

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95070; File No. SR-FICC-2022-002)

June 8, 2022

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Granting Approval of Proposed Rule Change to Revise the MBSD Clearing Rules to Move Certain DRC Items (Mark-to-Market Items, Cash Obligation Items and Accrued Principal and Interest) from the Required Fund Deposit Calculation to Cash Settlement, Revise Certain Thresholds and Parameters in the Intraday Mark-to-Market Charge, Establish a New Intraday VaR Charge and Make Certain Other Clarifications

I. INTRODUCTION

On April 8, 2022, the Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR-FICC-2022-002 (“Proposed Rule Change”) pursuant to Section 19(b) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ and Rule 19b-4² thereunder to amend the Mortgage-Backed Securities Division (“MBSD”) Clearing Rules (“MBSD Rules”)³ to (1) move certain items from FICC’s collection of margin (i.e., the Required Fund Deposit) to its cash settlement process, including, specifically, deleting the Deterministic Risk Component (“DRC”) from the Required Fund Deposit calculation, moving certain items currently in the DRC (i.e., Mark-to-Market items, cash obligation items, and accrued principal and interest) to Cash Settlement, and retaining the six days’ interest for Fails item currently in the DRC calculation as a separate part of the Required Fund Deposit; (2) revise the definition of Intraday Mark-to Market Charge to reflect the movement of the DRC items to Cash Settlement and to revise certain thresholds and parameters;

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Capitalized terms not otherwise defined herein are defined in the MBSD Rules, as applicable, available at <http://www.dtcc.com/legal/rules-and-procedures>.

(3) establish a new intraday VaR Charge; and (4) make other clarifying changes in the MBS Rules, as described in more detail below. In addition, it would also make certain conforming changes to the Methodology and Model Operations Document – MBS Quantitative Risk Model⁴ to implement the proposed changes to the MBS Rules.

The Proposed Rule Change was published for public comment in the Federal Register on April 25, 2022.⁵ The Commission received no comments regarding the substance of the Proposed Rule Change.⁶ This order approves the Proposed Rule Change.

II. DESCRIPTION OF THE PROPOSED RULE CHANGE

A. Background

FICC, through MBS, serves as a central counterparty (“CCP”) and provider of clearance and settlement services for the mortgage-backed securities markets. A key tool that FICC uses to manage its respective credit exposures to its members is the daily collection of margin from each member, which is referred to as each member’s Required Fund Deposit. The aggregated amount of all members’ margin constitutes the Clearing Fund, which FICC would access should a defaulted member’s own margin be insufficient to satisfy losses to FICC caused by the liquidation of that member’s portfolio.

⁴ As part of the Proposed Rule Change, FICC filed Exhibit 5B – Methodology and Model Operations Document MBS Quantitative Risk Model. Pursuant to 17 CFR 240.24b-2, FICC requested confidential treatment of Exhibit 5B.

⁵ Securities Exchange Act Release No. 94745 (Apr. 19, 2022), 87 Fed. Reg. 24369 (Apr. 25, 2022) (File No. SR-FICC-2022-002) (“Notice of Filing”).

⁶ The Commission received one comment letter that does not bear on the purpose or legal basis of the Proposed Rule Change. The comment on the Proposed Rule Change is available at <https://www.sec.gov/comments/sr-ficc-2022-002/srficc2022002-20125933-286378.htm>.

Each member's margin consists of a number of applicable components. Specifically, the margin (or Required Fund Deposit) currently consists of the greater of a minimum charge⁷ or the sum of the following components: the VaR Charge,⁸ the DRC (discussed further below), a special charge (to the extent determined to be appropriate, based on market conditions and other financial and operational capabilities of the Member),⁹ and, if applicable, the Backtesting Charge,¹⁰ Holiday Charge,¹¹ Intraday Mark-to-Market Charge,¹² and the Margin Liquidity Adjustment Charge.¹³

⁷ MBSD Rule 1, supra note 3.

