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

File No. * SR 2024 - * 005

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 checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input 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 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) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

Modify the GSD Rules to Facilitate Access to Clearance and Settlement Services of All Eligible Secondary Market Transactions in U.S. Treasury Securities

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 * Last Name *

Title *

E-mail *

Telephone * Fax

Signature

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

Date (Title *)

By (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: 2024.03.11
09:55:33 -04'00'

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 EFFS website.

Form 19b-4 Information *

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Narrative - GSD Access Model - 2024

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

Exhibit 1 - Notice of Proposed Rule Change *

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Exh 1A - GSD Access Model - 2024-0

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 *

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

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

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

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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Exh 5 - GSD Access Model - 2024-03

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

Partial Amendment

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

1. Text of Proposed Rule Change

(a) The proposed rule change of Fixed Income Clearing Corporation (“FICC”) is attached hereto as Exhibit 5 and consists of modifications to FICC’s Government Securities Division (“GSD”) Rulebook (“Rules”)¹ to (1) re-name GSD’s correspondent clearing / prime broker services as the Agent Clearing Service and adopt provisions that are common in agent clearing models; (2) update the qualifications for certain membership categories and rules governing the operation of GSD’s access models; and (3) improve the transparency and clarity of the Rules in describing the types of memberships available to legal entities that want to access GSD’s central clearing services and the different ways both Members and, indirectly, legal entities that are not Members can access those services, as described below.

These proposed rule changes are primarily designed to ensure that FICC has appropriate means to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities in accordance with the requirements of Rule 17Ad-22(e)(18)(iv)(C) under the Securities Exchange Act of 1934, as amended (“Act”),² as described below.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by FICC’s Board of Directors (“Board”) on February 14, 2024.

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

(a) Purpose

Executive Summary

FICC is proposing rule changes designed to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities in accordance

¹ Terms not defined herein are defined in the Rules, available at www.dtcc.com/~//media/Files/Downloads/legal/rules/ficc_gov_rules.pdf.

² 17 CFR 240.17Ad-22(e)(18)(iv)(C). See Securities Exchange Act Release No. 99149 (Dec. 13, 2023), 89 FR 2714 (Jan. 16, 2024) (“Adopting Release”, and the rules adopted therein referred to herein as “Treasury Clearing Rules”). FICC must implement the new requirements of Rule 17Ad-22(e)(18)(iv)(C) by March 31, 2025. FICC will file separate proposed rule changes to address other requirements applicable to it and adopted as part of the Treasury Clearing Rules.

with recent amendments to the standards for clearing agencies set forth in Rule 17Ad-22(e) under the Act.³

On December 13, 2023, the Securities and Exchange Commission (“Commission”) adopted amendments to the standards applicable to covered clearing agencies, like FICC, that require such clearing agencies to have written policies and procedures reasonably designed to, among other things, ensure that it has appropriate means to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.⁴

FICC developed the proposed rule changes following a review of its existing direct and indirect participation models. That review examined whether FICC’s models provide market participants with access to FICC’s clearance and settlement services in as flexible a means as possible, consistent with FICC’s responsibility to provide sound risk management and comply with its regulatory risk management obligations under Rule 17Ad-22(e) and other parts of the Act.⁵ Among other things, FICC considered whether FICC’s existing policies and procedures treat transactions differently based on the identity of the participant submitting the transaction, the fact that an indirect participant is a party to the transaction, the method of execution of a transaction, and other factors, and whether any such variation of treatment was necessary and appropriate in light of FICC’s regulatory risk management obligations.⁶

As part of this review, FICC consulted with a wide range of stakeholders, including indirect participants, to ensure that FICC considered a sufficiently broad set of perspectives.⁷ These consultations included one-on-one conversations with existing direct participants and indirect participants, industry associations representing buy- and sell-side market participants, and market participants that were considering becoming but had not yet become participants of FICC. Another aspect of this consultation was a survey conducted during the first half of 2023.⁸

³ 17 CFR 240.17Ad-22(e).

⁴ Supra note 2.

⁵ Such regulatory risk management obligations are generally set forth in Rule 17Ad-22(e). 17 CFR 240.17Ad-22(e).

⁶ 17 CFR 240.17Ad-22(e).

⁷ See also page 168 of the Adopting Release, available at <https://www.sec.gov/files/rules/final/2023/34-99149.pdf> (“To ensure that it considers a sufficiently broad set of perspectives, the U.S. Treasury securities CCA generally should consult with a wide-range of stakeholders, including indirect participants, as it seeks to comply with proposed rule 17ad-22(e)(18)(iv)(C).”).

⁸ FICC discussed this survey and the key findings in a paper, available at <https://www.dtcc.com/-/media/Files/Downloads/WhitePapers/Accessing-Potential-Expansion-US-Treasury-Clearing-White-Paper.pdf>.

One of the key findings of this outreach was that FICC's existing participation models are not broadly understood among market participants, and a majority of current Members are unsure which of the available access models they prefer to use for indirect participant activity. In addition, FICC identified that certain instances where it treated transactions differently based on the identity of the participant submitting the transaction or the identity of the participant party to the transaction were not necessary to ensure sound risk management and comply with its regulatory risk management obligations. Based on the results of its review of its access models, FICC has concluded that certain changes to the Rules would facilitate greater access to clearance and settlement of secondary market transactions in U.S. Treasury transactions, including by indirect participants.

First, as noted above, FICC's review found that many market participants are not familiar with the correspondent clearing / prime broker services. In particular, FICC found that market participants were not aware of the similarities between the services and other agent clearing models, such as those through which market participants in the cleared derivatives markets can execute commodity derivatives with third parties and then give them up to their futures commission merchant ("FCM") for clearing. Market participants also did not appear to understand the agent clearing services as a workable "done away" model that allows indirect participants to access clearing through multiple direct participants.

Therefore, FICC is proposing to provide clarity by, among other things, re-naming its correspondent clearing / prime brokerage services as a single "Agent Clearing Service" and deleting and replacing the current provisions in Rule 8 with a rule that elaborates on the functioning and requirements of the agent clearing service. FICC believes that these changes, described in greater detail below, will allow Netting Members and their customers to recognize the similarities between FICC's indirect access model and FCM agent clearing models and to identify the agent clearing service as a workable "done away" model.

Second, FICC has concluded that certain modifications to its membership criteria would facilitate open access and ensure that any variation in the Rules' treatment of transactions or members is indeed necessary and appropriate to meet the minimum standards regarding operations, governance, and risk management set forth in the SEC's regulations and the Act. These proposed rule changes would update certain qualifications for GSD's membership categories. Currently, FICC imposes a number of qualification requirements that, based upon its review, may not be necessary or appropriate to ensure compliance with applicable requirements under the Act. In particular, banks wishing to become Sponsoring Members are categorized as Category 1 Sponsoring Members and must meet certain capitalization requirements, while other Netting Members wishing to be Sponsoring Members are categorized as Category 2 Sponsoring Members and are subject to financial requirements based on FICC's assessment of the Sponsoring Member's anticipated activity and risk. Additionally, in order to be a Sponsored Member, a firm must currently be a "qualified institutional buyer" as such term is defined by Rule 144A under the Securities Act of 1933 or satisfy the financial requirements necessary to be a qualified institution buyer.⁹ Based upon its review and general experience with the growth of

⁹ 17 CFR 230.144A.

the sponsored membership service¹⁰ since the current tiered membership qualifications were first instituted, FICC has determined that such requirements are no longer relevant or appropriate for the purposes of facilitating access to clearance and settlement transactions of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.

FICC's proposed rule changes would aim to address these issues by eliminating the two categories of Sponsoring Members, applying the qualifications applicable to the current Category 2 Sponsoring Members to all Sponsoring Members, and removing the requirement that Sponsored Members either be qualified institutional buyers or satisfy the financial requirements of such definition. FICC believes that these changes would eliminate differential treatment of categories of indirect participants and direct participants that are not necessary for risk management or other regulatory purposes, and otherwise act as a limitation upon participants' access to GSD's central clearing services. These changes would thus enable access to FICC's clearing and settlement services for a variety of direct and indirect participants who may not currently be able to access those services. These changes would also facilitate greater understanding of FICC's membership qualifications and thereby support FICC's continued maintenance of objective, risk-based and publicly disclosed participation criteria.

Lastly, FICC has determined that providing a public road map of access models and simplifying certain definitions would allow both buy- and sell-side market participants to understand those models and thereby allow them to consider how to offer and price those models so as to ensure indirect participants can access central clearing. These proposed rule changes aim to achieve these goals. In particular FICC is proposing to amend the Rules to (a) provide a public road map of the different models for accessing the GSD services that are available to both Members and, indirectly, their customers; and (b) simplify the definitions of the different types of membership and other related definitions. FICC believes these clarifications would enhance the ability of market participants to understand the GSD access models that are available, thereby allowing them to determine how to offer and price FICC's currently available models to ensure that indirect participants can access central clearing.

Background

FICC, through GSD, serves as a central counterparty and provides real-time trade matching, clearing, risk management and netting for cash purchases and sales of U.S. Treasury securities as well as repurchase and reverse repurchase transactions involving U.S. Treasury securities ("repos").¹¹ GSD's central counterparty services are available directly to entities that are approved to be Netting Members and indirectly to other market participants through its

¹⁰ See Rule 3A, *supra* note 1. The service described in Rule 3A is referred to herein as the "Sponsored Service".

¹¹ GSD also clears and settles certain transactions on securities issued or guaranteed by U.S. government agencies and government sponsored enterprises.

indirect access models – the Sponsored Service¹² or correspondent clearing / prime broker services.¹³

Currently, there are different Netting Member application categories based upon the type of legal entity (*i.e.*, Bank Netting Member, Dealer Netting Member, Inter-Dealer Broker Netting Member) and whether an entity is incorporated in the United States or not (*i.e.*, a Foreign Netting Member). Netting Member applicants must meet both financial and operational minimum eligibility requirements¹⁴ and, as Members of GSD, must adhere to ongoing minimum membership standards.¹⁵ Furthermore, both the minimum eligibility requirements and ongoing standards vary depending on the relevant Netting Membership category. However, in general, all Netting Member categories may access the services available through GSD's Comparison System¹⁶ and Netting System¹⁷.

Market participants may also access GSD's clearing services indirectly through a Netting Member. There are currently two indirect participation models to facilitate this – the Sponsored Service¹⁸ and the correspondent clearing / prime broker services.¹⁹ Each of these indirect participation models gives market participants different options to consider in accessing FICC's clearance and settlement services, and the benefits of its central counterparty guaranty, multilateral netting and centralized default management. However, the primary difference between the two models is that an indirect participant who becomes a Sponsored Member must establish an indirect, limited purpose membership with FICC, whereas the correspondent clearing / prime broker services do not require an indirect member to establish any relationship with FICC.

¹² See Rule 3A, supra note 1.

¹³ See Rule 2 (Members) (providing that FICC shall make its services available to entities that are approved to be Members of GSD); Rule 3A (Sponsoring Members and Sponsored Members) (describing the Sponsored Service) and Rule 8 (Executing Firm Trades) (currently describing the correspondent clearing / prime broker services), supra note 1.

¹⁴ See Rule 2A, supra note 1.

¹⁵ See Rule 3, supra note 1.

¹⁶ See Rule 5, supra note 1. GSD also has a limited membership that permits Comparison-Only Members to participate only in its Comparison System. FICC does not act as a central counterparty for activity processed through its Comparison System and the services offered through its Comparison System are not guaranteed by FICC.

¹⁷ See Rule 11, supra note 1.

¹⁸ See Rule 3A, supra note 1.

¹⁹ See Rule 8, supra note 1.

The Sponsored Service permits Netting Members, approved by FICC as “Sponsoring Members,” to sponsor certain institutional firms, referred to as “Sponsored Members”, into GSD membership.²⁰ The Sponsoring Member is permitted to submit to FICC for comparison, novation and netting certain types of eligible transactions either between itself and its Sponsored Members (*i.e.*, “done with”), or between the Sponsored Members and other third-party Netting Members (*i.e.*, “done away”). For operational and administrative purposes, a Sponsored Member appoints its Sponsoring Member to act as processing agent with respect to the Sponsored Member’s satisfaction of its securities and funds-only settlement obligations.

A Sponsored Member is GSD member and the legal counterparty to FICC for any submitted transactions. However, the Sponsoring Member unconditionally guarantees to FICC the Sponsored Member’s performance under a Sponsoring Member Guaranty, which guarantees to FICC the payment and performance of a Sponsored Member’s obligations to FICC. Therefore, FICC relies on the financial resources of the Sponsoring Member in relying upon the Sponsoring Member Guaranty. If a Sponsoring Member fails to perform under the Sponsoring Member Guaranty, FICC may cease to act for the Sponsoring Member both as a Sponsoring Member as well as a Netting Member.

Netting Members may also submit to FICC eligible activity on behalf of their customers through the correspondent clearing / prime broker services. Here, the Netting Member is referred to as the “Submitting Member” and the customer is referred to as the “Executing Firm”.²¹ Unlike the Sponsored Service, FICC has no relationship with the Executing Firm and all obligations (*i.e.*, margin and settlement) under the Rules remain with the Submitting Member. Executing Firms may execute trades with any Netting Member, including their submitting Netting Member, or a customer of any other Netting Member in clearing. In addition, Submitting Members have the option of either netting Executing Firm activity with other activity they submit to FICC (*i.e.*, Submitting Member proprietary activity) or segregating Executing Firm activity in separate accounts. In all cases, however, the Submitting Member must identify the relevant Executing Firm(s) on the FICC transaction submission file.

Summary of Proposed Rule Changes

First, FICC is proposing to re-name GSD’s existing correspondent clearing / prime broker services as the Agent Clearing Service, which would continue to allow Netting Members to submit, on behalf of their customers, transactions to FICC for novation. As such, this proposal would provide that for a Netting Member to continue to offer its customers access to GSD’s

²⁰ See Rule 3A, supra note 1. An entity that chooses to become a Sponsoring Member still retains its status as a Netting Member and can continue to submit any non-Sponsored Member activity to FICC as such.

²¹ See Rule 8, supra note 1. There are no operational differences between the current correspondent clearing service and the prime broker service. FICC provides a report to prime brokers that identifies margin calculation for their customers transactions and does not provide such report to Members using the correspondent clearing service. FICC would provide consistent reporting to all Agent Clearing Members under the proposal.

services via the current correspondent clearing/prime broker services, it must apply to use the Agent Clearing Service by becoming an Agent Clearing Member.

This proposed change would improve the transparency of the Rules regarding the availability of this service to both Netting Members and, indirectly, their customers. This proposed change would enhance the ability of indirect participants to identify the correspondent clearing / prime broker services as a workable “done away” model that allows indirect participants to access clearing through multiple direct participants. Under these proposed rule changes, FICC would require Netting Members (in their new capacity as Agent Clearing Members) to process and record their customers’ activity in separate “Agent Clearing Member Omnibus Accounts” to facilitate FICC’s ability to monitor and, ultimately, risk manage that activity appropriately. These proposed changes would also provide that a Netting Member must apply to use the Agent Clearing Service and, as an Agent Clearing Member, shall be required, pursuant to the existing ongoing membership requirements in the Rules, to provide FICC with information regarding the customers for which it is acting. This information sharing would allow FICC to better identify and manage the risks posed by these indirect participants and would support FICC’s compliance with the requirements of Rule 17Ad-22(e)(18)(iii) under the Act to monitor compliance with its participation requirements on an ongoing basis.²²

Second, the proposed rule changes would update certain qualifications for GSD’s membership categories. These proposed rule changes would (a) eliminate the two Sponsoring Member categories and apply to all Sponsoring Members the qualifications applicable to the current Category 2 Sponsoring Members; (b) remove the requirement that Sponsored Members either be “qualified institutional buyers” as such term is defined by Rule 144A under the Securities Act of 1933,²³ or satisfy the financial requirements of such definition; (c) clarify the eligibility criteria for non-U.S. Netting Member applicants; and (d) describe how FICC may consider Netting Member applicants that do not qualify under an existing Netting Member category. These proposed changes would support FICC’s continued maintenance of objective, risk-based and publicly disclosed participation criteria and, therefore, facilitate open access to GSD’s clearing services. The proposed rule changes would also improve the clarity of the Rules regarding the ways Members can access its services, while updating certain qualifications for membership.

Third, FICC is proposing to further disclose to the public, through the Rules, the criteria and related requirements for how both Members and, indirectly, legal entities that are not Members, can access GSD’s clearing services. These proposed rule changes would simplify and, therefore, clarify the criteria and related descriptions of the different models for accessing GSD’s services by (a) providing to both Members and, indirectly, their customers a public road map of the different membership types, Netting Member categories and models for accessing GSD’s services; and (b) simplifying the definitions of the different types of membership and other related definitions, and clarifying the eligibility criteria for different categories of Netting Members. These simplifications and clarifications, in turn, should enhance the ability of market

²² 17 CFR 240.17Ad-22(e)(18)(iii).

²³ 17 CFR 230.144A.

participants, and in particular indirect participants, to understand and evaluate the comparative tradeoffs of using GSD's central clearing services depending on the relevant access model.

Finally, the proposed rule changes would make other technical corrections and updates to the Rules, as described below.

Description of Proposed Rule Changes

1. Re-name the Correspondent Clearing / Prime Broker Services as the Agent Clearing Service

The proposed rule changes would re-name and consolidate the existing correspondent clearing / prime broker services into a single Agent Clearing Service and adopt additional provisions governing the use of this service. The proposed changes would provide market participants with an understanding of the operation of this service, the rights and obligations of the firms that access the GSD facilities through this participation model, and how this service otherwise replaces and continues the access and functions currently available under the correspondent clearing / prime services. To these ends, the proposed rule changes would primarily amend Rule 8, which currently describes the correspondent clearing / prime broker services, to describe the Agent Clearing Service with more specificity. This new terminology and specificity are intended to demonstrate how this particular GSD access model operates similarly to the way market participants in the cleared derivatives markets can execute derivatives with third parties and then give them up to their FCM for clearing. Thus, the proposed changes to Rule 8 described herein are designed to be comparable to the terms of FCM-style agent clearing models.²⁴

As described above, the existing correspondent clearing / prime broker services permit Submitting Members to submit activity to FICC for clearing on behalf of their customers, the Executing Firms. To do this, a Submitting Member must establish a relationship with one or more Executing Firms and provide FICC with notice of each customer confirming the Executing Firm relationship. However, in contrast with the Sponsored Service, FICC has no relationship with the Executing Firms.

