, except as may be otherwise provided in these Rules; and
- (g) to any other terms and conditions deemed by the Corporation to be necessary in order to protect itself and its Members, including, for a Foreign Member, all agreements, opinions of counsel, and other legal documentation required by the Corporation.

\* \* \*

## RULE 3B – CENTRALLY CLEARED INSTITUTIONAL TRIPARTY SERVICE

\* \* \*

### Section 4 – Membership Agreement

Each ~~applicant to become a~~ CCIT Member ~~shall sign and deliver to the Corporation a membership agreement whereby the applicant shall agree, as applicable:~~

(a) to abide by these Rules ~~of the Corporation~~ and to be bound by all the provisions thereof;

(b) to pay to the Corporation in a timely manner the compensation provided for by these Rules ~~of the Corporation~~ for services rendered and such costs and fines as may be imposed in accordance with ~~such these~~ Rules ~~of the Corporation~~ for the failure to comply therewith;

(c) to be bound by any amendment to these Rules ~~of the Corporation~~ with respect to any transaction occurring subsequent to the time such amendment takes effect as fully as though such amendment were now a part of these Rules ~~of the Corporation~~;

(d) to continue to be bound by these Rules ~~of the Corporation~~, notwithstanding that it may have terminated its membership, as to all matters and transactions occurring while it was a CCIT Member;

(e) to fulfill its settlement obligations to the Corporation in accordance with these Rules ~~of the Corporation~~ and pay or deliver to the Corporation in a timely manner all amounts due and any loss or liability allocated to it pursuant to these Rules ~~of the Corporation~~;

(f) that the determination of the Board as to any questions arising with regard to any payment, charge, fee, deposit, or fine to which it may be subject shall be final and conclusive, except as may be otherwise provided in these Rules;

(g) if the ~~applicant~~ CCIT Member is represented at any time by a Joint Account Submitter and is participating through a Joint Account, (i) to cause the Joint Account Submitter to fulfill all obligations of a Joint Account Submitter under these Rules, (ii) that the failure of the Joint Account Submitter to fulfill the requirements of the CCIT Member and/or the Joint Account under these Rules shall not excuse such CCIT Member's obligations to the Corporation pursuant to the Rules and (iii) that the Joint Account may be liable for the failure of the Joint Account Submitter to fulfill the obligations of a Joint Account Submitter under these Rules;

(h) if the ~~applicant~~ CCIT Member is represented at any time by a Joint Account Submitter and is participating through a Joint Account, (i) to specify its Joint Account Submitter in advance of such Joint Account Submitter submitting its first trade on behalf of the ~~applicant~~ CCIT Member, (ii) to provide the Corporation with advance notice in writing of a change in its Joint Account Submitter and (iii) to not revoke the authority of its Joint Account Submitter without providing the Corporation with advance written notice; and

(i) to any other terms and conditions deemed by the Corporation to be necessary in order to protect itself and its Members (including CCIT Members), including all agreements, opinions of counsel and other legal documentation required by the Corporation.

Each ~~applicant to become a~~ CCIT Member that plans to participate through a Joint Account must enter into a Joint Account Submitter Agreement with the Corporation.

Each CCIT Member that is represented by a Joint Account Submitter shall only be entitled to and liable for rights and obligations arising under or in connection with CCIT Transactions allocated to such CCIT Member. To the extent a Joint Account or Joint Account Submitter incurs obligations to the Corporation that are unallocated, each CCIT Member represented by such Joint Account Submitter shall only be liable for its pro rata share of such obligations.

The Corporation may terminate a Joint Account Submitter Agreement if: (i) the relevant Joint Account or any CCIT Member that participates in the Joint Account fails to satisfy the requirements applicable to it under these Rules; (ii) the Joint Account Submitter fails to satisfy the requirements of these Rules relating to such Joint Account Submitter; or (iii) the Corporation determines, in its sole discretion, that such action is necessary for the protection of the Corporation or its Members (including CCIT Members).

\* \* \*

## RULE 13 – FUNDS-ONLY SETTLEMENT

\* \* \*

### Section 4 – Funds-Only Settling Bank Members

\* \* \*

(d) Each ~~applicant in (b)(i), (b)(ii), (b)(iii) and (b)(iv)~~ Funds-Only Settling Bank Member ~~shall sign and deliver to the Corporation:~~

(i) ~~a membership agreement whereby the bank or trust company shall agree to:~~

- (1) ~~to~~ abide by these Rules ~~of the Corporation~~ applicable to Funds-Only Settling Bank Members and to be bound by all provisions thereof and that the Corporation shall have all the rights and remedies contemplated by the Rules; and
- (2) ~~to~~ be bound by any amendment to these Rules ~~of the Corporation~~ with respect to any transaction occurring subsequent to such time such amendment takes effect as fully as though such amendment were now a part of these Rules ~~of the Corporation~~.