⁸ MBSD Rules 1 and 4 section 2(c)(i), supra note 3. The VaR Charge is generally the largest component of the Required Fund Deposit. It is designed to provide an estimate of FICC's projected liquidation losses with respect to a defaulted member's portfolio at a 99 percent confidence level, and it is based on the potential price volatility of unsettled positions using a sensitivity-based Value-at-Risk model. As an alternative to this calculation, FICC also uses a haircut-based calculation as the member's VaR Charge if that charge exceeds the amount determined by the model-based calculation. Fixed Income Clearing Corporation Disclosure Framework for Covered Clearing Agencies and Financial Market Infrastructures ("FICC Disclosure Framework"), at 64, available at https://www.dtcc.com/media/Files/Downloads/legal/policy-and-compliance/FICC_Disclosure_Framework.pdf; see also Exchange Act Release No. 92303 (June 30, 2021), 86 Fed. Reg. 35855 (July 7, 2021).

⁹ MBSD Rule 4, Section 2(c)(iii), supra note 3.

¹⁰ MBSD Rules 1 and 4 section 2(c)(iv), supra note 3. The Backtesting Charge is calculated to mitigate exposures to MBSD caused by settlement risks that may not be adequately captured by MBSD's portfolio volatility model. FICC Disclosure Framework, supra note 8, at 64.

¹¹ The Holiday Charge approximates the exposure that a Clearing Member's trading activity on the applicable holiday could pose to FICC. MBSD Rule 1, supra note 3.

¹² The Intraday Mark-to-Market Charge is an additional charge that is collected to mitigate FICC's exposures that may arise due to intraday changes in the size, composition and constituent security prices of such member's portfolio. MBSD Rule 1, supra note 3.

¹³ The Margin Liquidity Adjustment Charge addresses the risk presented to MBSD when a member's portfolio contains large net unsettled positions in a particular group of

The DRC is designed to bring a member's portfolio of open positions to market value. It reflects mark-to-market results on outstanding positions, regardless of settlement date, cash items and adjustments that are the result of netting, and principal and interest exposure on failed positions.¹⁴ Specifically, this charge is calculated as (i) the Mark-to-Market Debit; minus (ii) the Mark-to-Market Credit; plus (iii) a cash obligation item debit; minus (iv) a cash obligation item credit; plus or minus (v) accrued principal and interest.¹⁵ FICC also includes another parameter, six days' interest for Fails, in the DRC calculation.¹⁶ Currently, when collected as part of a member's Required Fund Deposit, the member may pay a portion of the DRC in Eligible Clearing Fund Securities.¹⁷

Cash settlement is a daily process of generating a net credit or debit cash amount for each Member and settling those cash amounts between Members and MBSD, as applicable.¹⁸ The cash settlement process is a cash pass-through process; i.e., those Members that are in a net debit position are obligated to submit payments that are then used to pay Members in a net credit position.¹⁹

securities with a similar risk profile or in a particular asset type. FICC Disclosure Framework, supra note 8, at 64; MBSD Rule 4, Section 2(c), supra note 3.

¹⁴ FICC Disclosure Framework, supra note 8, at 65.

¹⁵ Id.; see also MBSD Rule 1 (defining DRC) and 4 Section 2(c)(ii).

¹⁶ See Notice of Filing, supra note 5, 87 Fed. Reg. at 24372.

¹⁷ MBSD Rule 4, Section 2, supra note 3.

¹⁸ MBSD Rule 11, supra note 3; FICC Disclosure Framework, supra note 8, at 80.

¹⁹ Id.

B. Move Mark-to-Market related charges from the Required Fund Deposit calculation to Cash Settlement

MBSD calculates, and then collects, its members' margin, including the various components thereof, once per day, at the start of the day, based on a member's prior end-of-day positions.²⁰ As noted above, one of the components of the daily margin is the DRC.²¹ FICC states that this aspect of the margin calculation is designed to mitigate the risk arising out of the value change between the contract/settlement value of a Clearing Member's open positions and the market value at the end of the prior day.²² Thus, when the DRC is calculated, a debit or credit is added to the Required Fund Deposit amount of each Clearing Member, which raises or lowers the amount, respectively.²³

FICC proposes to move all of the mark-to-market components (i.e., the Mark-to-Market Debit and Credit, cash obligation items and the accrued principal and interest) currently in the DRC (except for six days' interest for Fails²⁴) to Cash Settlement. The six days' interest for Fails in the DRC calculations would be added directly to the Required Fund Deposit calculation and not moved to Cash Settlement.

FICC states that while these proposed changes would impact how Clearing Members pay those amounts (i.e., through Cash Settlement rather than as part of the Required Fund Deposit),

²⁰ MBSD Rule 4, Section 2, supra note 3.

²¹ MBSD Rules 1 and 4, Section 2(c)(ii), supra note 3.