Submitting Members are not currently required to, but can, segregate the Executing Firm activity in their submissions to FICC. In all instances, Submitting Members are responsible to FICC for all obligations, financial or otherwise, for that Executing Firm activity. While both Executing Firm activity and other Submitting Member activity (i.e., Submitting Member

²⁴ Many of the provisions that are being proposed to be added to Rule 8 are similar to provisions recently adopted to Rule 2D (Agent Clearing Members) of the Rules & Procedures of FICC's affiliate, National Securities Clearing Corporation ("NSCC"), available at https://www.dtcc.com/-/media/Files/Downloads/legal/rules/nscc_rules.pdf. In developing the agent clearing model, NSCC solicited input from market participants, including agent lenders, brokers, institutional firms, and critical third parties, such as matching service providers and books and records service providers. See id.

proprietary activity) are generally processed in the same manner by FICC, Executing Member trade data must include an executing firm symbol for identification purposes.

While the proposed rule changes would change the terms used and otherwise enhance FICC's disclosures regarding the operation of the historical correspondent clearing / prime broker access models, most of the changes entailed by the shift to a single Agent Clearing Service would not alter in practice how Netting Members and their customers use this model to access GSD's services. Like the correspondent clearing / prime broker models, the Agent Clearing Service would continue prior models' facilitation of agent-style trading by allowing Netting Members, which would be referred to in the Rules as "Agent Clearing Members" for this purpose, to act as processing agent and credit intermediary for their customers in clearing, to be referred to as "Executing Firm Customers" under the proposed changes.

As described below, the proposal also entails changes that would provide FICC with the ability to monitor activity submitted through this indirect access model, thereby managing the risks that this activity could present to FICC and the GSD membership. For example, as described in greater detail below, FICC would require that Netting Members (including Netting Members who are Submitting Members today) submit an application to become Agent Clearing Members and provide additional information regarding each Executing Firm Customers beyond what is required for Executing Firms today, such as a Legal Entity Identifier ("LEI"). Agent Clearing Members would also be required to submit activity on behalf of their customers through separate Agent Clearing Member Omnibus, as opposed to the optional segregated submission approach provided for today. For both initial and ongoing membership purpose, the proposal would require Agent Clearing Members to provide FICC with information related to their use of the Agent Clearing Service, as may be requested by FICC from time to time, as described in greater detail below.

a. Rule 8 – Agent Clearing Service

Rule 8 currently describes the correspondent clearing / prime broker services at a high level. The proposed rule changes would delete and replace Rule 8 with a more detailed description of the correspondent clearing / prime broker services as a single Agent Clearing Service. These proposed changes would provide Netting Members and other market participants with a clearer description of the operation of this service and a better understanding of the availability of this indirect access model, as described below.

(i) *Section 1 – General*

The proposed changes to Section 1 of Rule 8 would provide a general overview of the purpose and availability of the Agent Clearing Service. The proposed rule changes would update the information currently in Section 1 of Rule 8 to replace updated defined terms and to correctly identify the Members and other parties who can participate in this indirect model (*i.e.*, replace "Submitting Member" with "Agent Clearing Member").

(ii) *Section 2 – Agent Clearing Member Qualifications and Application Process*

Section 2 would provide that a Netting Member, other than an Inter-Dealer Broker Netting Member, shall be eligible to apply to become an Agent Clearing Member. Inter-Dealer Broker Netting Members are currently not permitted to use the existing correspondent clearing / prime broker services because, pursuant to Section 8(e) of Rule 3, these firms are required to limit their business to acting exclusively as a Brokers, and therefore this limitation continues to apply.²⁵

Section 2 would also provide that an applicant to be an Agent Clearing Member shall complete and deliver to FICC an application and any other information that FICC may request. FICC currently does not require a Netting Member to apply, or provide any additional information, to FICC to use the correspondent clearing / prime broker services. To strengthen its ability to identify, monitor and manage the material risks that indirect participants may present through their access to GSD's clearing services, FICC is proposing to require that Netting Members apply to be Agent Clearing Members by completing and submitting an application to FICC. Section 2 of Rule 8 would specify that the application would require information about the applicant's customers, past and/or projected volumes of applicant customer activity, and the applicant's controls for monitoring and mitigating risks, including customer risks. Section 2 would also state that an applicant must provide any other information that FICC reasonably requests for purposes of this initial application process.

In certain instances, FICC may find that a firm seeking to be an Agent Clearing Member may present risks that require further analysis and consideration by FICC before granting Agent Clearing Member status. Therefore, Section 2 of Rule 8 would introduce a new provision providing that FICC may require a firm to be a Netting Member for a period of time prior to applying for Agent Clearing Member status.

(iii) *Section 3 – Executing Firm Customer Relationships*

Section 3 of Rule 8 would describe how an Agent Clearing Member may establish a relationship with an Executing Firm Customer under the Agent Clearing Service.

First, Section 3 would define an Executing Firm Customer as an entity for which an Agent Clearing Member submits transactions to FICC pursuant to the requirements of Rule 8.

Second, Section 3 would identify the information that an Agent Clearing Member must provide to FICC for each of its Executing Firm Customers. Currently, Section 3 of Rule 8 requires that the Submitting Member provide FICC with a notice of each customer that the Submitting Member intends to submit trades on behalf of, and requires that such notice (1) be provided to FICC not less than 3 Business Days prior to the commencement of the Member's

²⁵ This limitation that Inter-Dealer Broker Netting Members are not eligible to use the existing correspondent clearing/prime broker services is currently in the definition of "Submitting Member" in Rule 1 and would be moved to this Section 2 of Rule 8. *Supra* note 1.

initial data submission on behalf of each such Executing Firm, and (2) include “the types of eligible transactions that will be submitted for Comparison System and/or Netting System processing.”²⁶

Under the proposed rules, FICC would no longer require that the customer notice include the types of transactions that would be submitted because it would accept any Agent Clearing Transactions submitted on behalf of an Executing Firm Customer, pursuant to Section 4 of Rule 8, described below. Instead, FICC is proposing to require that Agent Clearing Members provide the following information from each Executing Firm Customer: (1) the name and executing firm symbol of the Executing Firm Customer; (2) written authorization from the Executing Firm Customer to act on its behalf; (3) a LEI for the Executing Firm Customer;²⁷ (4) confirmation that the Executing Firm Customer and the Agent Clearing Member have entered into an agreement that binds the Executing Firm Customer to the applicable provisions of the Rules, as would be required by Section 3, described below; and (v) confirmation that the Executing Firm Customer understands, acknowledges and agrees to each of the Executing Firm Customer Acknowledgments set forth in, and as would be required by Section 6 of Rule 8, described in greater detail below.

The requirement that Agent Clearing Members provide FICC with a written authorization from its Executing Firm Customers, which FICC collects today pursuant to Section 3 of Rule 8, enables FICC to confirm that an agent clearing relationship exists between the Agent Clearing Member and the Executing Firm Customer. This requirement would be expanded to permit FICC to collect other information regarding the Executing Firm Customer and its agent clearing relationship with the Agent Clearing Members. Consistent with this change, FICC would therefore no longer accept trade data on behalf of an Executing Firm customer if it has not yet received the required written authorization.²⁸

The proposed rules would require that the above-specified information be provided in a form acceptable to FICC no later than 3 Business Days prior to the commencement of the Agent Clearing Member’s initial data submission on behalf of an Executing Firm Customer. This timeframe, currently in Rule 8, provides FICC with the ability to confirm on a timely basis that the information provided is complete and accurate and to update its systems to reflect the agent clearing relationship. Additionally, to facilitate the ability of Agent Clearing Members to submit trades on behalf of their Executing Firm Customers as quickly as possible, FICC would provide

²⁶ Supra note 1.

²⁷ Rule 1 defines a Legal Entity Identifier as “a 20-character reference code to uniquely identify legally distinct entities that engage in financial transactions. The Legal Entity Identifier is based on the ISO 17442 standard developed by the International Organization for Standardization and satisfies the standards implemented by the Global Legal Entity Identifier Foundation.” Supra note 1.

²⁸ For this purpose, FICC is also proposing to remove a statement from Section 4 of Rule 8 that FICC may accept data “on behalf of an Executing Firm even though a written notice ... has not been received” See supra note 1.

to Agent Clearing Members a standardized Executing Firm Customer information form. By requiring each Executing Firm Customer to complete and execute this standardized form, FICC would be able to ensure that the required information is provided in a form acceptable to it, while also ensuring that such information is consistent and comprehensive across all Executing Firm Customers.

In addition to requiring that it receive a LEI for each Executing Firm Customer when a relationship is established in the Agent Clearing Service, Section 3 would also require that each Agent Clearing Member maintain, on ongoing basis, a current LEIs for each of its Executing Firm Customers. Each Agent Clearing Member would also be required to indemnify FICC for any losses, liabilities, expenses and legal actions that could arise as a result of that Agent Clearing Member's failure to meet these requirements. The proposed requirement that Agent Clearing Members both provide and maintain a current LEI on file with FICC for each of its Executing Firm Customers and provide an indemnification related to this requirement are identical to existing requirements on Netting Members and Sponsoring Members, with respect to their Sponsored Members.²⁹

As noted above, Section 3 of Rule 8 would require that an agreement between the Agent Clearing Member and the Executing Firm Customer bind the latter to the applicable provisions of the Rules. However, beyond this specific requirement the proposed changes would also acknowledge such an agreement may otherwise be on any terms and conditions mutually agreed to by the parties and confirm that the Rules do not prohibit any reimbursement or other payments sharing arrangements that may be established between those parties, away from FICC.

Finally, Section 3 would provide that Agent Clearing Members may, but are not required to, provide to FICC a written notice that it will no longer submit trades on behalf of an Executing Firm Customer. Section 3 of Rule currently requires Submitting Members to provide such notice to FICC. However, FICC does not see a need to mandate such notice because an Agent Clearing Member that terminates its agent clearing relationship with a customer may just cease to submit trades to FICC for processing. In any case, if an Agent Clearing Member chooses to submit such written notice to FICC, FICC would remove that relationship from its systems.

²⁹ Applicants to be Netting Members are also required to (i) provide FICC with a LEI as part of their application under Section 5 of Rule 2A, (ii) maintain a current LEI on file with FICC at all times under Section 2 of Rule 3, and (iii) indemnify FICC for any losses, liabilities, expenses and legal actions incurred as a result of its failure to maintain a current LEI on file with FICC under Section 2 of Rule 3. *Supra* note 1. Under Section 2(d) of Rule 3A, Sponsoring Members have an identical obligation to (i) provide FICC with a LEI for each of its Sponsored Members when onboarding those Sponsored Members, (ii) maintain a current LEI for each of its Sponsored Members on file with FICC at all times, and (iii) indemnify FICC from any losses resulting from a failure to adhere to these requirements. *Id.*

(iv) *Section 4 – Agent Clearing Transactions*

Section 4 of Rule 8 would define Agent Clearing Transactions as transactions that are eligible to be submitted by an Agent Clearing Member on behalf of its Executing Firm Customers. The existing scope of this definition would not change and would continue to exclude “Netting Eligible Auction Purchases”, “Brokered Transactions”, “GCF Repo Transactions” and “CCIT Transactions”, as such terms are defined in the Rules.³⁰

(v) *Section 5 – Rights and Obligations of Agent Clearing Members*

Section 5 of Rule 8 would specify the rights and obligations of Agent Clearing Members, expanding on the provisions currently provided in Section 4 of Rule 8.³¹ These provisions would provide that Agent Clearing Members have the right to submit Agent Clearing Transactions to FICC for clearing, subject to the applicable requirements set forth in the Rules, including, for example, the requirement that all such activity comply in all material respects with applicable laws. Section 5 would define the role of the Agent Clearing Members as processing agents of Executing Firm Customers and establish that Agent Clearing Members are liable to FICC for all obligations arising in connection with their Agent Clearing Transactions in the same manner as if the Agent Clearing Member had executed those trades. These proposed changes would also clarify that where an entity is both an Agent Clearing Member and a Netting Member, the obligations of that entity to satisfy all of the applicable obligations under the Rules and any other relevant arrangements with FICC across both types of membership apply comprehensively. Therefore, Section 5 would state that Agent Clearing Members’ obligations to FICC in their capacity as Netting Members, both under the Rules and under any agreements between the Agent Clearing Member and FICC, also apply to them in their capacity as Agent Clearing Members, to their Agent Clearing Transactions and to their Agent Clearing Member Omnibus Accounts. The proposed changes to Section 5 would also explicitly clarify that FICC has no liability or obligations to any Executing Firm Customer.

Section 5 of Rule 8 would also provide for FICC’s authority to obtain information from Agent Clearing Members on an ongoing basis. For example, this section would require Agent Clearing Members to provide FICC with information or reports that it may request pursuant to the existing, ongoing membership requirements in Section 2 of Rule 3, including information or

³⁰ GCF Repo Transactions and CCIT Transactions are currently excluded due to system limitations, and Brokered Transactions are necessarily excluded because Inter-Dealer Broker Netting Members are not permitted to act as Agent Clearing Members, as discussed above. The exclusion of Netting Eligible Auction Purchases is driven by the specific processing rules applicable to auctions that are external to FICC. The laws and regulations applicable to U.S. Treasury auctions are available at <https://treasurydirect.gov/laws-and-regulations/>.

³¹ Section 4 of Rule 8 currently provides, “A Submitting Member shall have the same rights, and incur the same responsibilities, as regards trade data by it to the Corporation on behalf of an Executing Firm as it does, pursuant to these Rules, regarding data submitted to the Corporation on its own trades.” Supra note 1.

reports related to their Agent Clearing Transactions.³² In addition, FICC would have the right to request information that is similar to the information requested for Agent Clearing Member applications, for example, information regarding its customers, past and/or projected volumes of its customer activity, and its controls for monitoring and mitigating risks, including risks presented by those customers. These annual and ad hoc due diligence requests are key to FICC's ability to identify, monitor and manage the risks its Members may present to it and the broader GSD membership. The proposed changes would therefore support FICC's authority to request information from Agent Clearing Members regarding their Executing Firm Customers and their use of the Agent Clearing Service. By collecting this information at both the application process and through its regular due diligence requests, FICC would be able to identify, monitor, and, therefore, manage the risks posed by its Members' use of this service and the indirect participants.

(vi) Section 6 – Executing Firm Customer Acknowledgements

Next, Section 6 of Rule 8 would include specific Executing Firm Customer acknowledgements with respect to their participation in the Agent Clearing Service. Because Executing Firm Customers would continue to have no relationship to FICC, the proposed changes to Section 6 would provide that Agent Clearing Members are responsible for affirming that their Executing Firm Customers understand, acknowledge and agree to the provisions in this Section of Rule 8. As noted above, the standardized authorization form that Agent Clearing Members would be required to provide to FICC would confirm that this requirement has been satisfied.

Like other proposed changes to Rule 8, these additions to Section 6 are common in other agent clearing models and, therefore, would be familiar to market participants looking to use the Agent Clearing Service.³³ These acknowledgements would include, for example, confirmation that the Agent Clearing Service is governed by the Rules, that FICC may deal exclusively with Agent Clearing Members and is not obligated to deal directly with Executing Firm Customers. The acknowledgements would also clarify that FICC does not have any obligations or liability to Executing Firm Customers.

(vii) Section 7 – Agent Clearing Transactions Processing Rules

Finally, Section 7 of Rule 8 would describe certain rules regarding the processing of Agent Clearing Transactions.

First, Section 7 would provide that Agent Clearing Transactions would be recorded in accounts maintained by FICC on behalf of the Agent Clearing Member, defined as "Agent Clearing Member Omnibus Accounts". This proposed requirement would facilitate FICC's

³² Section 2 of Rule 3 currently provides that, "Each Netting Member shall submit to the Corporation the reports, financial or other information set forth [in this Section 2] and such other reports, financial and other information as the Corporation from time to time may reasonably require." Supra note 1.

³³ See supra note 24.

ability to identify, monitor and manage the risks that this activity may present. Currently, the existing correspondent clearing / prime broker services gives Netting Members discretion in choosing whether to record their customer activity in an account that is separate from their Netting Member account. Under this aspect of the proposal, that discretion would be removed by the new requirement under Section 7 that all Agent Clearing Transactions include an executing firm symbol that identifies the Executing Firm Customer. Section 7 would relatedly provide that Agent Clearing Transactions that do not contain an executing firm symbol be rejected by FICC.³⁴ Therefore, the proposed rule change would remove language currently in Section 2 of Rule 8 that states, if the Executing Firm is not included on the trade data submitted to FICC, then FICC would process the trades as if it was not a customer trade. While this new mandatory approach would enable FICC to track and monitor distinct Executing Firm Customer activity, for risk management purposes Agent Clearing Members would have the option to net all of that activity in the same Agent Clearing Member Omnibus Account.³⁵

Second, Section 7 would state that Agent Clearing Transactions would continue to be processed in the same way that FICC processes other transactions through the GSD netting, clearing and settlement systems, unless exceptions to that processing are specifically identified in Rule 8.

Third, Section 7 would include a description of how Agent Clearing Transactions are processed when the optional field identifying the contra-party is either omitted or does not match on the transaction file. Specifically, the Agent Clearing Transaction would be compared based on the executing firm symbol. This information is currently applicable to activity processed through the correspondent clearing / prime broker services and would be moved from Rule 10 to Rule 8.

³⁴ FICC is proposing to remove a statement currently in Section 5 of Rule 8 that says, “The Corporation, in its sole discretion, may decline to accept trade data involving one or more Executing Firms, either generally for all trade data submitted to the Corporation or by Submitting Member.” This statement addresses FICC’s right to reject a trade if it does not meet trade submission criteria. The proposed changes to Rule 8 would address this right, making this statement no longer necessary. For example, as noted above, Section 2 would provide that FICC shall not act upon an instruction regarding an Executing Firm Customer until it obtains an authorization from that Executing Firm Customer and, as noted here, Section 7 would provide that FICC would reject any trade that does not include an executing firm symbol.

³⁵ Contemporaneously with this proposed rule change, FICC will propose additional rule changes to address how Agent Clearing Members and Sponsoring Members may elect to maintain separate accounts for clearing activity that satisfy the requirements described in Note H to Rule 15c3-3a, as it has been amended. See 15 U.S.C. 78s(b)(1). Such proposed rule changes would support FICC’s compliance with the requirements of Rule 17Ad-22(c)(6)(i), as adopted by the Treasury Clearing Rules. Supra note 2. See also 17 CFR 240.15c3-3a.