(ii) shall sign and deliver to the Corporation:

- (1) the “Appointment of Funds-Only Settling Bank and Funds-Only Settling Bank Agreement”;
- ~~(iii)~~(2) the agreement(s) authorizing the Corporation’s Settlement Agent to utilize NSS for funds-only settlement as the relevant FRB may require; and
- ~~(iv)~~(3) a Cybersecurity Confirmation.

\* \* \*

## RULE 32 - SIGNATURES

With respect to any and all agreements and other documents entered into between a Member, Sponsoring Member, Sponsored Member, CCIT Member or Funds-Only Settling Bank Member and the Corporation, or otherwise delivered to or by tThe Corporation pursuant to these Rules, the use of may, at its option, in lieu of relying on an original signature, rely on an electronic signature as if it were (and the signature shall be considered ~~and~~ have the same validity and effect as) ~~a valid and binding original~~ the use of a signature affixed by hand ~~in the following circumstances:~~

~~If such signature is transmitted, recorded or stored by any electronic, optical, or similar means (including but not limited to telecopy, imaging, xeroxing, electronic mail, electronic data interchange, telegram, or telex).~~

\* \* \*

## RULE 38 – GOVERNING LAW AND CAPTIONS

### Section 1 – Governing Law

These Rules, **and all agreements and other documents entered into between a Member, Sponsoring Member, Sponsored Member, CCIT Member or Funds-Only Settling Bank Member and the Corporation, or otherwise delivered to or by the Corporation pursuant to these Rules,** and the rights and obligations **thereunder**~~the Rules~~, shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed and performed therein, **unless otherwise expressly provided.**

### Section 2 – Captions

Captions to any Rules are for information and guidance only, are not part of any Rule and are to be given no consideration in applying or construing any Rules.

\* \* \*

## RULE 40 - GENERAL PROVISIONS

### Section 1

Every Member shall ~~appoint designate~~ a representative of the Member that is duly authorized in the name of and on behalf of the Member to sign all instruments, to correct errors and to perform such other duties as may be required under these Rules and to transact all business requisite in connection with the operations of the Corporation which representative shall be capable of taking such action in a manner consistent with the daily time schedules and other requirements established by or pursuant to these Rules. ~~If the representative of the Member is not a general partner in the Member's or is not an officer of the Member's Corporation, such representative shall, in the case of a firm, be authorized to act by written power of attorney, or in the case of a Corporation, by resolution by the board of directors of such Corporation. Such power of attorney or resolution, as the case may be, shall be in such form approved by the Corporation.~~

~~Members shall file with the Corporation the signatures of the members of their firms or the officers of their Corporations and of the representatives of such firms or Corporations who are authorized to sign checks, agreements, receipts, orders and other papers necessary for conducting business with the Corporation together with the powers of attorney or other instruments giving such authority.~~

Each Member shall be allotted a number which must appear on the face of all forms used by it in connection with the operations of the Corporation.

### Section 2

A Member may appoint one or more persons as its agent(s) with respect to all contracts or transactions compared through or by the Corporation and all matters relating thereto, provided that such appointment has been consented to by the Corporation and is evidenced by such appointments, authorizations, certifications and other agreements in such form as may be required by the Corporation.

### Section 3

The Corporation may, in its discretion, require Members to provide appropriate staff in their offices during specified hours on non-Business Days when such is deemed necessary by the Corporation to insure the integrity of its systems and/or for the protection of the Corporation.