²² See Notice of Filing, supra note 5, 87 Fed. Reg. at 24371.

²³ FICC Disclosure Framework, supra note 8, at 65.

²⁴ A Fail is a transaction the clearing of which has not occurred or has not been reported to FICC as having occurred on the Contractual Settlement Date (or expiration date). See MBSD Rule 1, supra note 3.

these changes would not affect the manner in which these items are calculated or the amounts that Clearing Members are paying with respect to these items.²⁵ However, all of the items that are being moved to Cash Settlement would be required to be settled in cash.²⁶ As such, the proposed changes would require that Clearing Members satisfy their DRC obligations in cash as part of Cash Settlement, rather than through a mix of cash and Eligible Clearing Fund Securities as is permitted to satisfy Required Fund Deposit obligations.²⁷ FICC states that these changes would ensure the unrealized gains from mark-to-market changes do not leave the Required Fund Deposit insufficient to cover future exposure.²⁸

C. Revise the Intraday Mark-to-Market Charge Definition to reflect movement of Mark-to-Market charges to Cash Settlement and to revise thresholds and parameters

FICC proposes to modify its definition of “Intraday Mark-to-Market Charge” to reflect the proposed movement of the Mark-to-Market items and related items to Cash Settlement. The Intraday Mark-to-Market Charge is an additional charge that is collected from a member (unless waived or altered by FICC) to mitigate FICC’s exposures that may arise due to intraday changes in the size, composition and constituent security prices of such member’s portfolio.²⁹ As part of the proposal, FICC would amend the definition of the Intraday Mark-to-Market Charge to reflect the movement of the particular items (i.e., the mark-to-market debit and credit, cash obligation

²⁵ See Notice of Filing, supra note 5, 87 Fed. Reg. at 24369-24370.

²⁶ MBSD Rule 11, supra note 3.

²⁷ MBSD Rule 4, Section 2, supra note 3.

²⁸ See Notice of Filing, supra note 5, 87 Fed. Reg. at 24369-24370.

²⁹ MBSD Rule 1, supra note 3.

items, and accrued principal and interest) from the calculation of the margin due from a particular member to the member's cash settlement process.

In addition, FICC proposes to revise and remove certain thresholds set forth in its rules. Currently, the thresholds apply to members that (i) experience an adverse intraday mark-to-market change that equals or exceeds (x) a threshold dollar amount of \$1,000,000, as compared to the member's start-of-day mark-to-market requirement including, if applicable, any subsequently collected mark-to-market amount, and (y) a threshold percentage of 30 percent as compared to the daily VaR Charge, and (ii) have 12-month backtesting coverage below 99 percent.³⁰

As part of this proposal, FICC would identify floors in for the dollar threshold and percentage threshold, instead of the currently provided specific thresholds, and it would also remove the backtesting coverage parameter. FICC currently has the ability to waive these thresholds and the parameter under certain circumstances under the MBSD Rules.³¹ FICC represents that, consistent with this authority, its current practice is to waive or adjust these thresholds and parameter in volatile market conditions.³² As such, according to FICC, the proposed changes to the Intraday Mark-to-Market Charge definition would align the MBSD Rules with FICC's current practice.³³

FICC states that by removing the set percentages, and providing a floor of not less than \$1,000,000 for the Dollar Threshold and not less than 10 percent of the daily VaR Charge for the

³⁰ MBSD Rule 1, supra note 3.

³¹ Id.

³² See Notice of Filing, supra note 5, 87 Fed. Reg. at 24370.

³³ Id.

Percentage Threshold, members would have a better understanding of the thresholds that FICC is using to determine whether to apply the Intraday Mark-to-Market Charge, thereby providing greater transparency and certainty regarding its application.³⁴ Neither the current calculation methodology nor the key components of the Intraday Mark-to-Market Charge would change.³⁵

In addition, the proposed rules would remove the Surveillance Threshold provision. FICC can collect an Intraday Mark-to-Market Charge under certain circumstances in which a member meets a certain Surveillance Threshold.³⁶ FICC represents that it currently does not apply that provision, does not intend to apply that provision in the future, and does not believe it is necessary.³⁷ As such, FICC states that removing the provision would align the MBSD Rules with FICC's current practice.³⁸

D. Establish a Formal VaR Charge

FICC proposes to amend the MBSD Rules to include a formal Intraday VaR Charge.³⁹ FICC currently monitors VaR intraday and periodically requires intraday VaR collections under certain conditions, using its existing authority to collect a special charge.⁴⁰

³⁴ See id., at 24373.