Fourth, the proposed rule changes would move into Section 7 provisions from Section 2 of Rule 11, which describes the Netting System, and Section 11 of Rule 12, which describes processing of Same-Day Settling Trades.³⁶ These provisions are currently applicable to transactions processed through the correspondent clearing / prime broker services and would continue to be applicable to Agent Clearing Transactions. Specifically, both provisions permit an Agent Clearing Member to notify FICC if it does not want Agent Clearing Transactions of a particular Executing Firm Customer to be netted and settled, in which case the transaction would only be compared through the Comparison System.

Fifth, Section 7 would state that if a loss is allocated to Members pursuant to Section 7 of Rule 4, the Agent Clearing Member, as principal, would be responsible for satisfying the loss allocation obligations that are calculated for its Executing Firm Customers. Section 7 would also provide that the Clearing Fund obligations applicable to an Agent Clearing Members' Agent Clearing Transactions would be calculated separately from the obligations calculated with respect to other activity of the Agent Clearing Member. However, FICC would have the right to apply any Clearing Fund deposits of an Agent Clearing Member to any obligations of that Member (including in their capacity as a Netting Member). As a substantive matter, the above two changes do not vary from how FICC calculates and applies loss allocation or Clearing Fund requirements under the correspondent clearing and prime broker services today. Therefore, these changes function more as conforming and clarifying disclosures with respect to these matters for Netting Members in their new capacity as Agent Clearing Members.³⁷

Sixth and finally, Section 7 would include and clarify a provision that is currently in Section 6 of Rule 8 notifying Agent Clearing Members that the comparison output provided by FICC would identify the Executing Firm Customer for any Agent Clearing Transactions.

(viii) Other Rule Changes to Address Agent Clearing Service

The proposed changes would also amend Rule 1 to replace several definitions: "Submitting Member" with "Agent Clearing Member" and "Executing Firm" with "Executing Firm Customer". The Rule 1 changes would also add new definitions for "Agent Clearing Member Omnibus Account" and "Agent Clearing Transactions". The proposed changes would also correct the definition of "GCF Counterparty" to remove a reference to a Submitting Member acting for an Executing Firm because, as noted above, Agent Clearing Transactions do not include GCF Repo Transactions, and, as such, Agent Clearing Members cannot be GCF Counterparties.

The proposed rule changes would amend other Rules to reflect these updated defined terms or remove descriptions of how this service operates where those descriptions have been

³⁶ See definition of "Same-Day Settling Trades" in Rule 1, *supra* note 1. Same-Day Settling Trades are not netted prior to settlement so are settled through the Comparison System, as described in this provision.

³⁷ As noted above, FICC will propose changes to this section under a separate proposal to address the calculation, collection and application of Clearing Fund requirements under the Rules for certain, designated accounts. *Supra* note 35.

moved and restated in Rule 8. Revisions to other Rules include (i) Rule 2, to include Agent Clearing Members as an additional type of membership available to Netting Members, as described in greater detail below; (ii) Rules 5, 6A, 11 and 18, to replace references to “Executing Firms” with “Executing Firm Customers” and replace references to “Submitting Member” with “Agent Clearing Member”; (iii) Rule 6C, to correct an incorrect statement in this Rule by removing a parenthetical that indicates GCF Counterparties could be Submitting Members for Executing Firms, because the definition of Agent Clearing Transactions excludes GCF Repo Transactions, as such term is defined in the Rules; (iv) Section 2 of Rule 11 and Section 11 of Rule 12 to remove statements that would be moved into Section 7 of Rule 8, as described above; (v) Rule 15, to remove Section 1, which would be addressed in Section 5 of the Rule 8; (vi) Rule 24, to address the responsibility of Agent Clearing Members to pay all fees that are related to the Agent Clearing Member activity that is submitted pursuant to Rule 8, including any expenses that are incurred directly or indirectly by such Member; (vii) the Schedule of Required Data Submissions, to correct statements in this Schedule and clarify that Agent Clearing Members are required to include an executing firm symbol on the submission of all Agent Clearing Transactions; and (viii) the Fee Structure, to remove an incorrect statement from Section I(G) that indicates GCF Counterparties could be Members submitting trades for non-Members, because the definition of Agent Clearing Transactions excludes GCF Repo Transactions, as such term is defined in the Rules and to revise Section VI to address fees applicable to Agent Clearing Members to use the revised defined terms.

2. Update Certain Membership Qualifications to Facilitate Access to GSD’s Services

FICC is proposing changes to certain membership qualifications that would improve FICC’s ability to service a wide variety of market participants for both direct and indirect membership. These proposed changes are designed to facilitate open access to the clearance and settlement services offered by GSD and, therefore, would support FICC’s compliance with the Treasury Clearing Rules.

a. Eliminate the Separate Categories of Sponsoring Members

FICC is proposing to eliminate the separate categories of Sponsoring Members and apply the standards applicable to Category 2 Sponsoring Members to all Sponsoring Members.

When FICC established the Sponsored Service in 2005, it limited Sponsoring Member eligibility to only Bank Netting Members that met the criteria set out in Rule 3A.³⁸ In 2019, FICC expanded Sponsoring Member eligibility to also include Tier One Netting Members, other than Inter-Dealer Broker Netting Members, or Non-IDB Repo Brokers with respect to activity in its Segregated Repo Account.³⁹ At that time, FICC established two categories of Sponsoring

³⁸ Securities Exchange Act Release No. 51896 (June 21, 2005), 70 FR 36981 (June 27, 2005) (SR-FICC-2004-22).

³⁹ See Securities Exchange Act Release No. 85470 (Mar. 29, 2019) 84 FR 13328 (Apr. 4, 2019) (SR-FICC-2018-013) (creating two categories of Netting Members to be eligible to

Members – Category 1 Sponsoring Members are Bank Netting Members that meet the eligibility criteria described in Section 2(a) of Rule 3A, and Category 2 Sponsoring Members are all other eligible Netting Members.⁴⁰

While Bank Netting Members are subject to certain capitalization requirements as Sponsoring Member applicants,⁴¹ Category 2 Sponsoring Member applicants are instead subject to financial requirements that are greater than the financial requirements applicable in their capacity as Netting Members.⁴² Moreover, these increased financial requirements do not solely relate to an applicant’s capitalization, but instead are based on the applicant’s anticipated use of the Sponsoring Service in relation to their financial condition. Thus, this tiered category structure created differing applicant criteria based on the type of entity seeking Sponsoring Member status.

This differentiated approach continues for ongoing Sponsoring Member requirements. For example, a Category 1 Sponsoring Members may be subject to an increase in its Required Fund Deposit, as calculated pursuant to Section 2(h) of Rule 3A, if it fails to meet the applicable capitalization requirements.⁴³ Alternatively, Section 2(h) of Rule 3A provides that Category 2 Sponsoring Members may be subject to a limit on the activity that they can submit through the Sponsoring Service if their VaR Charges, as calculated and collected pursuant to Rule 4, exceed their Netting Member Capital.⁴⁴

The Sponsored Service has continued to grow since its implementation. As discussed above, FICC has conducted a review of its access models to consider whether (i) its existing policies and procedures treat transactions differently based on the identity of the participant submitting the transaction, the fact that an indirect participant is a party to the transaction, the method of execution, and other factors, and (ii) this variation of treatment continues to be

be Sponsoring Members, expanding the eligibility of the service to other types of Netting Members in addition to Bank Netting Members).

⁴⁰ See id. See also Rule 3A, Section 2, supra note 1.

⁴¹ Under Section 2(a) of Rule 3A, Bank Netting Members applying to be a Sponsoring Member must (i) have equity capital of at least \$5 billion, (ii) be “Well-Capitalized”, as such term is defined in the Rules, and (iii) have a bank holding company that is registered under the Bank Holding Company Act of 1954, as amended and that such bank holding company also be “Well Capitalized”. “Well Capitalized” is defined in Rule 1 to have the meaning given that term in the capital adequacy rules and regulations of the Federal Deposit Insurance Corporation. Supra note 1.

⁴² See Section 2(b)(ii) of Rule 3A, supra note 1.

⁴³ Supra note 1.

⁴⁴ A “VaR Charge” is a component of the Required Fund Deposit and defined in Rule 1, and “Netting Member Capital” is defined in Rule 1 to mean “Net Capital, net assets or equity capital as applicable, to a Netting Member based on its type of regulation”. Supra note 1.

necessary and appropriate in furtherance of the requirements under Rule 17Ad-22(e) and other parts of the Act applicable to FICC.⁴⁵ In light of this review and the general experience FICC has acquired in overseeing the expansion of the Sponsored Service membership, FICC believes that now is the appropriate time to make further enhancements so that this service can facilitate broader access to clearance and settlement services for eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants who may seek to use the Sponsored Service as Sponsored Members. Therefore, FICC believes it is appropriate to eliminate the two categories of Sponsoring Members and make all Sponsoring Members subject to the same eligibility and ongoing requirements that are currently applicable to Category 2 Sponsoring Members. In practice, this proposed rule change would therefore affect only Bank Netting Members that are or will apply to be Sponsoring Members by removing the above-mentioned capitalization requirements and instead applying to such Members (and therefore all Sponsoring Members) the activity limits and financial condition factors used today for Category 2 Sponsoring Members. More broadly, the proposal would create applicant and ongoing Sponsoring Membership parity among all Sponsoring Members and applicants, which in turn should give indirect participants a wider range of Sponsoring Members to consider should they choose to access GSD's central clearing services via this particular indirect access model. At the same time, the preservation and broader application of activity limits and financial condition monitoring will allow FICC to continue to manage the risks that could be presented by any activity cleared through the Sponsored Service.

First, the proposed changes would eliminate the capitalization requirements that Bank Netting Members must meet to be eligible Sponsoring Members applicants. This proposed change would therefore put Bank Netting Member applicants on equal footing with other types of Sponsoring Member applicants and would expand the availability of the Sponsored Service to additional Bank Netting Members. However, FICC does not believe this proposed change would increase the risks presented to it by Bank Netting Members' participation in the Sponsored Service as Sponsoring Members because FICC would continue to manage those risks through other existing risk management tools. For example, rather than apply capitalization requirements to every Bank Netting Member applicant, FICC would continue to have the authority, as it does today for other types of applicants, to impose greater and additional financial requirements on a Bank Netting Member applicant based on information available through the Sponsoring Member application and ongoing surveillance of the applicant as a Netting Member.⁴⁶ FICC is also able to use the Excess Capital Premium to manage instances where a Sponsoring Member presents

⁴⁵ See 17 CFR 240.17Ad-22(e). See supra note 8.

⁴⁶ See Rule 3A, Section 2(b)(ii) (describing the factors that FICC may consider when determining whether to impose additional financial requirements on a Sponsoring Member), supra note 1. For the purposes of illustration only, such financial requirements could include, without limitation, additional reporting requirements, including reporting of parent company financials, or a higher minimum deposit to the Clearing Fund.

heightened default risk because of lower capital levels.⁴⁷ Finally, as described more below, the proposal would impose upon Bank Netting Members the same activity limit used for other types of Sponsoring Members today, thereby giving FICC an additional risk management tool to address any risks that may arise because of a Bank Netting Member's capital levels.

Second, the proposed changes would eliminate FICC's right to increase the Required Fund Deposit of a Category 1 Sponsoring Member if it fails to meet the capitalization requirements, instead relying upon an activity limit under the circumstances described in Section 2(h) of Rule 3A on all Sponsoring Members (including, as discussed above, those that are Bank Netting Members).⁴⁸ The activity limit, which currently only applies to Category 2 Sponsoring Members, restricts a Sponsoring Member from submitting additional activity into its Sponsoring Member Omnibus Account(s) if its capital levels exceed the sum of its VaR Charge component of the Clearing Fund.⁴⁹ Based upon its experience with the activity limit tool since it was first applied in 2019, FICC believes the activity limit has been an appropriate and effective risk management measure for its Sponsoring Members, and will continue to operate as such with the expanded application to Bank Netting Members. As noted earlier, Sponsoring Members are unconditionally liable to FICC for the obligations of its Sponsored Members under the Sponsoring Member Guaranty, and FICC relies on the financial resources of the Sponsoring Members to ensure that their funds and securities settlement obligations will still be met if the Sponsored Members default. Therefore, the activity limit aligns more neatly with this risk by giving FICC the proactive ability to mitigate Sponsoring Member exposures in prohibiting concerning participants from continuing to submit activity that they may not be able to cover. Like the changes to the eligibility requirements discussed above, this proposed change would also harmonize the conditions of membership across all types of Sponsoring Members, thereby increasing the potential pool of Sponsoring Member applicants to the benefit of both direct and indirect participants seeking expanded access to GSD's central clearing services.

To implement these proposed changes, FICC would make the following changes to the Rules: (1) delete the definitions of "Category 1 Sponsoring Member" and "Category 2 Sponsoring Member" from Rule 1; (2) revise the definition of "Sponsoring Member" in Rule 1 to remove reference to the two categories; and (3) amend Section 2(a), (b) and (h) of Rule 3A to remove the capitalization eligibility requirements currently applicable to Category 1 Sponsoring Members and clarify that the Category 2 Sponsoring Member eligibility requirements apply to all applicants to be a Sponsoring Member.

b. Remove the QIB Requirement Applicable to Sponsored Members

FICC is proposing to remove the eligibility requirement that Sponsored Members either be "qualified institutional buyers" as such term is defined by Rule 144A under the Securities Act

⁴⁷ See Rule 3, Section 14 (the Excess Capital Premium is an additional Clearing Fund deposit that may be required if a Member's capital levels drop below a threshold relative to its other margin requirements), supra note 1.

⁴⁸ See Rule 3A, Section 2(h), supra note 1.

⁴⁹ See id. See supra note 39.

of 1933, or otherwise satisfy the financial requirements of such definition.⁵⁰ As noted above, FICC has progressively expanded the eligibility of both Sponsoring Members and Sponsored Members to facilitate greater access to this indirect participation model and based on its experience over time with the Sponsored Service believes this change is now appropriate.⁵¹ Upon implementation of this proposal, the only qualification for a Person (as such term is defined in Rule 1)⁵² applying to be a Sponsored Member would be that it is sponsored by at least one Sponsoring Member. Therefore, this proposed change would make the Sponsored Service available to additional market participants, thereby facilitating those firms with access to GSD's clearing services. Expanding eligibility to become a Sponsored Member supports the goals of the Treasury Clearing Rules to facilitate increased central clearing of transactions involving U.S. Treasury securities.⁵³

FICC believes that making this change is appropriate because, as described above, FICC risk manages the Sponsored Service primarily at the Sponsoring Member level, not the Sponsored Member level. For example, a Sponsoring Member is responsible under Section 10 of Rule 3A for posting to FICC the Required Fund Deposit for its sponsored activity and, while Sponsored Members are principally liable to FICC for their settlement obligations, the Sponsoring Member is also required under Section 2 of Rule 3A to provide a guaranty to FICC for such obligations.⁵⁴ This means that, in the event one or more Sponsored Members does not satisfy its settlement obligations, FICC is able to invoke the Sponsoring Member Guaranty. Finally, pursuant to Section 2(d) of Rule 3A and Section 2 of Rule 3, Sponsoring Members may be required to provide to FICC reports or other information that FICC may require, including, for example, responses to annual or ad hoc due diligence requests.⁵⁵ As described above, FICC utilizes these due diligence requests to identify, monitor and manage the risks Sponsoring Members and their Sponsored Members may present to it. Where FICC identifies risks, whether via the due diligence process or otherwise, as discussed previously FICC will be able to impose on a Sponsoring Member supplemental financial requirements, an Excess Capital Premium charge (where applicable), and activity limits. Therefore, FICC believes that its existing risk management practices with respect to the Sponsored Service, which do not directly rely on the

⁵⁰ 17 CFR 230.144A. See Rule 3A, Section 3(a), supra note 1.

⁵¹ See Securities Exchange Act Release No. 80563 (May 1, 2017), 82 FR 21284 (May 5, 2017) (SR-FICC-2017-003) (removing a requirement that a Sponsored Member be a registered investment company, as such term is defined in Rules). See also supra note 39.

⁵² Supra note 1.

⁵³ See page 12 of the Adopting Release (referring to the revisions to Rule 17Ad-22(e)(18) as being designed to “bring the benefits of central clearing to more transactions involving U.S. Treasury securities, thereby reducing the overall systemic risk in the market”). Supra note 2.

⁵⁴ See supra note 1.

⁵⁵ See supra note 1.

QIB requirement, continue to facilitate effective risk management of exposures created through the Sponsored Service.

To implement this proposed change, FICC would amend Section 2(a) of Rule 3A to remove the requirement that a Sponsored Member be either a “qualified institutional buyer” as defined by Rule 144A under the Securities Act of 1933 as amended, or otherwise satisfy the financial requirements of that definition.⁵⁶

c. Clarify the Eligibility Criteria for Non-U.S. and Other Applicants to be Netting Members

FICC is proposing to revise the Rules addressing Netting Member eligibility criteria for applicants that are either (1) not incorporated or formed in the United States, currently referred to in the Rules as “Foreign Persons,”⁵⁷ and (2) applicants, including Foreign Persons, that do not meet the eligibility criteria of one of the categories of Netting Member.

(i) *Foreign Person Applicants.* FICC is proposing to improve the transparency of the Rules regarding the eligibility of Foreign Persons to become Netting Members. In connection with these proposed changes, the proposal would eliminate the category for “Foreign Netting Member” and simplify the related defined terms.

Currently, a Foreign Person applying to be a Netting Member must meet the eligibility criteria for a distinct Netting Member category, “Foreign Netting Members.” In contrast with the eligibility approach used for other Netting Member categories, the eligibility criteria for Foreign Netting Members in Section 3(a)(v) of Rule 2A do not specify or reference eligible types of legal entities. However, Section 4(b)(ii)(E) of Rule 2A does provide for minimum financial requirements and includes specific criteria for brokers, dealers and banks. This Section also provides FICC with the authority to set minimum financial requirements for other types of legal entities applying to be a Foreign Netting Member.

Section 3(b) of Rule 2A currently states that an entity can only be one category of Netting Member at a time.⁵⁸ A Foreign Person that, for example, is the foreign equivalent to a Registered Investment Company⁵⁹ would apply to be a Foreign Netting Member, and would be subject to

⁵⁶ 17 CFR 230.144A.

⁵⁷ “Foreign Person” is currently defined in Rule 1 to mean “a Person that is organized or established under the laws of a country other than the United States and does not include a foreign Bank Netting Member which is not deemed to be a Foreign Member pursuant to the definition of that term.” *Supra* note 1. Proposed revisions to simplify this defined term would not change it substantively.