\* \* \*

**FIXED INCOME CLEARING CORPORATION**  
**MORTGAGE-BACKED SECURITIES DIVISION**  
**CLEARING RULES**

RULE 2A – INITIAL MEMBERSHIP REQUIREMENTS

\* \* \*

Section 5 - Member Agreement

Each ~~applicant to become a~~ Clearing Member ~~shall sign and deliver to the Corporation a Member Agreement whereby the applicant shall~~ agrees:

(a) to abide by these Rules ~~of the Corporation~~ and to be bound by all the provisions thereof;

(b) to pay to the Corporation in a timely manner the compensation provided for by these Rules ~~of the Corporation~~ for services rendered and such costs and fines as may be imposed in accordance with ~~such~~ these Rules ~~of the Corporation~~ for the failure to comply therewith;

(c) to be bound by any amendment to these Rules ~~of the Corporation~~ with respect to any Transaction occurring subsequent to the time such amendment takes effect as fully as though such amendment were now a part of these Rules ~~of the Corporation~~;

(d) to continue to be bound by the Rules of the Corporation, notwithstanding that it may have terminated its membership, as to all matters and Transactions occurring while it was a Member;

(e) to deliver to the Corporation or the settlement counterparty, as applicable, or receive from the Corporation or the settlement counterparty, as applicable, the securities underlying all trades that have been reported by the Corporation and all monies related thereto, in accordance with these Rules ~~of the Corporation~~, and pay or deliver to the Corporation in a timely manner all amounts due pursuant to Rule 4 with regard to its Required Fund Deposit and any loss or liability allocated to it;

(f) that the determination of the Board as to any questions arising with regard to any payment, charge, fee, deposit, or fine to which it may be subject shall be final and conclusive, except as may be otherwise provided in these Rules; and

(g) to any other terms and conditions deemed by the Corporation to be necessary in order to protect itself and its Members, including all agreements, opinions of counsel, and legal and other documentation required by the Corporation.

These Rules and the procedures adopted from time to time by the Corporation shall be deemed incorporated in each contract processed through the Corporation. To the extent that the terms contained in any other agreement between Members are inconsistent with the provisions of these Rules or the procedures, these Rules and the Corporation's procedures shall be controlling.

\* \* \*

RULE 3A - CASH SETTLEMENT BANK MEMBERS

\* \* \*

(d) Each ~~applicant in subsections (b)(i) through (b)(iv)~~ Cash Settling Bank Members ~~shall sign and deliver to the Corporation:~~

(i) ~~a membership agreement whereby the bank or trust company shall agree to:~~

(1) to abide by these Rules ~~of the Corporation~~ applicable to Cash Settling Bank Members and to be bound by all provisions thereof and that the Corporation shall have all the rights and remedies contemplated by these Rules; and

(2) to be bound by any amendment to these Rules ~~of the Corporation~~ with respect to any transaction occurring subsequent to such time such amendment takes effect as fully as though such amendment were now a part of these Rules ~~of the Corporation~~.

(ii) shall sign and deliver to the Corporation:

(1) the “Appointment of Cash Settling Bank and Cash Settling Bank Agreement”;

~~(iii)~~(2) the agreement(s) authorizing the Corporation’s Settlement Agent to utilize NSS for cash settlement as the relevant FRB may require; and

~~(iv)~~(3) a Cybersecurity Confirmation.

\* \* \*

RULE 24 - SIGNATURES

With respect to any and all agreements and other documents entered into between a Member and the Corporation, or otherwise delivered to or from t~~The Corporation~~ pursuant to these Rules, the use of may, at its option, in lieu of relying on an original signature, rely on an electronic signature as if it were (and the signature shall be considered and have the same validity and effect as) a valid and binding original the use of a signature affixed by hand in the following circumstances: if such signature is transmitted, recorded or stored by any electronic, optical, or similar means (including but not limited to telecopy, imaging, xeroxing, electronic mail, electronic data interchange, telegram, or telex).

\* \* \*

RULE 29 – GOVERNING LAW AND CAPTIONS

Section 1 – Governing Law

These Rules, **and all agreements and other documents entered into between a Member and the Corporation, or otherwise delivered to or from the Corporation pursuant to these Rules,** and the rights and obligations thereunder~~the Rules~~, shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed and performed therein, **unless otherwise expressly provided.**

Section 2 – Captions

Captions to any Rules are for information and guidance only, are not part of any Rule and are to be given no consideration in applying or construing any Rules.

\* \* \*

RULE 31 - GENERAL PROVISIONS

Section 1

Every Member shall ~~appoint designate~~ a representative of the Member that is duly authorized in the name of and on behalf of the Member to sign all instruments, to correct errors and to perform such other duties as may be required under these Rules and to transact all business requisite in connection with the operations of the Corporation which representative shall be capable of taking such action in a manner consistent with the daily time schedules and other requirements established by or pursuant to these Rules. ~~If the representative of the Member is not a general partner in the Member's Corporation or is not an officer of the Member's corporation, such representative shall, in the case of a firm, be authorized to act by written power of attorney, or in the case of a corporation, by resolution by the board of directors of such corporation. Such power of attorney or resolution, as the case may be, shall be in such form approved by the corporation.~~

~~Members shall file with the Corporation the signatures of the members of their firms or the officers of their corporations and of the representatives of such firms or corporations who are authorized to sign checks, agreements, receipts, orders and other papers necessary for conducting business with the Corporation together with the powers of attorney or other instruments giving such authority.~~

Each Member shall be allotted a number which must appear on the face of all forms used by it in connection with the operations of the Corporation.