³⁵ See Notice of Filing, supra note 5, 87 Fed. Reg. at 24370.

³⁶ MBSD Rule 1, supra note 3.

³⁷ See Notice of Filing, supra note 5, 87 Fed. Reg. at 24370.

³⁸ Id.

³⁹ See Notice of Filing, supra note 5, 87 Fed. Reg at 24370.

⁴⁰ MBSD Rule 4 Section 2, supra note 3. According to FICC, if a member's portfolio has an intraday VaR Charge increase exceeding 100% and \$1 million from the start-of-day VaR Charge, FICC would assess a special charge, typically on Securities Industry and Financial Markets Association (SIFMA) designated settlement dates, and require the member to make an intraday payment to the Required Fund Deposit. In addition, FICC represents that a member may also be subject to an intraday VaR collection on any non-

FICC states that it has occasionally observed significant intraday changes to market price volatility and significant changes to the size and composition of members' portfolios that could cause the amount collected as the VaR Charge at the start of that Business Day to no longer be sufficient to mitigate the volatility risks that such positions present to FICC.⁴¹ FICC therefore proposes the ability to adjust the percentage amount and dollar threshold or other parameters of the Intraday VaR Charge from time to time, as appropriate, to continue to reflect a threshold that mitigates the volatility risks that such positions present to FICC.⁴² The proposed rule change would not implement substantive or material changes to the risk this charge is designed to mitigate, or to the overall methodology or key components of the calculation of this charge.⁴³

FICC proposes to remove the discretion to apply the Intraday VaR Charge under certain circumstances compared to when it implements the special charge, thereby making application of the Intraday VaR Charge more automatic and transparent on all dates. According to FICC, the introduction of the Intraday VaR Charge would result in more consistent intraday VaR collections when compared to the current practice, on both SIFMA designated settlement dates and non-SIFMA designated settlement dates.⁴⁴

SIFMA designated settlement date if the member's portfolio has an intraday VaR Charge increase exceeding 100% and \$1 million and it is deemed by FICC that the increase in VaR could lead to a backtesting deficiency or push a member below 99% backtest coverage. See Notice of Filing, supra note 54, 87 Fed. Reg. at 24374.

⁴¹ See Notice of Filing, supra note 5, 87 Fed. Reg. at 24374.

⁴² Id.

⁴³ Id.

⁴⁴ See id. at 24370.

D. Make Certain Clarifying Changes

FICC proposes to make certain clarifying changes to the MBSD Rules. Specifically, FICC proposes to move certain definitions so that they are in alphabetical order, re-letter certain subsections that follow to conform to the deletion of certain subsections, and update certain cross-references to reflect other changes set forth herein.

III. DISCUSSION AND COMMISSION FINDINGS

Section 19(b)(2)(C) of the Exchange Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to such organization.⁴⁵ After carefully considering the Proposed Rule Change, the Commission finds that the proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to FICC. More specifically, the Commission finds that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Exchange Act⁴⁶, and Rules 17Ad-22(e)(4)(i), (e)(6)(i) and (e)(6)(iii), each promulgated under the Act,⁴⁷ as described in detail below.

A. Consistency with Section 17A(b)(3)(F)

Section 17A(b)(3)(F) of the Exchange Act requires, among other things, that the rules of a clearing agency, such as NSCC, be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which

⁴⁵ 15 U.S.C. 78s(b)(2)(C).

⁴⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁴⁷ 17 CFR 240.17Ad-22(e)(4)(i), (e)(6)(i) and (iii).

are in the custody or control of the clearing agency or for which it is responsible.⁴⁸

As described in Section II B above, FICC proposes to move certain mark-to-market components items from its margin collection (as part of a member's Required Fund Deposit) to Cash Settlement. The Commission believes that moving these specified items (i.e., the mark-to-market debit and credit, cash obligation items, and accrued principal and interest) from the calculation of margin due from a particular member to the member's cash settlement process would better segregate the unrealized gains or losses associated with the member's portfolio from the portion of the margin that measures potential future exposure and limit the build-up of systemic risk. Currently, because of the fact that these items are collected with the member's margin, in the Required Fund Deposit, the overall amount collected may be reduced by credits relating to unrealized mark-to-market gains. During the time between the last margin collection and the close out of a Clearing Member's position, however, such gains may reduce without a corresponding increase in the Required Fund Deposit, leaving the Required Fund Deposit insufficient to cover the future exposure. As such, the proposed rule change would ensure the unrealized gains from mark-to-market changes do not leave the Required Fund Deposit insufficient to cover future exposure. These changes would help ensure that FICC collects sufficient margin and thus more effectively cover its credit exposures to its members.