⁵⁸ *Supra* note 1.

⁵⁹ “Registered Investment Company” is currently defined in Rule 1 to mean “an Investment Company that is registered as such with the SEC”, where an “Investment Company is currently defined in Rule 1 to have “the meaning given that term in Section 3 of the

the eligibility criteria, other membership qualifications, and ongoing minimum membership standards that are applicable to Foreign Netting Members. However, the Rules also contain specific eligibility criteria, other membership qualifications, and ongoing minimum membership standards for Registered Investment Company Netting Members. Thus, in this example it is unclear whether the applicant entity would only be subject to the Foreign Netting Member standards or would also have to satisfy the Registered Investment Company Netting Member standards. This ambiguity can have meaningful implications. For example, Registered Investment Company Netting Members are excluded from the requirement that Netting Members purchase common shares of The Depository Trust & Clearing Corporation, pursuant to Rule 49.⁶⁰ If a Registered Investment Company that is a Foreign Person applied, and was approved, to be a Foreign Netting Member, it would not be clear if this exclusion from Rule 49 should be applicable to this Foreign Netting Member applicant.

To address these instances of ambiguity, the proposed rule changes would eliminate the category of “Foreign Netting Member” and would expand the qualifications for each category of Netting Member to include the foreign equivalent of the same legal entity types, as determined by FICC in its sole discretion. For example, the qualifications to be an Insurance Company Netting Member would continue to include an insurance company, as such term is defined in Section 2(a)(17) of the Investment Company Act of 1940, as amended,⁶¹ and would now also include an equivalent of such an entity in a non-U.S. jurisdiction, as determined by FICC in its sole discretion and meets the qualifications applicable to a Foreign Person in Rule 2A. In making the determination of whether a Foreign Person is an equivalent legal entity to the domestic legal entities that qualify for a category of Netting Member, FICC would consider, for example, the applicant’s business model and its regulatory framework and designated examining authority.

Thus, the proposal would then provide that a Foreign Person shall be eligible to apply to become a Netting Member if either (1) it qualifies for one of the existing categories of Netting Member, or (2) FICC determines that the applicant may apply in the same way as an applicant that does not qualify under an existing category of Netting Member, as described in greater detail below.

Foreign Persons that are eligible to apply to be a Netting Member would be subject to both the minimum membership standards of the applicable Netting Member category as well as the eligibility criteria currently applicable to Foreign Netting Members, currently set forth in Section 3(a)(v) of Rule 2A.⁶² The proposed changes would also provide that, where an applicable

Investment Company Act of 1940, as amended.” Supra note 1. Proposed revisions to simplify this defined term would not change it substantively.

⁶⁰ Supra note 1.

⁶¹ 15 U.S.C. 80a-2(a)(17).

⁶² See Rule 2A, Section 3(a)(v) (providing that a person may be eligible to apply to be a Foreign Netting Member if it “(i) has a home country regulator that has entered into a memorandum of understanding with the SEC regarding the sharing or exchange of information, and (ii) maintains a presence in the United States, either directly or through

Netting Member category is subject to membership qualifications that are inconsistent with the qualifications applicable to a Foreign Person, then the standards applicable to a Foreign Person shall apply. In some cases, this approach may lead to any outcome where a Foreign Person applicant remains subject to home jurisdiction requirements that are different from the requirements applicable to other Netting Members. FICC believes that this outcome is nevertheless acceptable because, as discussed further below in the section about Other Applicants, the Rules would still provide that FICC will continue to apply the membership standards that were designed specifically to address the risks that may be presented when an applicant is not domiciled in the U.S. and whose primary regulator is not U.S.-based.

In this way, the proposed changes would clarify that Foreign Persons may be eligible to be direct participants of FICC under any of the existing categories of Netting Members and, therefore, would facilitate access to GSD's clearance and settlement services through direct membership with FICC to these market participants.

To implement these proposed changes, FICC would amend the qualifications of each Netting Member category listed in Section 3(a) to include a foreign equivalent of the currently eligible legal entity types. The proposed changes would also move the eligibility criteria for Foreign Netting Members from Section 3(a)(v) of Rule 2A to a revised Section 3(b)(i) of Rule 2A. The proposed changes would remove the definitions of "Foreign Member" and "Foreign Netting Member" and revise the definition of "Foreign Person" in Rule 1. References to Foreign Netting Member would also be removed or replaced, as appropriate, in Section 4(b)(ii)(E) of Rule 2A and in Sections 2(f), 8(g) and 12(b)(i)(C) of Rule 3.

Because the defined term "Foreign Member" is currently only used in two places in the Rules, the proposed change to remove this term would simplify the Rules. Reference to "Foreign Member" would be removed from the definition of "Foreign Person" in the revisions to this definition described below. The other reference to "Foreign Member" in Section 7(g) of Rule 2A would be replaced with "a Member that is a Foreign Person".

In connection with these proposed changes, FICC is also proposing to move requirements that Foreign Persons applying to be a Netting Member and other applicants that are referred to as "FFI Members"⁶³ make certain financial representations and certifications. These requirements would be moved from Section 3(a)(v) of Rule 2A to Section 5(c) of Rule 2A, which currently

a suitable agent, that both has available individuals fluent in English who are knowledgeable in the Foreign Person's business and can assist the Corporation's representatives as necessary, and ensures that the Foreign Person will be able to meet its data submission, settlement, and other obligations to the Corporation as a Member in a timely manner.") and Section 4(b)(ii)(E) (specifying the minimum financial requirements for an applicant to be a Foreign Netting Member).

⁶³ "FFI Members" are defined as "any Person that is treated as a non-U.S. entity for U.S. federal income tax purposes. For the avoidance of doubt, FFI Member includes any Member that is a U.S. branch of an entity that is treated as a non-U.S. entity for U.S. federal income tax purposes." Supra note 1.

describes membership application documents, where such certifications would be included. This proposed change would improve the clarity of the Rules by including this membership requirement in the same place as similar membership requirements.

Finally, FICC is proposing to remove the requirement that an entity can only be one category of Netting Member at a time, but would retain the statement that, if an applicant qualified for multiple Netting Member categories, FICC would determine the category of Netting Member for which that applicant would be considered. This statement would be included in Section 3(a) of Rule 2A, just prior to the list of qualifications for each category of Netting Member.

(ii) *Other Applicants.* The proposed rule changes would provide a framework for FICC to consider an applicant, including a Foreign Person, to be a Netting Member if that applicant does not meet the eligibility criteria of one of the existing Netting Member categories. The intent behind these proposed changes is to facilitate FICC's ability to provide access to GSD's clearing services to a broader and more diverse range of market participants in a timely and efficient manner and, therefore, would support FICC's compliance with its requirement to facilitate access to its clearance and settlement services.⁶⁴

Section 3(a) of Rule 2A lists each category of Netting Member, which are defined by different types of eligible legal entities, for example, Bank Netting Members, Dealer Netting Members and Futures Commission Merchant Netting Members. FICC does not have the authority to consider applicants to be a Netting Member if the applicant does not meet the eligibility criteria of one of these Netting Member categories. Therefore, FICC is proposing to expand its authority to consider any applicant, including Foreign Persons, to be a Netting Member. FICC believes it is both appropriate and consistent with its requirements to facilitate access to its services to allow other legal entity types to apply to be a Netting Member.

The proposed rule change would first require that an applicant demonstrate to FICC that its business and capabilities are such that it could reasonably expect material benefit from direct access to FICC's services.⁶⁵ An applicant would demonstrate this through its responses to the application questionnaire and other initial application materials. Next, the proposed rule would provide that FICC would apply minimum membership standards to an applicant that it deems reasonable and appropriate. Such minimum standards would be developed by FICC based on information provided by or concerning the applicant and the applicant's risk profile. Such information would include, for example, (i) the applicant's business model, (ii) its regulatory framework and designated examining authority, (iii) its organizational structure and risk

⁶⁴ 17 CFR 240.17Ad-22(e)(18)(iv)(C).

⁶⁵ This proposed change would harmonize the Rules with the rules of NSCC, which includes the same language. See Addendum B, Section 1(A)(vi) of NSCC's Rules and Procedures, which provides that, if an applicant does not qualify as one of the legal entity types specified in that rule, it may qualify if it "has demonstrated to the Board of Directors that its business and capabilities are such that it could reasonably expect material benefit from direct access to [NSCC's] services." Supra note 24.

management framework, and (iv) its anticipated use of the Corporation's services. By describing the factors and information that FICC would consider in developing the applicant minimum standards, the proposed changes would require that FICC develop and apply minimum membership standards that are both objective and risk-based.

These rule changes would be added to new Section 3(b)(ii) of Rule 2A, following the proposed changes regarding applicants that are Foreign Persons, described above. In connection with these changes, the proposal would move a statement that any additional categories of Netting Member, including the applicable eligibility criteria and minimum membership standards, would be subject to approval of the Commission from Section 3(a)(x) to a new Section 3(c).

As noted above, these proposed changes would support FICC's compliance with its requirement to facilitate access to its clearance and settlement services. Following the adoption of the Treasury Clearing Rules, additional market participants will need to access FICC clearance and settlement services, either as direct Netting Members or as indirect participants. FICC cannot reliably predict which types of legal entities will apply for direct membership or predict the risk profiles of those entities in order to preemptively develop applicable qualifications and membership standards. Therefore, the proposed rule change would provide FICC with the necessary flexibility to consider any potential applicants, including legal entities that do not fit into its current Netting Member categories, through a framework that is consistent with the rules of its affiliate, NSCC.

On an annual basis, FICC will review and conduct an assessment of GSD's access models, in compliance with the requirements of Rule 17Ad-22(e)(18)(iv)(C) under the Act.⁶⁶ In connection with this annual assessment, FICC would review the types and number of legal entities that have applied to be a Netting Member under the proposed provision over the prior 12 months. Based on that review, FICC would determine whether it would be appropriate to adopt, through a proposed rule change, a new category of Netting Member and the applicable qualifications and membership standards. FICC would address this annual review in its proposed amendments to the Clearing Agency Risk Management Framework, where the annual review of GSD access models would also be addressed.⁶⁷

3. *Improve Clarity of Public Disclosures Regarding Access Models and Membership Categories*

The proposed revisions to the Rules would also simplify and, therefore, improve the transparency and clarity of how FICC discloses to the public its criteria and other requirements for GSD's different participation models and membership categories. Collectively, these

⁶⁶ 17 CFR 240.17Ad-22(e)(18)(iv)(C). Contemporaneously with this proposed rule change, FICC and its affiliates, NSCC and The Depository Trust Company, are proposing changes to the Clearing Agency Risk Management Framework to provide for the annual assessment and subsequent review of GSD's access models by the Board, as required by Rule 17Ad-22(e)(18)(iv)(C). See supra note 2.

⁶⁷ Id.

proposed changes would improve market participants' understanding regarding the availability and the comparative tradeoffs across these services and, therefore, facilitate increased access to those services.

a. Create a Public Road Map for Access Models and Membership Types in Rule 2

First, the proposed changes would revise Rule 2 to provide a public road map for the types of available memberships and the different participation models. Rule 2 currently describes how FICC makes its services available to entities that are approved for membership, lists the different membership types (*i.e.*, Comparison-Only Members, Netting Members, Sponsoring Members) and identifies the different categories of Netting Member (*i.e.*, Dealer Netting Member, Bank Netting Member, Inter-Dealer Broker Netting Member). This Rule also references some of the other Rules that govern certain memberships and addresses the liability of Members for activity they process through FICC on behalf of entities that are not Members.

The proposed changes would expand Rule 2 significantly to outline the various participation models available to market participants that allow for both direct and indirect access to GSD's clearance and settlement services. This outline would include descriptions of the services available to each membership type and provide a public road map for where those services are described in other Rules. These proposed changes are designed to address one of the key findings from FICC's outreach to market participants, that its various participation models are not well understood.⁶⁸

Section 1 of Rule 2 would be revised to include a statement that GSD's services may be available directly or indirectly through either the Sponsored Service or a relationship with an Agent Clearing Member.

Section 1 of Rule 2 would be revised to remove a reference to FICC's Board of Directors approving membership applications. As provided in Rule 44, action by the Corporation may include action by the Board or by another authorized person as may be designated by the Board from time to time. This proposed change would permit the Board to either retain the authority to approve these applications or authorize management to do so, consistent with Rule 44 and the Board's authority under the FICC By-laws. Specifically, the Board's authority to empower management with certain responsibilities originates in the FICC By-laws, which have been filed as a rule of FICC.⁶⁹ The FICC By-laws document the responsibilities of the Board in electing and appointing officers of FICC and prescribing and assigning to those officers their respective powers, authority and duties.⁷⁰ This revision would simplify the statement in Rule 2, consistent

⁶⁸ See supra note 8.

⁶⁹ See Securities Exchange Act Release Nos. 54173 (July 19, 2006), 71 FR 42890 (July 28, 2006) (SR-DTC-2006-10, SR-FICC-2006-09, and SR-NSCC-2006-08); 82917 (Mar. 20, 2018), 83 FR 12982 (Mar. 26, 2018) (SR-FICC-2018-002).

⁷⁰ See Sections 3.2 through 3.9 of the FICC By-laws, available at www.dtcc.com/~media/Files/Downloads/legal/rules/FICC-By-Laws.pdf.

with Rule 44. Section 2 would list the different memberships that have direct access to GSD's services, which include Netting Members, CCIT Members, Funds-Only Settling Bank Members and Comparison-Only Members. Separate subsections would describe each of these membership types, including a general description of the types of firms that would qualify for these membership types and where those qualifications are described with more specificity in the Rules. These subsections would also generally describe which of GSD's services are available to each membership type and would identify the Rules where those available services are described in more detail. The subsection describing Netting Members would also include a description of the additional ways Netting Members may use GSD's services, as Agent Clearing Members in connection with the use of the Agent Clearing Service and Sponsoring Members in connection with the participation in the Sponsored Service.⁷¹

In connection with these changes, the proposal would also move a statement regarding the designation of different categories of Netting Members as either Tier One Netting Member or Tier Two Member from Rule 2A and move it to Rule 2.⁷² Rule 2A describes eligibility criteria for different membership types and these designations are not eligibility criteria, but relate to how FICC's loss allocation provisions, described in Rule 4, apply to a Netting Member.⁷³ This proposed change would make these designations easy to locate by Netting Members or market participants considering a direct membership by including them in the Rule where the different membership types are described.

Section 3 of Rule 2 would be revised to describe FICC's two indirect participation models that are available to Sponsored Members utilizing the Sponsored Service and Executing Firm Customers utilizing the Agent Clearing Service. Like the other sections of the revised Rule 2, this Section 3 would clarify how a market participant may utilize one of these models to access FICC's clearance and settlement services as an indirect participant and would include a reference to the Rules that describe these indirect access models with more specificity.

The proposed changes would revise the existing statements in Rule 2 that describe the liability of Members who submit activity to FICC on behalf of entities that are not Members. These proposed changes would not alter that liability, but would improve the clarity of these statements, specifically by replacing reference to Members as being "liable in principal" to "fully liable for the performance of all obligations, financial or otherwise" This change would restate, without changing, the responsibility of Members with respect to activity submitted to FICC on behalf of other entities. By better explaining the Member's obligations and replacing the reference to principal liability, the proposed change would address any confusion regarding the Member's responsibility for a transaction away from FICC.

⁷¹ See Rule 8 and Rule 3A, respectively, supra note 1.

⁷² "Tier One Netting Member" and "Tier Two Member" are defined in Rule 1, supra note 1.

⁷³ Supra note 1.

b. Simplify Definitions of Membership Categories and Other Related Definitions

The proposed rule changes would simplify the definitions of the different types of GSD membership, including the categories of Netting Members, and enhance the disclosures regarding eligibility qualifications for membership categories. By improving these statements and public disclosures in the Rules, the proposed changes would clarify the availability of different membership types and, therefore, improve the understanding of market participants regarding the availability of a direct clearing membership and of indirect participants in determining which of GSD's indirect, intermediated access models they prefer to use.

Simplify Definitions of Netting Member Categories. Currently, the definitions of each category of Netting Member in Rule 1 refer to Section 3 of Rule 2A, where the qualifications for each category of Netting Member are described. Each subsection of Section 2 of Rule 2A includes a statement that defines each category of Netting Member as an entity that is admitted to membership in the Netting System as that category of Netting Member pursuant to the applicable qualifications and whose membership has not been terminated. The proposed rule changes would move these definitions of each category of Netting Member from Rule 2A to the defined terms in Rule 1. By moving the terms into Rule 1, the proposed change would simplify the descriptions of eligibility criteria in Section 3 of Rule 2A.

These proposed rule changes would also remove defined terms that are used only once in the Rules and replace the uses of those defined terms with the actual definitions. Some of these defined terms are used in the criteria for different categories of Netting Member. For example, the Rules include a definition of "Inter-Dealer Broker", and this defined term is only used once in the Rules, in the qualifications to be an Inter-Dealer Broker Netting Member in Section 3 of Rule 2A. Therefore, the proposed changes would remove this defined term from the Rules and use the definition of an Inter-Dealer Broker in the eligibility criteria for that category of Netting Member, in Section 3(a)(iii) of Rule 2A. Similar changes would be made in connection with the relevant defined terms and eligibility criteria for Government Securities Issuer Netting Member and Insurance Company Netting Member. These proposed changes would provide clearer descriptions of the qualifications for different categories of Netting Member in Rule 2A, and would not require a reader to refer back to the definitions in Rule 1 to understand those qualifications.

Other examples of these proposed changes include deleting the defined terms for "Registered Broker" and "Registered Government Securities Broker", which are both only used in the definition of "Broker", and instead use the definitions of these terms in the definition of Broker. FICC is proposing to make similar changes to the definition of "Dealer" which currently includes the only uses of the defined terms for "Registered Dealer" and "Registered Government Securities Dealer".

The proposed changes would update the eligibility criteria for Futures Commission Merchant Netting Members to clarify that an applicant for this category of Netting Member must be a member, and subject to the regulatory supervision, of the National Futures Association. The Rules currently require that an applicant to this Netting Member category be a Futures Commission Merchant, as such term is defined in the Commodity Exchange Act and that it be

registered with the Commodity Futures Trading Commission (“CFTC”).⁷⁴ Because any Futures Commission Merchant that is registered with the CFTC is also required to be a member of the National Futures Association,⁷⁵ the proposed rule change would just clarify, but would not add to, the qualifications for this category of membership.