\* \* \*

**FIXED INCOME CLEARING CORPORATION**  
**MORTGAGE-BACKED SECURITIES DIVISION**  
**EPN RULES**

## ARTICLE III EPN USERS

### Rule 1. Requirements Applicable to EPN Users

\* \* \*

#### Sec. 3. Agreements of EPN Users

An ~~applicant whose EPN User Profile, submitted for the purpose of becoming an~~ EPN User, ~~has been approved by the Corporation shall agree to sign and deliver to the Corporation an EPN User Agreement whereby it agrees, in addition to such other things as the Corporation may specify:~~

(a) that the only service or system offered by the Corporation that it will utilize as an EPN User is the EPN Service;

(b) that, except to the extent waived by the Corporation, the ~~applicant~~ EPN User shall abide by ~~these~~ EPN Rules and shall be bound by all the provisions thereof, ~~the applicant acknowledging and~~ that the Corporation shall have all of the rights and remedies contemplated by ~~these~~ EPN Rules;

(c) that, except to the extent waived by the Corporation, ~~these~~ EPN Rules shall be a part of the terms and conditions of every contract or Message which the ~~applicant, while an~~ EPN User, may make or have with the Corporation and of every contract or Message into which the ~~applicant, while an~~ EPN User, may enter which relates to the EPN Service;

(d) that, upon becoming an EPN User, the applicant shall utilize the EPN Service for all Messages relating to EPN Eligible Securities, except for those Messages which the Corporation specifically exempts and those Messages which both parties agree not to send through the EPN Service;

(e) that the ~~applicant~~ EPN User shall pay to the Corporation (i) the compensation specified in the fee schedules of the Corporation for services rendered to the ~~applicant while an~~ EPN User, (ii) such fines as may be imposed in accordance with ~~these~~ EPN Rules for the failure of the ~~applicant, while an~~ EPN User, to comply therewith, and (iii) such other amounts as may become payable to the Corporation by the ~~applicant, while an~~ EPN User, under ~~these~~ EPN Rules; and

(f) that the ~~applicant~~ EPN User shall be bound by any amendment to ~~these~~ EPN Rules with respect to any Message occurring subsequent to the time such amendment takes effect as fully as though such amendment were a part of ~~these~~ EPN Rules ~~at the time application is made~~; provided, however, that no such amendment shall affect the ~~applicant's~~ EPN User's right to cease to be an EPN User.

Notwithstanding Section 3(d) of this Rule 1, in the event of an EPN Service system disruption and an extension of the cut-off times for communicating pool allocation information

pursuant to SIFMA Guidelines, EPN Users may be relieved of their obligation to process Messages through the EPN Service until later in the Business Day or the beginning of the next Business Day after the EPN Service system has been recovered.

\* \* \*

ARTICLE V  
MISCELLANEOUS

\* \* \*

**Rule 9. Governing Law and Captions**

Sec. 1.

These EPN Rules, and all agreements and other documents entered into between an EPN User and the Corporation, or otherwise delivered to or from the Corporation pursuant to these EPN Rules, and the rights and obligations thereunder ~~the EPN Rules~~, shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed and performed therein, unless otherwise expressly provided.

Sec. 2.

Captions to any EPN Rules are for information and guidance only, are not part of any EPN Rule and are to be given no consideration in applying or construing any EPN Rules.

\* \* \*

**Rule 15. Signatures**

With respect to any and all agreements and other documents entered into between an EPN User and the Corporation, or otherwise delivered to or by t~~The Corporation~~ pursuant to these EPN Rules, the use of ~~may, at its option, in lieu of relying on an original signature, rely on an electronic signature as if it were (and the signature shall be considered and have the same validity and effect as) a valid and binding original~~ the use of a signature affixed by hand in the following circumstances:

~~If such signature is transmitted, recorded or stored by any electronic, optical, or similar means (including but not limited to telecopy, imaging, xeroxing, electronic mail, electronic data interchange, telegram, or telex).~~

\* \* \*