In addition, as described in Section II.C above, the proposed rule change to revise the Intraday Mark-to-Market Charge to remove the specific thresholds and provide a floor for the Dollar Threshold and the Percentage Threshold, remove the Coverage Target from the definition, and remove the Surveillance Threshold from the definition, provides the ability for FICC to adjust the application of the Intraday Mark-to-Market Charge default thresholds more quickly,

⁴⁸ 15 U.S.C. 78q-1(b)(3)(F).

effectively, and flexibly in response to adverse or changes in market conditions, thereby helping to ensure that FICC collects sufficient resources to cover its exposures to its members in volatile market conditions. Further, as described in Section II.D above, FICC proposes to establish a formal Intraday VaR Charge. This proposed change enables FICC to better address any changes to market price volatility or the size of a member's portfolio that occur intraday such that, in the event of a member default, FICC's operations would not be disrupted, and non-defaulting Members would not be exposed to losses they cannot anticipate or control. Accordingly, the Commission believes the proposed rule would allow FICC to mitigate changes in in volatility that could occur intraday.⁴⁹

For these reasons, the Commission believes that implementing these changes set forth in Sections II.B, C, and D should help ensure that, in the event of a member default, FICC's operation of its critical clearance and settlement services would not be disrupted because of insufficient financial resources. Accordingly, the Commission finds that the changes to the DRC should help FICC to continue providing prompt and accurate clearance and settlement of securities transactions in the event of a member default, consistent with Section 17A(b)(3)(F) of the Act.

⁴⁹ The Commission also reviewed and considered confidential analyses provided by FICC which analyzed the impact that these specified changes would have on margin collected by FICC. (As part of the Proposed Rule Change, FICC filed Exhibit 3 – Confidential Supporting Information. Pursuant to 17 CFR 240.24b-2, FICC requested confidential treatment of Exhibit 3.) The Commission generally believes that the impact analyses, as summarized by FICC in the Notice, see Notice of Filing, supra note 5, 87 Fed. Reg. at 24369, further support its findings with respect to the consistency of the proposed changes with Section 17A(b)(3)(F) in that the changes set forth in Sections II.C and D above with respect to the Intraday Mark-to-Market Charge and Intraday VaR Charge would increase the amount of resources collected by FICC and that, with respect to the changes set forth in II.B regarding the movement of certain DRC items to cash settlement, the changes would have some impact on the amount of resources collected in cash.

Moreover, as described above in Section I.A., FICC would access the mutualized Clearing Fund should a defaulted member's own margin be insufficient to satisfy losses to FICC caused by the liquidation of that member's portfolio. The changes of moving the DRC to the cash pass-through, amending the definition of the Intraday Mark-to-Market Charge, and instituting a regular Intraday VaR Charge should help ensure that FICC has collected sufficient margin from members, thereby limiting non-defaulting members' exposure to mutualized losses. The Commission believes that by helping to limit the exposure of FICC's non-defaulting members to mutualized losses, the minimum margin amount should help FICC assure the safeguarding of securities and funds which are in its custody or control, consistent with Section 17A(b)(3)(F) of the Act.⁵⁰

Finally, as described in Sections II.B, C, and D, the proposed rule changes would amend the Rules to improve transparency. Such changes provide clarifications to Clearing Members regarding the definitions and applications of Rules. For instance, as described in Section II.C, by removing set percentages and providing a floor of not less than \$1,000,000 for the Dollar Threshold and not less than 10 percent of the daily VaR Charge for the Percentage Threshold, the Commission believes that Clearing Members will have better understanding of the default thresholds that FICC is using to determine whether to apply the Intraday Mark-to-Market Charge. The Commission believes that such changes would ensure that the Rules are accurate and clear to Members, thus promoting prompt and accurate clearance and settlement, which is consistent with Section 17A(b)(3)(F) of the Act.⁵¹

⁵⁰ Id.