Finally, the proposed rule changes would state in the introduction of Section 3(a) of Rule 2A that applicants can only be one category of Netting Member and that FICC would determine the appropriate category for applicants that meet the eligibility criteria for multiple categories. This limitation is currently in Section 3(b) of Rule 2A, at the end of the list of categories of Netting Member. The proposed change would move this requirement more prominently to the top of this Section.

Simplify Other Defined Terms. In connection with, and related to, the proposed changes described above to simplify the definitions of the different categories of Netting Member, the proposed rule changes would also revise other defined terms to improve the clarity and transparency of the Rules.

The proposed changes would revise the defined term for “CCIT Member” and move a statement in this definition that Registered Investment Companies are not eligible to be CCIT Members to Section 2 of Rule 3B, where the rest of the eligibility and qualifications for CCIT Members are described. Similarly, the proposed changes would move a statement from the definition of “Funds-Only Settling Bank Member”, describing a requirement that these members be party to certain agreements, to Section 4 of Rule 13, where the requirements applicable to these members are described. These proposed changes would improve the transparency of the Rules by including all of the qualifications applicable to these different membership types in the same places in the Rules.

4. *Other Corrections and Clarifications to the Rules*

The proposed rule changes would make other revisions to correct, clarify and conform provisions of the Rules to improve their accuracy in describing GSD’s services and improve the transparency of the Rules.

First, the proposed rule changes would revise the definition of “Person” to clarify that this term was not intended to include individuals (*i.e.*, natural persons). The proposed changes would also remove the defined term for “Non-Member” and replace this term in the Rules to use more descriptive terms appropriate to the context where the term is used. For example, Rule 15 would be revised to replace reference to “Non-Member” with the term “customer” in describing activity submitted to FICC by Repo Brokers. The proposed changes would also make immaterial, technical changes to simplify the definition of “Member” in Rule 1.

Finally, the proposed rule changes would amend the first sentence of Section 4 of Rule 2A and Section 2 of Rule 3A to replace reference to the Board as being responsible for

⁷⁴ 7 U.S.C. 1(a)(28).

⁷⁵ 17 CFR 170.15(a).

approving membership applications with reference to the Corporation, consistent with Rule 44. These changes would conform to the proposed changes being made to Rule 2, described above, to permit the Board to either retain the authority to approve these applications or authorize management to do so, consistent with Rule 44 and the FICC By-laws.

Implementation Timeframe

Subject to approval by the Commission, FICC expects to implement the proposal by no later than March 31, 2025, and would announce the effective date of the proposed change by an Important Notice posted to FICC's website.

(b) Statutory Basis

FICC believes the proposed changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, FICC believes the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act,⁷⁶ and Rules 17Ad-22(e)(18)(iii), (e)(18)(iv)(C), (e)(19) and (e)(23)(ii), each promulgated under the Act,⁷⁷ for the reasons described below.

Section 17A(b)(3)(F) of the Act requires that the rules of FICC be designed to, among other things, to promote the prompt and accurate clearance and settlement of securities transactions, as well as to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.⁷⁸ As described in greater detail below, the proposed changes to redefine the correspondent clearing / prime broker services as the Agent Clearing Service and the other proposed changes to the disclosures in the Rules regarding membership types and access models would clarify and improve public understanding of the ways a market participant may access FICC's clearance and settlement systems, thereby facilitating increased access to those systems. The proposed changes to eliminate the two categories of Sponsoring Members, remove the QIB requirement for Sponsored Members, and clarify the framework for both Foreign Persons and other applicants to be Netting Members would facilitate broader access to FICC's clearance and settlement systems.

The collective impact of these proposed changes would be to permit an increase in diversity and scope of market participants able to utilize FICC's central counterparty services, which can reduce the costs of securities transactions through FICC's multilateral netting, its trade guaranty and centralized default management, and mitigate and manage counterparty risks. Therefore, the proposed changes would support FICC's compliance with Section 17A(b)(3)(F) of the Act by promoting the prompt and accurate clearance and settlement of securities through expanded access to its clearance and settlement systems.⁷⁹ In making changes that clarify,

⁷⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷⁷ 17 CFR 240.17Ad-22(e)(18)(iii), (e)(18)(iv)(C), (e)(19), and (e)(23)(ii).

⁷⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁷⁹ Id.

simplify, and potentially expand the universe of intermediaries and access models that are available to market participants, including indirect participants, the proposed changes also would foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

Rule 17Ad-22(e)(18)(iii) under the Act requires that FICC monitor compliance with its participant requirements on an ongoing basis.⁸⁰ The proposed rule changes would allow FICC to assess the risk profiles of its Netting Members, in their capacity as Agent Clearing Members, through the information Netting Members would provide when they apply to use the Agent Clearing Service and through the subsequent due diligence requests. The collection of this information, which would include, for example, information regarding the controls the Agent Clearing Member has in place to monitor and mitigate its risks, would allow FICC to monitor its Members' compliance with the requirements of participating in the Agent Clearing Service. The proposed rule changes to eliminate the two categories of Sponsoring Member would expand FICC's ability to set appropriate activity limits to all Sponsoring Members. The activity limits allow FICC to monitor the activity and, therefore, the risks that this activity may present to FICC. Therefore, these proposed rule changes support FICC's compliance with the requirements of Rule 17Ad-22(e)(18)(iii).⁸¹

Rule 17Ad-22(e)(18)(iv)(C) under the Act requires, among other things, that FICC, as a covered clearing agency that provides central counterparty services for transactions in U.S. Treasury securities, ensure that it has appropriate means to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.⁸²

FICC has conducted a review of its existing access models that, as described above, included consideration of whether FICC's existing policies and procedures treat transactions differently based on the identity of the participant submitting the transaction, the fact that an indirect participant is a party to the transaction, the method of execution, and other factors and that included a survey of market participants.⁸³ Following this review, FICC believes that its existing direct and indirect participation models provide market participants with appropriate means to access to its clearance and settlement services, including indirect participants. As described below, the proposed rule changes would clarify and, therefore, improve market participants' understanding of these participation models. Certain proposed changes would expand the availability of participation to more, and a wider variety of, market participants. Collectively, the proposed changes are designed to support FICC's continued compliance with the requirements of Rule 17Ad-22(e)(18)(iv)(C) under the Act by enhancing the Rules in

⁸⁰ 17 CFR 240.17Ad-22(e)(18)(iii).

⁸¹ Id.

⁸² 17 CFR 240.17Ad-22(e)(18)(iv)(C).

⁸³ Supra note 8.

describing various means for accessing its clearance and settlement services, including those of indirect participants.

The proposed changes to re-name the correspondent clearing / prime broker services to a single Agent Clearing Service would better disclose to the public, through the Rules, the operation and availability of this indirect participation model, and the rights and obligations of both Netting Members that use this service and their customers, who use this service to indirectly access central clearing at FICC. As described above, the proposed changes to Rule 8 would more clearly define the service through a number of additional disclosures. Among other things, the proposed changes would describe how a Netting Member can apply to use this service as an Agent Clearing Member, specify the rights and obligations of Agent Clearing Members in their use of this service and define the transactions that are eligible to be cleared and settled through this service, in addition to addressing other key aspects of the service.

In this way, the proposed changes would provide a framework for Agent Clearing Members, their customers, and other market participants regarding how to access FICC's clearance and settlement services. By making these public disclosures clearer and more detailed, the proposed changes would improve market participants' understanding of the operation, availability, and comparative tradeoffs of this service, thereby facilitating access to FICC's clearance and settlement services for Executing Firm Customers as indirect participants.

The proposed rule changes to update the eligibility criteria for both direct and indirect membership are also designed to improve the availability of GSD membership to more, and a wider variety of, market participants. By eliminating the two categories of Sponsoring Members, FICC would apply the same eligibility criteria and conditions for continued membership to all Sponsoring Members, without applying different standards based on the identity of the participant. This proposed rule change would also make more Bank Netting Members eligible to apply to be a Sponsoring Member, improving access to this indirect participation model by expanding the potential universe of Sponsoring Member intermediaries. The proposal to eliminate the QIB requirement for Sponsored Members would permit market participants that did not meet this eligibility criteria to participate in FICC's Sponsored Service and, therefore, access its clearance and settlement systems as indirect participants. The proposed changes to provide a framework for how additional Netting Member applicants, including Foreign Persons, may be eligible to apply to be Netting Members would allow additional market participants to be considered for direct membership. These rule changes clarify the process FICC would follow in considering an applicant for direct membership and, therefore, facilitate broader access to clearance and settlement services.

Finally, by revising the Rules to include a roadmap for the different categories of membership and various participation models, and to clarify and simplify the descriptions of membership types, these proposed rule changes, like the changes described above, would improve market participants' understanding of the available means for accessing FICC's clearance and settlement services.

As described above, while FICC is not proposing to materially change its existing access models, it is proposing to further disclose to the public, through the Rules, the criteria and related requirements for how both Members and, indirectly, legal entities that are not Members, can

access GSD's services through these participation models. By doing so, the proposed changes would lead to better understanding of the available methods for accessing FICC's clearance and settlement systems, including by indirect participants in support of its compliance with Rule 17Ad-22(e)(18)(iv)(C).⁸⁴

Rule 17Ad-22(e)(19) under the Act requires that FICC identify, monitor, and manage the material risks to the covered clearing agency arising from arrangements in which firms that are indirect participants in the covered clearing agency rely on the services provided by direct participants to access the covered clearing agency's payment, clearing, or settlement facilities.⁸⁵

The proposed rule changes would describe the various ways FICC would identify, monitor and manage the risks that may be presented to it through the Agent Clearing Service. When a Netting Member applies to use this service as an Agent Clearing Member, FICC would first collect information through an application, which would include information regarding its customers, past and/or projected volumes of its customer activity, and its controls for monitoring and mitigating risks, including risks presented by those customers. FICC would also continue to require Agent Clearing Members to identify their Executing Firm Customers, provide FICC with a current LEI for any customers, and confirm such customers' agent clearing relationship with the Agent Clearing Member before submitting trades on their behalf. The proposed rule changes to Rule 8 would also affirm FICC's existing authority to request reports and other information from Netting Members, in their capacity as Agent Clearing Member, through annual and ongoing due diligence requests. As described above, these information requests are, and would continue to be, an important tool for FICC to identify and monitor the risks that arise from these indirect participation arrangements. As described above, FICC uses these risk profiles to determine when to take further risk management measures available under its Rules to manage any risks a Member may pose to it.

In this way, these proposed changes would support FICC's compliance with Rule 17Ad-22(e)(19) and the requirement that it identify, monitor, and manage the material risks that may arise from the Agent Clearing Service.⁸⁶

Rule 17Ad-22(e)(23)(ii) under the Act requires that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for providing sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in FICC.⁸⁷ As described in detail above, the proposed rule changes are collectively designed to improve the public disclosures, in the Rules, describing the different types of membership, different categories of Netting Member and different participation models available to market participants.

⁸⁴ Id.

⁸⁵ 17 CFR 240.17Ad-22(e)(19).

⁸⁶ Id.

⁸⁷ 17 CFR 240.17Ad-22(e)(23)(ii).

By revising Rule 8 to describe the Agent Clearing Service with greater clarity and specificity, the proposed rule changes would provide both Agent Clearing Members and their Executing Firm Customers with sufficient information regarding the rights and obligations of all parties using this service. By defining the process by which a Netting Member may apply to use the Agent Clearing Service, the operation of that service, and the rights and obligations of Agent Clearing Members, these additional disclosures would provide market participants with sufficient information to evaluate the risks, fees, and other costs they may incur through participation in this service.

For example, the proposed rule changes would specify in Section 5 of Rule 8 that the Agent Clearing Member is fully liable for the performance of all obligations, financial or otherwise, to FICC arising in connection with Agent Clearing Transactions. The proposed rule changes would also provide, in Section 3 of Rule 8, that nothing in the Rules prohibit an Agent Clearing Member from seeking reimbursement from an Executing Firm Customer for payments made by the Agent Clearing Member under the Rules, or as otherwise may be agreed between the Agent Clearing Member and the Executing Firm Customer.

The proposed rule changes to clarify the descriptions of the criteria and related requirements for how both Members and, indirectly, legal entities that are not Members, can access GSD's services also would support FICC's compliance with the requirements of Rule 17Ad-22(e)(23). These proposed rule changes would simplify and, therefore, clarify the criteria and related descriptions of the different models for accessing GSD's services. As described above, the proposed changes include adding a public road map for the different models for accessing GSD's services, simplifying the definitions of the different types of membership, and clarifying the eligibility criteria for different categories of Netting Members. These proposed changes are designed to enhance the ability of market participants to understand GSD's access models that are available, thereby allowing them to determine, whether as direct or indirect participants, how to access, offer, and price those models to obtain access to central clearing. In this way, the proposed rule changes would support FICC's continued compliance with the requirements of Rule 17Ad-22(e)(23).

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

FICC believes that the proposed rule changes described in this filing would promote competition by improving market participants' understanding of the different membership categories and various models for accessing its clearance and settlement services.

As stated above, while some of the proposed changes include enhancements to membership qualifications and use of indirect access models, in general, the proposed rule changes would not materially change how market participants can access GSD's services today. The proposed application process and ongoing due diligence requests that would be applicable to Agent Clearing Members are not currently required for use of the existing correspondent clearing / prime broker services. The proposed application process could prohibit a Netting Member from using the Agent Clearing Service if FICC determines, based on the information provided in the application, that the applicant does not, for example, have the proper risk management controls in place to submit trades to FICC on behalf of its customers. This could create a competitive disadvantage between such applicant and other Netting Members that are approved

to use the Agent Clearing Service. The proposed due diligence requests could result in additional risk management measures, such as increased reporting obligations or Clearing Fund deposits, if FICC deems such measures appropriate to mitigate risks that are identified through the course of such due diligence. Such risk management measures could also create a competitive disadvantage between the Agent Clearing Members that are subject to those measures and those that are not.

However, FICC believes the application process and the due diligence information requests are important tools for FICC to identify and monitor the risks that arise from these indirect participation arrangements. FICC believes these proposed changes are appropriate in allowing FICC to assess the risk profiles of its Netting Members either as applicants or in their capacity as Agent Clearing Members through the information they would provide when they elect to use the Agent Clearing Service and the subsequent due diligence requests. FICC also believes these proposed measures are necessary for it to comply with its requirements under Rule 17Ad-22(e)(19) under the Act, as described above.⁸⁸

By providing Members and other market participants with more information regarding these different access models, the proposed changes would collectively promote competition by facilitating greater access to FICC's services by contemplating a more diverse and wider scope of market participants who could serve as intermediaries, thereby increasing the potential range of avenues by which indirect participants can seek to access GSD's clearing services. The proposed rule changes to eliminate the two categories of Sponsoring Members would also promote competition by applying the same eligibility criteria and ongoing risk management conditions to all Sponsoring Members. This proposed change and the proposal to eliminate the QIB requirement for Sponsored Members would promote competition further by permitting additional firms to participate in the Sponsored Service as either Sponsoring Members or Sponsored Members, respectively. The proposed rule changes to provide a clear framework for how Foreign Persons can apply to be Netting Members and for how FICC may consider applicants, including Foreign Persons, that do not meet the eligibility criteria for an existing category of Netting Member. As such, these proposed rule changes would facilitate greater access to FICC's clearance and settlement systems and promote competition in the relevant markets.

FICC does not believe the proposal to make technical corrections and other clarification changes to the Rules would impact competition. These changes are being proposed to ensure the clarity and accuracy of the Rules. They would not change FICC's current practices or affect Members' rights and obligations. As such, FICC believes the proposal to make technical, clarifying and conforming changes would not have any impact on competition.

⁸⁸ 17 CFR 240.17Ad-22(e)(19).

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 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 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 SEC’s Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

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

6. Extension of Time Period for Commission Action

FICC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act⁸⁹ for Commission action.

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

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

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.

⁸⁹ 15 U.S.C. 78s(b)(2).

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 3 – Not applicable.

Exhibit 4 – Not applicable.

Exhibit 5 – Proposed changes to the Rules.

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-[_____]; File No. SR-FICC-2024-005)

[DATE]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change to Modify the GSD Rules to Facilitate Access to Clearance and Settlement Services of All Eligible Secondary Market Transactions in U.S. Treasury Securities

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on March __, 2024, 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. 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 FICC’s Government Securities Division (“GSD”) Rulebook (“Rules”)³ to (1) re-name GSD’s correspondent clearing / prime broker services as the Agent Clearing Service and adopt provisions that are common in agent clearing models; (2) update the qualifications for certain membership categories and rules governing the operation of GSD’s access models; and

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Terms not defined herein are defined in the Rules, available at www.dtcc.com/~media/Files/Downloads/legal/rules/ficc_gov_rules.pdf.

(3) improve the transparency and clarity of the Rules in describing the types of memberships available to legal entities that want to access GSD's central clearing services and the different ways both Members and, indirectly, legal entities that are not Members can access those services, as described below.

These proposed rule changes are primarily designed to ensure that FICC has appropriate means to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities in accordance with the requirements of Rule 17Ad-22(e)(18)(iv)(C) under the Act,⁴ as described below.

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.

⁴ 17 CFR 240.17Ad-22(e)(18)(iv)(C). See Securities Exchange Act Release No. 99149 (Dec. 13, 2023), 89 FR 2714 (Jan. 16, 2024) ("Adopting Release", and the rules adopted therein referred to herein as "Treasury Clearing Rules"). FICC must implement the new requirements of Rule 17Ad-22(e)(18)(iv)(C) by March 31, 2025. FICC will file separate proposed rule changes to address other requirements applicable to it and adopted as part of the Treasury Clearing Rules.

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

1. Purpose

Executive Summary

FICC is proposing rule changes designed to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities in accordance with recent amendments to the standards for clearing agencies set forth in Rule 17Ad-22(e) under the Act.⁵

On December 13, 2023, the Commission adopted amendments to the standards applicable to covered clearing agencies, like FICC, that require such clearing agencies to have written policies and procedures reasonably designed to, among other things, ensure that it has appropriate means to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.⁶

FICC developed the proposed rule changes following a review of its existing direct and indirect participation models. That review examined whether FICC's models provide market participants with access to FICC's clearance and settlement services in as flexible a means as possible, consistent with FICC's responsibility to provide sound risk management and comply with its regulatory risk management obligations under Rule 17Ad-22(e) and other parts of the Act.⁷ Among other things, FICC considered whether

⁵ 17 CFR 240.17Ad-22(e).

⁶ Supra note 4.

⁷ Such regulatory risk management obligations are generally set forth in Rule 17Ad-22(e). 17 CFR 240.17Ad-22(e).

FICC’s existing policies and procedures treat transactions differently based on the identity of the participant submitting the transaction, the fact that an indirect participant is a party to the transaction, the method of execution of a transaction, and other factors, and whether any such variation of treatment was necessary and appropriate in light of FICC’s regulatory risk management obligations.⁸

As part of this review, FICC consulted with a wide range of stakeholders, including indirect participants, to ensure that FICC considered a sufficiently broad set of perspectives.⁹ These consultations included one-on-one conversations with existing direct participants and indirect participants, industry associations representing buy- and sell-side market participants, and market participants that were considering becoming but had not yet become participants of FICC. Another aspect of this consultation was a survey conducted during the first half of 2023.¹⁰

One of the key findings of this outreach was that FICC’s existing participation models are not broadly understood among market participants, and a majority of current Members are unsure which of the available access models they prefer to use for indirect participant activity. In addition, FICC identified that certain instances where it treated

⁸ 17 CFR 240.17Ad-22(e).

⁹ See also page 168 of the Adopting Release, available at <https://www.sec.gov/files/rules/final/2023/34-99149.pdf> (“To ensure that it considers a sufficiently broad set of perspectives, the U.S. Treasury securities CCA generally should consult with a wide-range of stakeholders, including indirect participants, as it seeks to comply with proposed rule 17ad-22(e)(18)(iv)(C).”).

¹⁰ FICC discussed this survey and the key findings in a paper, available at <https://www.dtcc.com/-/media/Files/Downloads/WhitePapers/Accessing-Potential-Expansion-US-Treasury-Clearing-White-Paper.pdf>.

transactions differently based on the identity of the participant submitting the transaction or the identity of the participant party to the transaction were not necessary to ensure sound risk management and comply with its regulatory risk management obligations. Based on the results of its review of its access models, FICC has concluded that certain changes to the Rules would facilitate greater access to clearance and settlement of secondary market transactions in U.S. Treasury transactions, including by indirect participants.

First, as noted above, FICC's review found that many market participants are not familiar with the correspondent clearing / prime broker services. In particular, FICC found that market participants were not aware of the similarities between the services and other agent clearing models, such as those through which market participants in the cleared derivatives markets can execute commodity derivatives with third parties and then give them up to their futures commission merchant ("FCM") for clearing. Market participants also did not appear to understand the agent clearing services as a workable "done away" model that allows indirect participants to access clearing through multiple direct participants.

Therefore, FICC is proposing to provide clarity by, among other things, re-naming its correspondent clearing / prime brokerage services as a single "Agent Clearing Service" and deleting and replacing the current provisions in Rule 8 with a rule that elaborates on the functioning and requirements of the agent clearing service. FICC believes that these changes, described in greater detail below, will allow Netting Members and their customers to recognize the similarities between FICC's indirect

access model and FCM agent clearing models and to identify the agent clearing service as a workable “done away” model.

Second, FICC has concluded that certain modifications to its membership criteria would facilitate open access and ensure that any variation in the Rules’ treatment of transactions or members is indeed necessary and appropriate to meet the minimum standards regarding operations, governance, and risk management set forth in the SEC’s regulations and the Act. These proposed rule changes would update certain qualifications for GSD’s membership categories. Currently, FICC imposes a number of qualification requirements that, based upon its review, may not be necessary or appropriate to ensure compliance with applicable requirements under the Act. In particular, banks wishing to become Sponsoring Members are categorized as Category 1 Sponsoring Members and must meet certain capitalization requirements, while other Netting Members wishing to be Sponsoring Members are categorized as Category 2 Sponsoring Members and are subject to financial requirements based on FICC’s assessment of the Sponsoring Member’s anticipated activity and risk. Additionally, in order to be a Sponsored Member, a firm must currently be a “qualified institutional buyer” as such term is defined by Rule 144A under the Securities Act of 1933 or satisfy the financial requirements necessary to be a qualified institution buyer.¹¹ Based upon its review and general experience with the growth of the sponsored membership service¹² since the current tiered membership qualifications were first instituted, FICC has determined that such

¹¹ 17 CFR 230.144A.

¹² See Rule 3A, supra note 3. The service described in Rule 3A is referred to herein as the “Sponsored Service”.

requirements are no longer relevant or appropriate for the purposes of facilitating access to clearance and settlement transactions of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.

FICC's proposed rule changes would aim to address these issues by eliminating the two categories of Sponsoring Members, applying the qualifications applicable to the current Category 2 Sponsoring Members to all Sponsoring Members, and removing the requirement that Sponsored Members either be qualified institutional buyers or satisfy the financial requirements of such definition. FICC believes that these changes would eliminate differential treatment of categories of indirect participants and direct participants that are not necessary for risk management or other regulatory purposes, and otherwise act as a limitation upon participants' access to GSD's central clearing services. These changes would thus enable access to FICC's clearing and settlement services for a variety of direct and indirect participants who may not currently be able to access those services. These changes would also facilitate greater understanding of FICC's membership qualifications and thereby support FICC's continued maintenance of objective, risk-based and publicly disclosed participation criteria.

Lastly, FICC has determined that providing a public road map of access models and simplifying certain definitions would allow both buy- and sell-side market participants to understand those models and thereby allow them to consider how to offer and price those models so as to ensure indirect participants can access central clearing. These proposed rule changes aim to achieve these goals. In particular FICC is proposing to amend the Rules to (a) provide a public road map of the different models for accessing the GSD services that are available to both Members and, indirectly, their customers; and

(b) simplify the definitions of the different types of membership and other related definitions. FICC believes these clarifications would enhance the ability of market participants to understand the GSD access models that are available, thereby allowing them to determine how to offer and price FICC's currently available models to ensure that indirect participants can access central clearing.

Background

FICC, through GSD, serves as a central counterparty and provides real-time trade matching, clearing, risk management and netting for cash purchases and sales of U.S. Treasury securities as well as repurchase and reverse repurchase transactions involving U.S. Treasury securities (“repos”).¹³ GSD's central counterparty services are available directly to entities that are approved to be Netting Members and indirectly to other market participants through its indirect access models – the Sponsored Service¹⁴ or correspondent clearing / prime broker services.¹⁵

Currently, there are different Netting Member application categories based upon the type of legal entity (*i.e.*, Bank Netting Member, Dealer Netting Member, Inter-Dealer Broker Netting Member) and whether an entity is incorporated in the United States or not (*i.e.*, a Foreign Netting Member). Netting Member applicants must meet both financial

¹³ GSD also clears and settles certain transactions on securities issued or guaranteed by U.S. government agencies and government sponsored enterprises.

¹⁴ See Rule 3A, supra note 3.

¹⁵ See Rule 2 (Members) (providing that FICC shall make its services available to entities that are approved to be Members of GSD); Rule 3A (Sponsoring Members and Sponsored Members) (describing the Sponsored Service) and Rule 8 (Executing Firm Trades) (currently describing the correspondent clearing / prime broker services), supra note 3.

and operational minimum eligibility requirements¹⁶ and, as Members of GSD, must adhere to ongoing minimum membership standards.¹⁷ Furthermore, both the minimum eligibility requirements and ongoing standards vary depending on the relevant Netting Membership category. However, in general, all Netting Member categories may access the services available through GSD's Comparison System¹⁸ and Netting System¹⁹.

Market participants may also access GSD's clearing services indirectly through a Netting Member. There are currently two indirect participation models to facilitate this – the Sponsored Service²⁰ and the correspondent clearing / prime broker services.²¹ Each of these indirect participation models gives market participants different options to consider in accessing FICC's clearance and settlement services, and the benefits of its central counterparty guaranty, multilateral netting and centralized default management. However, the primary difference between the two models is that an indirect participant who becomes a Sponsored Member must establish an indirect, limited purpose membership with FICC, whereas the correspondent clearing / prime broker services do not require an indirect member to establish any relationship with FICC.

¹⁶ See Rule 2A, supra note 3.

¹⁷ See Rule 3, supra note 3.

¹⁸ See Rule 5, supra note 3. GSD also has a limited membership that permits Comparison-Only Members to participate only in its Comparison System. FICC does not act as a central counterparty for activity processed through its Comparison System and the services offered through its Comparison System are not guaranteed by FICC.

¹⁹ See Rule 11, supra note 3.

²⁰ See Rule 3A, supra note 3.

²¹ See Rule 8, supra note 3.

The Sponsored Service permits Netting Members, approved by FICC as “Sponsoring Members,” to sponsor certain institutional firms, referred to as “Sponsored Members”, into GSD membership.²² The Sponsoring Member is permitted to submit to FICC for comparison, novation and netting certain types of eligible transactions either between itself and its Sponsored Members (*i.e.*, “done with”), or between the Sponsored Members and other third-party Netting Members (*i.e.*, “done away”). For operational and administrative purposes, a Sponsored Member appoints its Sponsoring Member to act as processing agent with respect to the Sponsored Member’s satisfaction of its securities and funds-only settlement obligations.

A Sponsored Member is GSD member and the legal counterparty to FICC for any submitted transactions. However, the Sponsoring Member unconditionally guarantees to FICC the Sponsored Member’s performance under a Sponsoring Member Guaranty, which guarantees to FICC the payment and performance of a Sponsored Member’s obligations to FICC. Therefore, FICC relies on the financial resources of the Sponsoring Member in relying upon the Sponsoring Member Guaranty. If a Sponsoring Member fails to perform under the Sponsoring Member Guaranty, FICC may cease to act for the Sponsoring Member both as a Sponsoring Member as well as a Netting Member.

Netting Members may also submit to FICC eligible activity on behalf of their customers through the correspondent clearing / prime broker services. Here, the Netting Member is referred to as the “Submitting Member” and the customer is referred to as the

²² See Rule 3A, *supra* note 3. An entity that chooses to become a Sponsoring Member still retains its status as a Netting Member and can continue to submit any non-Sponsored Member activity to FICC as such.

“Executing Firm”.²³ Unlike the Sponsored Service, FICC has no relationship with the Executing Firm and all obligations (i.e., margin and settlement) under the Rules remain with the Submitting Member. Executing Firms may execute trades with any Netting Member, including their submitting Netting Member, or a customer of any other Netting Member in clearing. In addition, Submitting Members have the option of either netting Executing Firm activity with other activity they submit to FICC (i.e., Submitting Member proprietary activity) or segregating Executing Firm activity in separate accounts. In all cases, however, the Submitting Member must identify the relevant Executing Firm(s) on the FICC transaction submission file.

Summary of Proposed Rule Changes

First, FICC is proposing to re-name GSD’s existing correspondent clearing / prime broker services as the Agent Clearing Service, which would continue to allow Netting Members to submit, on behalf of their customers, transactions to FICC for novation. As such, this proposal would provide that for a Netting Member to continue to offer its customers access to GSD’s services via the current correspondent clearing/prime broker services, it must apply to use the Agent Clearing Service by becoming an Agent Clearing Member.

This proposed change would improve the transparency of the Rules regarding the availability of this service to both Netting Members and, indirectly, their customers. This

²³ See Rule 8, *supra* note 3. There are no operational differences between the current correspondent clearing service and the prime broker service. FICC provides a report to prime brokers that identifies margin calculation for their customers transactions and does not provide such report to Members using the correspondent clearing service. FICC would provide consistent reporting to all Agent Clearing Members under the proposal.

proposed change would enhance the ability of indirect participants to identify the correspondent clearing / prime broker services as a workable “done away” model that allows indirect participants to access clearing through multiple direct participants. Under these proposed rule changes, FICC would require Netting Members (in their new capacity as Agent Clearing Members) to process and record their customers’ activity in separate “Agent Clearing Member Omnibus Accounts” to facilitate FICC’s ability to monitor and, ultimately, risk manage that activity appropriately. These proposed changes would also provide that a Netting Member must apply to use the Agent Clearing Service and, as an Agent Clearing Member, shall be required, pursuant to the existing ongoing membership requirements in the Rules, to provide FICC with information regarding the customers for which it is acting. This information sharing would allow FICC to better identify and manage the risks posed by these indirect participants and would support FICC’s compliance with the requirements of Rule 17Ad-22(e)(18)(iii) under the Act to monitor compliance with its participation requirements on an ongoing basis.²⁴

Second, the proposed rule changes would update certain qualifications for GSD’s membership categories. These proposed rule changes would (a) eliminate the two Sponsoring Member categories and apply to all Sponsoring Members the qualifications applicable to the current Category 2 Sponsoring Members; (b) remove the requirement that Sponsored Members either be “qualified institutional buyers” as such term is defined by Rule 144A under the Securities Act of 1933,²⁵ or satisfy the financial requirements of such definition; (c) clarify the eligibility criteria for non-U.S. Netting Member applicants;

²⁴ 17 CFR 240.17Ad-22(e)(18)(iii).

²⁵ 17 CFR 230.144A.

and (d) describe how FICC may consider Netting Member applicants that do not qualify under an existing Netting Member category. These proposed changes would support FICC's continued maintenance of objective, risk-based and publicly disclosed participation criteria and, therefore, facilitate open access to GSD's clearing services. The proposed rule changes would also improve the clarity of the Rules regarding the ways Members can access its services, while updating certain qualifications for membership.

Third, FICC is proposing to further disclose to the public, through the Rules, the criteria and related requirements for how both Members and, indirectly, legal entities that are not Members, can access GSD's clearing services. These proposed rule changes would simplify and, therefore, clarify the criteria and related descriptions of the different models for accessing GSD's services by (a) providing to both Members and, indirectly, their customers a public road map of the different membership types, Netting Member categories and models for accessing GSD's services; and (b) simplifying the definitions of the different types of membership and other related definitions, and clarifying the eligibility criteria for different categories of Netting Members. These simplifications and clarifications, in turn, should enhance the ability of market participants, and in particular indirect participants, to understand and evaluate the comparative tradeoffs of using GSD's central clearing services depending on the relevant access model.

Finally, the proposed rule changes would make other technical corrections and updates to the Rules, as described below.

Description of Proposed Rule Changes

1. *Re-name the Correspondent Clearing / Prime Broker Services as the Agent Clearing Service*

The proposed rule changes would re-name and consolidate the existing correspondent clearing / prime broker services into a single Agent Clearing Service and adopt additional provisions governing the use of this service. The proposed changes would provide market participants with an understanding of the operation of this service, the rights and obligations of the firms that access the GSD facilities through this participation model, and how this service otherwise replaces and continues the access and functions currently available under the correspondent clearing / prime services. To these ends, the proposed rule changes would primarily amend Rule 8, which currently describes the correspondent clearing / prime broker services, to describe the Agent Clearing Service with more specificity. This new terminology and specificity are intended to demonstrate how this particular GSD access model operates similarly to the way market participants in the cleared derivatives markets can execute derivatives with third parties and then give them up to their FCM for clearing. Thus, the proposed changes to Rule 8 described herein are designed to be comparable to the terms of FCM-style agent clearing models.²⁶

²⁶ Many of the provisions that are being proposed to be added to Rule 8 are similar to provisions recently adopted to Rule 2D (Agent Clearing Members) of the Rules & Procedures of FICC's affiliate, National Securities Clearing Corporation ("NSCC"), available at https://www.dtcc.com/-/media/Files/Downloads/legal/rules/nscc_rules.pdf. In developing the agent clearing model, NSCC solicited input from market participants, including agent lenders, brokers, institutional firms, and critical third parties, such as matching service providers and books and records service providers. See id.

As described above, the existing correspondent clearing / prime broker services permit Submitting Members to submit activity to FICC for clearing on behalf of their customers, the Executing Firms. To do this, a Submitting Member must establish a relationship with one or more Executing Firms and provide FICC with notice of each customer confirming the Executing Firm relationship. However, in contrast with the Sponsored Service, FICC has no relationship with the Executing Firms.

Submitting Members are not currently required to, but can, segregate the Executing Firm activity in their submissions to FICC. In all instances, Submitting Members are responsible to FICC for all obligations, financial or otherwise, for that Executing Firm activity. While both Executing Firm activity and other Submitting Member activity (i.e., Submitting Member proprietary activity) are generally processed in the same manner by FICC, Executing Member trade data must include an executing firm symbol for identification purposes.

While the proposed rule changes would change the terms used and otherwise enhance FICC's disclosures regarding the operation of the historical correspondent clearing / prime broker access models, most of the changes entailed by the shift to a single Agent Clearing Service would not alter in practice how Netting Members and their customers use this model to access GSD's services. Like the correspondent clearing / prime broker models, the Agent Clearing Service would continue prior models' facilitation of agent-style trading by allowing Netting Members, which would be referred to in the Rules as "Agent Clearing Members" for this purpose, to act as processing agent and credit intermediary for their customers in clearing, to be referred to as "Executing Firm Customers" under the proposed changes.

As described below, the proposal also entails changes that would provide FICC with the ability to monitor activity submitted through this indirect access model, thereby managing the risks that this activity could present to FICC and the GSD membership. For example, as described in greater detail below, FICC would require that Netting Members (including Netting Members who are Submitting Members today) submit an application to become Agent Clearing Members and provide additional information regarding each Executing Firm Customers beyond what is required for Executing Firms today, such as a Legal Entity Identifier (“LEI”). Agent Clearing Members would also be required to submit activity on behalf of their customers through separate Agent Clearing Member Omnibus, as opposed to the optional segregated submission approach provided for today. For both initial and ongoing membership purpose, the proposal would require Agent Clearing Members to provide FICC with information related to their use of the Agent Clearing Service, as may be requested by FICC from time to time, as described in greater detail below.

a. Rule 8 – Agent Clearing Service

Rule 8 currently describes the correspondent clearing / prime broker services at a high level. The proposed rule changes would delete and replace Rule 8 with a more detailed description of the correspondent clearing / prime broker services as a single Agent Clearing Service. These proposed changes would provide Netting Members and other market participants with a clearer description of the operation of this service and a better understanding of the availability of this indirect access model, as described below.

(i) *Section 1 – General*

The proposed changes to Section 1 of Rule 8 would provide a general overview of the purpose and availability of the Agent Clearing Service. The proposed rule changes would update the information currently in Section 1 of Rule 8 to replace updated defined terms and to correctly identify the Members and other parties who can participate in this indirect model (*i.e.*, replace “Submitting Member” with “Agent Clearing Member”).