⁵¹ Id.

B. Consistency with Rule 17Ad-22(e)(4)(i)

Rule 17Ad-22(e)(4)(i) under the Act⁵² requires a covered clearing agency, like FICC, to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those exposures arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.

As discussed above in Section II.D, FICC is introducing an Intraday VaR Charge, which FICC would charge the Intraday VaR Charge on both SIFMA designated settlement dates and non-SIFMA designated settlement dates if the thresholds are crossed, regardless of whether the increase in VaR could lead to a backtesting deficiency or push a Clearing Member below 99% backtest coverage. As such, the Commission believes that the introduction of the Intraday VaR Charge would result in more consistent intraday VaR collections when compared to the current practice, on both SIFMA designated settlement dates and non-SIFMA designated settlement dates. The Commission also believes that the proposed Intraday VaR Charge would effectively mitigate the risks related to intraday increases in volatility and would address the increased risks FICC may face related to liquidating a Clearing Member's portfolio following that Clearing Member's default.

Accordingly, the Commission believes the proposed rule would enhance FICC's ability to effectively identify, measure and monitor its credit exposures and would enhance its ability to maintain sufficient financial resources to cover its credit exposure to each participant fully with a

⁵² 17 CFR 240.17Ad-22(e)(4)(i).

high degree of confidence, consistent with Rule 17Ad-22(e)(4)(i) under the Act.⁵³

C. Consistency with Rule 17Ad-22(e)(6)(i)

Rule 17Ad-22(e)(6)(i)⁵⁴ under the Act requires, in part, a clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.

A member's margin (in the form of its Required Fund Deposit) is made up of risk-based components that are calculated and assessed daily to limit FICC's credit exposures to its members. As discussed in Section II.B, FICC proposes to move DRC items to Cash Settlement. The Commission believes that the proposed rule change should help ensure that FICC produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market by better segregating the unrealized gains or losses associated with a Clearing Member's margin portfolio from the portion of the margin that measures potential future exposure. Further, as discussed in Section II.C, FICC proposes to amend and remove certain thresholds and parameters in its determination of the Intraday Mark-to-Market Charge, and as discussed in Section II.D, FICC proposes to introduce an Intraday VaR Charge, which is designed to more effectively address the risks presented by significant intraday changes to market price volatility or a clearing member's portfolio. The Commission believes these changes should enable FICC to assess a more appropriate level of margin that accounts for

⁵³ Id.

⁵⁴ 17 CFR 240.17Ad-22(e)(6)(i).

increases in these risks that may occur intraday.⁵⁵

Accordingly, the Commission believes the proposed change is consistent with Rule 17Ad-22(e)(6)(i) under the Act.⁵⁶

D. Consistency with 17Ad-22(e)(6)(iii)

Rule 17Ad-22(e)(6)(iii) under the Act⁵⁷ requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default.

As discussed above in Section II.B, FICC proposes to move certain DRC items to Cash Settlement. The Commission believes the proposed rule change would better segregate the unrealized gains or losses associated with a Clearing Member's margin portfolio from the portion of the margin that measures potential future exposure and limit the build-up of systemic risk. By segregating the unrealized mark-to-market gains and losses from the Required Fund Deposit, the Commission believes that the proposed changes would allow FICC to calculate amounts that are sufficient to cover FICC's potential future exposure to Clearing Members in the interval between the last margin collection and the close out of positions following a participant default. Therefore, the Commission believes the proposed change is consistent with Rule 17Ad-

⁵⁵ The Commission also reviewed and considered the results of FICC's impact analyses and believes that the analyses further support its findings regarding the consistency of the proposed changes with Rule 17Ad-22(e)(6)(i), for the reasons discussed in note 49 supra.

⁵⁶ Id.

⁵⁷ 17 CFR 240.17Ad-22(e)(6)(iii).

22(e)(6)(iii) under the Act.⁵⁸

IV. CONCLUSION

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Exchange Act, and in particular, the requirements of Section 17A of the Exchange Act⁵⁹ and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Exchange Act,⁶⁰ that the Proposed Rule Change (SR-FICC-2022-002) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶¹

J. Matthew DeLesDernier
Assistant Secretary

⁵⁸ Id.

⁵⁹ In approving this Proposed Rule Change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶⁰ 15 U.S.C. 78s(b)(2).

⁶¹ 17 CFR 200.30-3(a)(12).