(ii) *Section 2 – Agent Clearing Member Qualifications and Application Process*

Section 2 would provide that a Netting Member, other than an Inter-Dealer Broker Netting Member, shall be eligible to apply to become an Agent Clearing Member. Inter-Dealer Broker Netting Members are currently not permitted to use the existing correspondent clearing / prime broker services because, pursuant to Section 8(e) of Rule 3, these firms are required to limit their business to acting exclusively as a Brokers, and therefore this limitation continues to apply.²⁷

Section 2 would also provide that an applicant to be an Agent Clearing Member shall complete and deliver to FICC an application and any other information that FICC may request. FICC currently does not require a Netting Member to apply, or provide any additional information, to FICC to use the correspondent clearing / prime broker services. To strengthen its ability to identify, monitor and manage the material risks that indirect participants may present through their access to GSD’s clearing services, FICC is proposing to require that Netting Members apply to be Agent Clearing Members by

²⁷ This limitation that Inter-Dealer Broker Netting Members are not eligible to use the existing correspondent clearing/prime broker services is currently in the definition of “Submitting Member” in Rule 1 and would be moved to this Section 2 of Rule 8. Supra note 3.

completing and submitting an application to FICC. Section 2 of Rule 8 would specify that the application would require information about the applicant's customers, past and/or projected volumes of applicant customer activity, and the applicant's controls for monitoring and mitigating risks, including customer risks. Section 2 would also state that an applicant must provide any other information that FICC reasonably requests for purposes of this initial application process.

In certain instances, FICC may find that a firm seeking to be an Agent Clearing Member may present risks that require further analysis and consideration by FICC before granting Agent Clearing Member status. Therefore, Section 2 of Rule 8 would introduce a new provision providing that FICC may require a firm to be a Netting Member for a period of time prior to applying for Agent Clearing Member status.

(iii) Section 3 – Executing Firm Customer Relationships

Section 3 of Rule 8 would describe how an Agent Clearing Member may establish a relationship with an Executing Firm Customer under the Agent Clearing Service.

First, Section 3 would define an Executing Firm Customer as an entity for which an Agent Clearing Member submits transactions to FICC pursuant to the requirements of Rule 8.

Second, Section 3 would identify the information that an Agent Clearing Member must provide to FICC for each of its Executing Firm Customers. Currently, Section 3 of Rule 8 requires that the Submitting Member provide FICC with a notice of each customer that the Submitting Member intends to submit trades on behalf of, and requires that such notice (1) be provided to FICC not less than 3 Business Days prior to the commencement of the Member's initial data submission on behalf of each such Executing Firm, and

(2) include “the types of eligible transactions that will be submitted for Comparison System and/or Netting System processing.”²⁸

Under the proposed rules, FICC would no longer require that the customer notice include the types of transactions that would be submitted because it would accept any Agent Clearing Transactions submitted on behalf of an Executing Firm Customer, pursuant to Section 4 of Rule 8, described below. Instead, FICC is proposing to require that Agent Clearing Members provide the following information from each Executing Firm Customer: (1) the name and executing firm symbol of the Executing Firm Customer; (2) written authorization from the Executing Firm Customer to act on its behalf; (3) a LEI for the Executing Firm Customer;²⁹ (4) confirmation that the Executing Firm Customer and the Agent Clearing Member have entered into an agreement that binds the Executing Firm Customer to the applicable provisions of the Rules, as would be required by Section 3, described below; and (v) confirmation that the Executing Firm Customer understands, acknowledges and agrees to each of the Executing Firm Customer Acknowledgments set forth in, and as would be required by Section 6 of Rule 8, described in greater detail below.

The requirement that Agent Clearing Members provide FICC with a written authorization from its Executing Firm Customers, which FICC collects today pursuant to Section 3 of Rule 8, enables FICC to confirm that an agent clearing relationship exists

²⁸ Supra note 3.

²⁹ Rule 1 defines a Legal Entity Identifier as “a 20-character reference code to uniquely identify legally distinct entities that engage in financial transactions. The Legal Entity Identifier is based on the ISO 17442 standard developed by the International Organization for Standardization and satisfies the standards implemented by the Global Legal Entity Identifier Foundation.” Supra note 3.

between the Agent Clearing Member and the Executing Firm Customer. This requirement would be expanded to permit FICC to collect other information regarding the Executing Firm Customer and its agent clearing relationship with the Agent Clearing Members. Consistent with this change, FICC would therefore no longer accept trade data on behalf of an Executing Firm customer if it has not yet received the required written authorization.³⁰

The proposed rules would require that the above-specified information be provided in a form acceptable to FICC no later than 3 Business Days prior to the commencement of the Agent Clearing Member's initial data submission on behalf of an Executing Firm Customer. This timeframe, currently in Rule 8, provides FICC with the ability to confirm on a timely basis that the information provided is complete and accurate and to update its systems to reflect the agent clearing relationship. Additionally, to facilitate the ability of Agent Clearing Members to submit trades on behalf of their Executing Firm Customers as quickly as possible, FICC would provide to Agent Clearing Members a standardized Executing Firm Customer information form. By requiring each Executing Firm Customer to complete and execute this standardized form, FICC would be able to ensure that the required information is provided in a form acceptable to it, while also ensuring that such information is consistent and comprehensive across all Executing Firm Customers.

In addition to requiring that it receive a LEI for each Executing Firm Customer when a relationship is established in the Agent Clearing Service, Section 3 would also

³⁰ For this purpose, FICC is also proposing to remove a statement from Section 4 of Rule 8 that FICC may accept data "on behalf of an Executing Firm even though a written notice ... has not been received" See supra note 3.

require that each Agent Clearing Member maintain, on ongoing basis, a current LEIs for each of its Executing Firm Customers. Each Agent Clearing Member would also be required to indemnify FICC for any losses, liabilities, expenses and legal actions that could arise as a result of that Agent Clearing Member's failure to meet these requirements. The proposed requirement that Agent Clearing Members both provide and maintain a current LEI on file with FICC for each of its Executing Firm Customers and provide an indemnification related to this requirement are identical to existing requirements on Netting Members and Sponsoring Members, with respect to their Sponsored Members.³¹

As noted above, Section 3 of Rule 8 would require that an agreement between the Agent Clearing Member and the Executing Firm Customer bind the latter to the applicable provisions of the Rules. However, beyond this specific requirement the proposed changes would also acknowledge such an agreement may otherwise be on any terms and conditions mutually agreed to by the parties and confirm that the Rules do not prohibit any reimbursement or other payments sharing arrangements that may be established between those parties, away from FICC.

³¹ Applicants to be Netting Members are also required to (i) provide FICC with a LEI as part of their application under Section 5 of Rule 2A, (ii) maintain a current LEI on file with FICC at all times under Section 2 of Rule 3, and (iii) indemnify FICC for any losses, liabilities, expenses and legal actions incurred as a result of its failure to maintain a current LEI on file with FICC under Section 2 of Rule 3. Supra note 3. Under Section 2(d) of Rule 3A, Sponsoring Members have an identical obligation to (i) provide FICC with a LEI for each of its Sponsored Members when onboarding those Sponsored Members, (ii) maintain a current LEI for each of its Sponsored Members on file with FICC at all times, and (iii) indemnify FICC from any losses resulting from a failure to adhere to these requirements. Id.

Finally, Section 3 would provide that Agent Clearing Members may, but are not required to, provide to FICC a written notice that it will no longer submit trades on behalf of an Executing Firm Customer. Section 3 of Rule currently requires Submitting Members to provide such notice to FICC. However, FICC does not see a need to mandate such notice because an Agent Clearing Member that terminates its agent clearing relationship with a customer may just cease to submit trades to FICC for processing. In any case, if an Agent Clearing Member chooses to submit such written notice to FICC, FICC would remove that relationship from its systems.

(iv) Section 4 – Agent Clearing Transactions

Section 4 of Rule 8 would define Agent Clearing Transactions as transactions that are eligible to be submitted by an Agent Clearing Member on behalf of its Executing Firm Customers. The existing scope of this definition would not change and would continue to exclude “Netting Eligible Auction Purchases”, “Brokered Transactions”, “GCF Repo Transactions” and “CCIT Transactions”, as such terms are defined in the Rules.³²

(v) Section 5 – Rights and Obligations of Agent Clearing Members

Section 5 of Rule 8 would specify the rights and obligations of Agent Clearing Members, expanding on the provisions currently provided in Section 4 of Rule 8.³³

³² GCF Repo Transactions and CCIT Transactions are currently excluded due to system limitations, and Brokered Transactions are necessarily excluded because Inter-Dealer Broker Netting Members are not permitted to act as Agent Clearing Members, as discussed above. The exclusion of Netting Eligible Auction Purchases is driven by the specific processing rules applicable to auctions that are external to FICC. The laws and regulations applicable to U.S. Treasury auctions are available at <https://treasurydirect.gov/laws-and-regulations/>.

³³ Section 4 of Rule 8 currently provides, “A Submitting Member shall have the same rights, and incur the same responsibilities, as regards trade data by it to the

These provisions would provide that Agent Clearing Members have the right to submit Agent Clearing Transactions to FICC for clearing, subject to the applicable requirements set forth in the Rules, including, for example, the requirement that all such activity comply in all material respects with applicable laws. Section 5 would define the role of the Agent Clearing Members as processing agents of Executing Firm Customers and establish that Agent Clearing Members are liable to FICC for all obligations arising in connection with their Agent Clearing Transactions in the same manner as if the Agent Clearing Member had executed those trades. These proposed changes would also clarify that where an entity is both an Agent Clearing Member and a Netting Member, the obligations of that entity to satisfy all of the applicable obligations under the Rules and any other relevant arrangements with FICC across both types of membership apply comprehensively. Therefore, Section 5 would state that Agent Clearing Members' obligations to FICC in their capacity as Netting Members, both under the Rules and under any agreements between the Agent Clearing Member and FICC, also apply to them in their capacity as Agent Clearing Members, to their Agent Clearing Transactions and to their Agent Clearing Member Omnibus Accounts. The proposed changes to Section 5 would also explicitly clarify that FICC has no liability or obligations to any Executing Firm Customer.

Section 5 of Rule 8 would also provide for FICC's authority to obtain information from Agent Clearing Members on an ongoing basis. For example, this section would require Agent Clearing Members to provide FICC with information or reports that it may

Corporation on behalf of an Executing Firm as it does, pursuant to these Rules, regarding data submitted to the Corporation on its own trades." Supra note 3.

request pursuant to the existing, ongoing membership requirements in Section 2 of Rule 3, including information or reports related to their Agent Clearing Transactions.³⁴ In addition, FICC would have the right to request information that is similar to the information requested for Agent Clearing Member applications, for example, information regarding its customers, past and/or projected volumes of its customer activity, and its controls for monitoring and mitigating risks, including risks presented by those customers. These annual and ad hoc due diligence requests are key to FICC's ability to identify, monitor and manage the risks its Members may present to it and the broader GSD membership. The proposed changes would therefore support FICC's authority to request information from Agent Clearing Members regarding their Executing Firm Customers and their use of the Agent Clearing Service. By collecting this information at both the application process and through its regular due diligence requests, FICC would be able to identify, monitor, and, therefore, manage the risks posed by its Members' use of this service and the indirect participants.

(vi) Section 6 – Executing Firm Customer Acknowledgements

Next, Section 6 of Rule 8 would include specific Executing Firm Customer acknowledgements with respect to their participation in the Agent Clearing Service. Because Executing Firm Customers would continue to have no relationship to FICC, the proposed changes to Section 6 would provide that Agent Clearing Members are responsible for affirming that their Executing Firm Customers understand, acknowledge

³⁴ Section 2 of Rule 3 currently provides that, "Each Netting Member shall submit to the Corporation the reports, financial or other information set forth [in this Section 2] and such other reports, financial and other information as the Corporation from time to time may reasonably require." Supra note 3.

and agree to the provisions in this Section of Rule 8. As noted above, the standardized authorization form that Agent Clearing Members would be required to provide to FICC would confirm that this requirement has been satisfied.

Like other proposed changes to Rule 8, these additions to Section 6 are common in other agent clearing models and, therefore, would be familiar to market participants looking to use the Agent Clearing Service.³⁵ These acknowledgements would include, for example, confirmation that the Agent Clearing Service is governed by the Rules, that FICC may deal exclusively with Agent Clearing Members and is not obligated to deal directly with Executing Firm Customers. The acknowledgements would also clarify that FICC does not have any obligations or liability to Executing Firm Customers.

(vii) Section 7 – Agent Clearing Transactions Processing Rules

Finally, Section 7 of Rule 8 would describe certain rules regarding the processing of Agent Clearing Transactions.

First, Section 7 would provide that Agent Clearing Transactions would be recorded in accounts maintained by FICC on behalf of the Agent Clearing Member, defined as “Agent Clearing Member Omnibus Accounts”. This proposed requirement would facilitate FICC’s ability to identify, monitor and manage the risks that this activity may present. Currently, the existing correspondent clearing / prime broker services gives Netting Members discretion in choosing whether to record their customer activity in an account that is separate from their Netting Member account. Under this aspect of the proposal, that discretion would be removed by the new requirement under Section 7 that all Agent Clearing Transactions include an executing firm symbol that identifies the

³⁵ See supra note 26.

Executing Firm Customer. Section 7 would relatedly provide that Agent Clearing Transactions that do not contain an executing firm symbol be rejected by FICC.³⁶ Therefore, the proposed rule change would remove language currently in Section 2 of Rule 8 that states, if the Executing Firm is not included on the trade data submitted to FICC, then FICC would process the trades as if it was not a customer trade. While this new mandatory approach would enable FICC to track and monitor distinct Executing Firm Customer activity, for risk management purposes Agent Clearing Members would have the option to net all of that activity in the same Agent Clearing Member Omnibus Account.³⁷

Second, Section 7 would state that Agent Clearing Transactions would continue to be processed in the same way that FICC processes other transactions through the GSD netting, clearing and settlement systems, unless exceptions to that processing are specifically identified in Rule 8.

³⁶ FICC is proposing to remove a statement currently in Section 5 of Rule 8 that says, “The Corporation, in its sole discretion, may decline to accept trade data involving one or more Executing Firms, either generally for all trade data submitted to the Corporation or by Submitting Member.” This statement addresses FICC’s right to reject a trade if it does not meet trade submission criteria. The proposed changes to Rule 8 would address this right, making this statement no longer necessary. For example, as noted above, Section 2 would provide that FICC shall not act upon an instruction regarding an Executing Firm Customer until it obtains an authorization from that Executing Firm Customer and, as noted here, Section 7 would provide that FICC would reject any trade that does not include an executing firm symbol.

³⁷ Contemporaneously with this proposed rule change, FICC will propose additional rule changes to address how Agent Clearing Members and Sponsoring Members may elect to maintain separate accounts for clearing activity that satisfy the requirements described in Note H to Rule 15c3-3a, as it has been amended. See 15 U.S.C. 78s(b)(1). Such proposed rule changes would support FICC’s compliance with the requirements of Rule 17Ad-22(c)(6)(i), as adopted by the Treasury Clearing Rules. Supra note 4. See also 17 CFR 240.15c3-3a.

Third, Section 7 would include a description of how Agent Clearing Transactions are processed when the optional field identifying the contra-party is either omitted or does not match on the transaction file. Specifically, the Agent Clearing Transaction would be compared based on the executing firm symbol. This information is currently applicable to activity processed through the correspondent clearing / prime broker services and would be moved from Rule 10 to Rule 8.

Fourth, the proposed rule changes would move into Section 7 provisions from Section 2 of Rule 11, which describes the Netting System, and Section 11 of Rule 12, which describes processing of Same-Day Settling Trades.³⁸ These provisions are currently applicable to transactions processed through the correspondent clearing / prime broker services and would continue to be applicable to Agent Clearing Transactions. Specifically, both provisions permit an Agent Clearing Member to notify FICC if it does not want Agent Clearing Transactions of a particular Executing Firm Customer to be netted and settled, in which case the transaction would only be compared through the Comparison System.

Fifth, Section 7 would state that if a loss is allocated to Members pursuant to Section 7 of Rule 4, the Agent Clearing Member, as principal, would be responsible for satisfying the loss allocation obligations that are calculated for its Executing Firm Customers. Section 7 would also provide that the Clearing Fund obligations applicable to an Agent Clearing Members' Agent Clearing Transactions would be calculated separately from the obligations calculated with respect to other activity of the Agent Clearing

³⁸ See definition of "Same-Day Settling Trades" in Rule 1, supra note 3. Same-Day Settling Trades are not netted prior to settlement so are settled through the Comparison System, as described in this provision.

Member. However, FICC would have the right to apply any Clearing Fund deposits of an Agent Clearing Member to any obligations of that Member (including in their capacity as a Netting Member). As a substantive matter, the above two changes do not vary from how FICC calculates and applies loss allocation or Clearing Fund requirements under the correspondent clearing and prime broker services today. Therefore, these changes function more as conforming and clarifying disclosures with respect to these matters for Netting Members in their new capacity as Agent Clearing Members.³⁹

Sixth and finally, Section 7 would include and clarify a provision that is currently in Section 6 of Rule 8 notifying Agent Clearing Members that the comparison output provided by FICC would identify the Executing Firm Customer for any Agent Clearing Transactions.

(viii) Other Rule Changes to Address Agent Clearing Service

The proposed changes would also amend Rule 1 to replace several definitions: “Submitting Member” with “Agent Clearing Member” and “Executing Firm” with “Executing Firm Customer”. The Rule 1 changes would also add new definitions for “Agent Clearing Member Omnibus Account” and “Agent Clearing Transactions”. The proposed changes would also correct the definition of “GCF Counterparty” to remove a reference to a Submitting Member acting for an Executing Firm because, as noted above, Agent Clearing Transactions do not include GCF Repo Transactions, and, as such, Agent Clearing Members cannot be GCF Counterparties.

³⁹ As noted above, FICC will propose changes to this section under a separate proposal to address the calculation, collection and application of Clearing Fund requirements under the Rules for certain, designated accounts. Supra note 37.

The proposed rule changes would amend other Rules to reflect these updated defined terms or remove descriptions of how this service operates where those descriptions have been moved and restated in Rule 8. Revisions to other Rules include (i) Rule 2, to include Agent Clearing Members as an additional type of membership available to Netting Members, as described in greater detail below; (ii) Rules 5, 6A, 11 and 18, to replace references to “Executing Firms” with “Executing Firm Customers” and replace references to “Submitting Member” with “Agent Clearing Member”; (iii) Rule 6C, to correct an incorrect statement in this Rule by removing a parenthetical that indicates GCF Counterparties could be Submitting Members for Executing Firms, because the definition of Agent Clearing Transactions excludes GCF Repo Transactions, as such term is defined in the Rules; (iv) Section 2 of Rule 11 and Section 11 of Rule 12 to remove statements that would be moved into Section 7 of Rule 8, as described above; (v) Rule 15, to remove Section 1, which would be addressed in Section 5 of the Rule 8; (vi) Rule 24, to address the responsibility of Agent Clearing Members to pay all fees that are related to the Agent Clearing Member activity that is submitted pursuant to Rule 8, including any expenses that are incurred directly or indirectly by such Member; (vii) the Schedule of Required Data Submissions, to correct statements in this Schedule and clarify that Agent Clearing Members are required to include an executing firm symbol on the submission of all Agent Clearing Transactions; and (viii) the Fee Structure, to remove an incorrect statement from Section I(G) that indicates GCF Counterparties could be Members submitting trades for non-Members, because the definition of Agent Clearing Transactions excludes GCF Repo Transactions, as such term is defined in the Rules and

to revise Section VI to address fees applicable to Agent Clearing Members to use the revised defined terms.

2. Update Certain Membership Qualifications to Facilitate Access to GSD's Services

FICC is proposing changes to certain membership qualifications that would improve FICC's ability to service a wide variety of market participants for both direct and indirect membership. These proposed changes are designed to facilitate open access to the clearance and settlement services offered by GSD and, therefore, would support FICC's compliance with the Treasury Clearing Rules.

a. Eliminate the Separate Categories of Sponsoring Members

FICC is proposing to eliminate the separate categories of Sponsoring Members and apply the standards applicable to Category 2 Sponsoring Members to all Sponsoring Members.

When FICC established the Sponsored Service in 2005, it limited Sponsoring Member eligibility to only Bank Netting Members that met the criteria set out in Rule 3A.⁴⁰ In 2019, FICC expanded Sponsoring Member eligibility to also include Tier One Netting Members, other than Inter-Dealer Broker Netting Members, or Non-IDB Repo Brokers with respect to activity in its Segregated Repo Account.⁴¹ At that time, FICC established two categories of Sponsoring Members – Category 1 Sponsoring Members

⁴⁰ Securities Exchange Act Release No. 51896 (June 21, 2005), 70 FR 36981 (June 27, 2005) (SR-FICC-2004-22).

⁴¹ See Securities Exchange Act Release No. 85470 (Mar. 29, 2019) 84 FR 13328 (Apr. 4, 2019) (SR-FICC-2018-013) (creating two categories of Netting Members to be eligible to be Sponsoring Members, expanding the eligibility of the service to other types of Netting Members in addition to Bank Netting Members).

are Bank Netting Members that meet the eligibility criteria described in Section 2(a) of Rule 3A, and Category 2 Sponsoring Members are all other eligible Netting Members.⁴²

While Bank Netting Members are subject to certain capitalization requirements as Sponsoring Member applicants,⁴³ Category 2 Sponsoring Member applicants are instead subject to financial requirements that are greater than the financial requirements applicable in their capacity as Netting Members.⁴⁴ Moreover, these increased financial requirements do not solely relate to an applicant's capitalization, but instead are based on the applicant's anticipated use of the Sponsoring Service in relation to their financial condition. Thus, this tiered category structure created differing applicant criteria based on the type of entity seeking Sponsoring Member status.

This differentiated approach continues for ongoing Sponsoring Member requirements. For example, a Category 1 Sponsoring Members may be subject to an increase in its Required Fund Deposit, as calculated pursuant to Section 2(h) of Rule 3A, if it fails to meet the applicable capitalization requirements.⁴⁵ Alternatively, Section 2(h) of Rule 3A provides that Category 2 Sponsoring Members may be subject to a limit on

⁴² See id. See also Rule 3A, Section 2, supra note 3.

⁴³ Under Section 2(a) of Rule 3A, Bank Netting Members applying to be a Sponsoring Member must (i) have equity capital of at least \$5 billion, (ii) be "Well-Capitalized", as such term is defined in the Rules, and (iii) have a bank holding company that is registered under the Bank Holding Company Act of 1954, as amended and that such bank holding company also be "Well Capitalized". "Well Capitalized" is defined in Rule 1 to have the meaning given that term in the capital adequacy rules and regulations of the Federal Deposit Insurance Corporation. Supra note 3.

⁴⁴ See Section 2(b)(ii) of Rule 3A, supra note 3.

⁴⁵ Supra note 3.

the activity that they can submit through the Sponsoring Service if their VaR Charges, as calculated and collected pursuant to Rule 4, exceed their Netting Member Capital.⁴⁶

The Sponsored Service has continued to grow since its implementation. As discussed above, FICC has conducted a review of its access models to consider whether (i) its existing policies and procedures treat transactions differently based on the identity of the participant submitting the transaction, the fact that an indirect participant is a party to the transaction, the method of execution, and other factors, and (ii) this variation of treatment continues to be necessary and appropriate in furtherance of the requirements under Rule 17Ad-22(e) and other parts of the Act applicable to FICC.⁴⁷ In light of this review and the general experience FICC has acquired in overseeing the expansion of the Sponsored Service membership, FICC believes that now is the appropriate time to make further enhancements so that this service can facilitate broader access to clearance and settlement services for eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants who may seek to use the Sponsored Service as Sponsored Members. Therefore, FICC believes it is appropriate to eliminate the two categories of Sponsoring Members and make all Sponsoring Members subject to the same eligibility and ongoing requirements that are currently applicable to Category 2 Sponsoring Members. In practice, this proposed rule change would therefore affect only Bank Netting Members that are or will apply to be Sponsoring Members by removing the

⁴⁶ A “VaR Charge” is a component of the Required Fund Deposit and defined in Rule 1, and “Netting Member Capital” is defined in Rule 1 to mean “Net Capital, net assets or equity capital as applicable, to a Netting Member based on its type of regulation”. Supra note 3.

⁴⁷ See 17 CFR 240.17Ad-22(e). See supra note 10.

above-mentioned capitalization requirements and instead applying to such Members (and therefore all Sponsoring Members) the activity limits and financial condition factors used today for Category 2 Sponsoring Members. More broadly, the proposal would create applicant and ongoing Sponsoring Membership parity among all Sponsoring Members and applicants, which in turn should give indirect participants a wider range of Sponsoring Members to consider should they choose to access GSD's central clearing services via this particular indirect access model. At the same time, the preservation and broader application of activity limits and financial condition monitoring will allow FICC to continue to manage the risks that could be presented by any activity cleared through the Sponsored Service.

First, the proposed changes would eliminate the capitalization requirements that Bank Netting Members must meet to be eligible Sponsoring Members applicants. This proposed change would therefore put Bank Netting Member applicants on equal footing with other types of Sponsoring Member applicants and would expand the availability of the Sponsored Service to additional Bank Netting Members. However, FICC does not believe this proposed change would increase the risks presented to it by Bank Netting Members' participation in the Sponsored Service as Sponsoring Members because FICC would continue to manage those risks through other existing risk management tools. For example, rather than apply capitalization requirements to every Bank Netting Member applicant, FICC would continue to have the authority, as it does today for other types of applicants, to impose greater and additional financial requirements on a Bank Netting Member applicant based on information available through the Sponsoring Member

application and ongoing surveillance of the applicant as a Netting Member.⁴⁸ FICC is also able to use the Excess Capital Premium to manage instances where a Sponsoring Member presents heightened default risk because of lower capital levels.⁴⁹ Finally, as described more below, the proposal would impose upon Bank Netting Members the same activity limit used for other types of Sponsoring Members today, thereby giving FICC an additional risk management tool to address any risks that may arise because of a Bank Netting Member's capital levels.

Second, the proposed changes would eliminate FICC's right to increase the Required Fund Deposit of a Category 1 Sponsoring Member if it fails to meet the capitalization requirements, instead relying upon an activity limit under the circumstances described in Section 2(h) of Rule 3A on all Sponsoring Members (including, as discussed above, those that are Bank Netting Members).⁵⁰ The activity limit, which currently only applies to Category 2 Sponsoring Members, restricts a Sponsoring Member from submitting additional activity into its Sponsoring Member Omnibus Account(s) if its capital levels exceed the sum of its VaR Charge component of

⁴⁸ See Rule 3A, Section 2(b)(ii) (describing the factors that FICC may consider when determining whether to impose additional financial requirements on a Sponsoring Member), supra note 3. For the purposes of illustration only, such financial requirements could include, without limitation, additional reporting requirements, including reporting of parent company financials, or a higher minimum deposit to the Clearing Fund.

⁴⁹ See Rule 3, Section 14 (the Excess Capital Premium is an additional Clearing Fund deposit that may be required if a Member's capital levels drop below a threshold relative to its other margin requirements), supra note 3.

⁵⁰ See Rule 3A, Section 2(h), supra note 3.

the Clearing Fund.⁵¹ Based upon its experience with the activity limit tool since it was first applied in 2019, FICC believes the activity limit has been an appropriate and effective risk management measure for its Sponsoring Members, and will continue to operate as such with the expanded application to Bank Netting Members. As noted earlier, Sponsoring Members are unconditionally liable to FICC for the obligations of its Sponsored Members under the Sponsoring Member Guaranty, and FICC relies on the financial resources of the Sponsoring Members to ensure that their funds and securities settlement obligations will still be met if the Sponsored Members default. Therefore, the activity limit aligns more neatly with this risk by giving FICC the proactive ability to mitigate Sponsoring Member exposures in prohibiting concerning participants from continuing to submit activity that they may not be able to cover. Like the changes to the eligibility requirements discussed above, this proposed change would also harmonize the conditions of membership across all types of Sponsoring Members, thereby increasing the potential pool of Sponsoring Member applicants to the benefit of both direct and indirect participants seeking expanded access to GSD's central clearing services.

To implement these proposed changes, FICC would make the following changes to the Rules: (1) delete the definitions of "Category 1 Sponsoring Member" and "Category 2 Sponsoring Member" from Rule 1; (2) revise the definition of "Sponsoring Member" in Rule 1 to remove reference to the two categories; and (3) amend Section 2(a), (b) and (h) of Rule 3A to remove the capitalization eligibility requirements currently applicable to Category 1 Sponsoring Members and clarify that the Category 2 Sponsoring Member eligibility requirements apply to all applicants to be a Sponsoring Member.

⁵¹ See id. See supra note 41.

b. Remove the QIB Requirement Applicable to Sponsored Members

FICC is proposing to remove the eligibility requirement that Sponsored Members either be “qualified institutional buyers” as such term is defined by Rule 144A under the Securities Act of 1933, or otherwise satisfy the financial requirements of such definition.⁵² As noted above, FICC has progressively expanded the eligibility of both Sponsoring Members and Sponsored Members to facilitate greater access to this indirect participation model and based on its experience over time with the Sponsored Service believes this change is now appropriate.⁵³ Upon implementation of this proposal, the only qualification for a Person (as such term is defined in Rule 1)⁵⁴ applying to be a Sponsored Member would be that it is sponsored by at least one Sponsoring Member. Therefore, this proposed change would make the Sponsored Service available to additional market participants, thereby facilitating those firms with access to GSD’s clearing services. Expanding eligibility to become a Sponsored Member supports the goals of the Treasury Clearing Rules to facilitate increased central clearing of transactions involving U.S. Treasury securities.⁵⁵

⁵² 17 CFR 230.144A. See Rule 3A, Section 3(a), supra note 3.

⁵³ See Securities Exchange Act Release No. 80563 (May 1, 2017), 82 FR 21284 (May 5, 2017) (SR-FICC-2017-003) (removing a requirement that a Sponsored Member be a registered investment company, as such term is defined in Rules). See also supra note 41.

⁵⁴ Supra note 3.

⁵⁵ See page 12 of the Adopting Release (referring to the revisions to Rule 17Ad-22(e)(18) as being designed to “bring the benefits of central clearing to more transactions involving U.S. Treasury securities, thereby reducing the overall systemic risk in the market”). Supra note 4.

FICC believes that making this change is appropriate because, as described above, FICC risk manages the Sponsored Service primarily at the Sponsoring Member level, not the Sponsored Member level. For example, a Sponsoring Member is responsible under Section 10 of Rule 3A for posting to FICC the Required Fund Deposit for its sponsored activity and, while Sponsored Members are principally liable to FICC for their settlement obligations, the Sponsoring Member is also required under Section 2 of Rule 3A to provide a guaranty to FICC for such obligations.⁵⁶ This means that, in the event one or more Sponsored Members does not satisfy its settlement obligations, FICC is able to invoke the Sponsoring Member Guaranty. Finally, pursuant to Section 2(d) of Rule 3A and Section 2 of Rule 3, Sponsoring Members may be required to provide to FICC reports or other information that FICC may require, including, for example, responses to annual or ad hoc due diligence requests.⁵⁷ As described above, FICC utilizes these due diligence requests to identify, monitor and manage the risks Sponsoring Members and their Sponsored Members may present to it. Where FICC identifies risks, whether via the due diligence process or otherwise, as discussed previously FICC will be able to impose on a Sponsoring Member supplemental financial requirements, an Excess Capital Premium charge (where applicable), and activity limits. Therefore, FICC believes that its existing risk management practices with respect to the Sponsored Service, which do not directly rely on the QIB requirement, continue to facilitate effective risk management of exposures created through the Sponsored Service.

⁵⁶ See supra note 3.

⁵⁷ See supra note 3.

To implement this proposed change, FICC would amend Section 2(a) of Rule 3A to remove the requirement that a Sponsored Member be either a “qualified institutional buyer” as defined by Rule 144A under the Securities Act of 1933 as amended, or otherwise satisfy the financial requirements of that definition.⁵⁸

c. Clarify the Eligibility Criteria for Non-U.S. and Other Applicants to be Netting Members

FICC is proposing to revise the Rules addressing Netting Member eligibility criteria for applicants that are either (1) not incorporated or formed in the United States, currently referred to in the Rules as “Foreign Persons,”⁵⁹ and (2) applicants, including Foreign Persons, that do not meet the eligibility criteria of one of the categories of Netting Member.

(i) *Foreign Person Applicants.* FICC is proposing to improve the transparency of the Rules regarding the eligibility of Foreign Persons to become Netting Members. In connection with these proposed changes, the proposal would eliminate the category for “Foreign Netting Member” and simplify the related defined terms.

Currently, a Foreign Person applying to be a Netting Member must meet the eligibility criteria for a distinct Netting Member category, “Foreign Netting Members.” In contrast with the eligibility approach used for other Netting Member categories, the eligibility criteria for Foreign Netting Members in Section 3(a)(v) of Rule 2A do not

⁵⁸ 17 CFR 230.144A.

⁵⁹ “Foreign Person” is currently defined in Rule 1 to mean “a Person that is organized or established under the laws of a country other than the United States and does not include a foreign Bank Netting Member which is not deemed to be a Foreign Member pursuant to the definition of that term.” Supra note 3. Proposed revisions to simplify this defined term would not change it substantively.

specify or reference eligible types of legal entities. However, Section 4(b)(ii)(E) of Rule 2A does provide for minimum financial requirements and includes specific criteria for brokers, dealers and banks. This Section also provides FICC with the authority to set minimum financial requirements for other types of legal entities applying to be a Foreign Netting Member.

Section 3(b) of Rule 2A currently states that an entity can only be one category of Netting Member at a time.⁶⁰ A Foreign Person that, for example, is the foreign equivalent to a Registered Investment Company⁶¹ would apply to be a Foreign Netting Member, and would be subject to the eligibility criteria, other membership qualifications, and ongoing minimum membership standards that are applicable to Foreign Netting Members.

However, the Rules also contain specific eligibility criteria, other membership qualifications, and ongoing minimum membership standards for Registered Investment Company Netting Members. Thus, in this example it is unclear whether the applicant entity would only be subject to the Foreign Netting Member standards or would also have to satisfy the Registered Investment Company Netting Member standards. This ambiguity can have meaningful implications. For example, Registered Investment Company Netting Members are excluded from the requirement that Netting Members purchase common

⁶⁰ Supra note 3.

⁶¹ “Registered Investment Company” is currently defined in Rule 1 to mean “an Investment Company that is registered as such with the SEC”, where an “Investment Company is currently defined in Rule 1 to have “the meaning given that term in Section 3 of the Investment Company Act of 1940, as amended.” Supra note 3. Proposed revisions to simplify this defined term would not change it substantively.

shares of The Depository Trust & Clearing Corporation, pursuant to Rule 49.⁶² If a Registered Investment Company that is a Foreign Person applied, and was approved, to be a Foreign Netting Member, it would not be clear if this exclusion from Rule 49 should be applicable to this Foreign Netting Member applicant.

To address these instances of ambiguity, the proposed rule changes would eliminate the category of “Foreign Netting Member” and would expand the qualifications for each category of Netting Member to include the foreign equivalent of the same legal entity types, as determined by FICC in its sole discretion. For example, the qualifications to be an Insurance Company Netting Member would continue to include an insurance company, as such term is defined in Section 2(a)(17) of the Investment Company Act of 1940, as amended,⁶³ and would now also include an equivalent of such an entity in a non-U.S. jurisdiction, as determined by FICC in its sole discretion and meets the qualifications applicable to a Foreign Person in Rule 2A. In making the determination of whether a Foreign Person is an equivalent legal entity to the domestic legal entities that qualify for a category of Netting Member, FICC would consider, for example, the applicant’s business model and its regulatory framework and designated examining authority.

Thus, the proposal would then provide that a Foreign Person shall be eligible to apply to become a Netting Member if either (1) it qualifies for one of the existing categories of Netting Member, or (2) FICC determines that the applicant may apply in the

⁶² Supra note 3.

⁶³ 15 U.S.C. 80a-2(a)(17).

same way as an applicant that does not qualify under an existing category of Netting Member, as described in greater detail below.

Foreign Persons that are eligible to apply to be a Netting Member would be subject to both the minimum membership standards of the applicable Netting Member category as well as the eligibility criteria currently applicable to Foreign Netting Members, currently set forth in Section 3(a)(v) of Rule 2A.⁶⁴ The proposed changes would also provide that, where an applicable Netting Member category is subject to membership qualifications that are inconsistent with the qualifications applicable to a Foreign Person, then the standards applicable to a Foreign Person shall apply. In some cases, this approach may lead to any outcome where a Foreign Person applicant remains subject to home jurisdiction requirements that are different from the requirements applicable to other Netting Members. FICC believes that this outcome is nevertheless acceptable because, as discussed further below in the section about Other Applicants, the Rules would still provide that FICC will continue to apply the membership standards that were designed specifically to address the risks that may be presented when an applicant is not domiciled in the U.S. and whose primary regulator is not U.S.-based.

⁶⁴ See Rule 2A, Section 3(a)(v) (providing that a person may be eligible to apply to be a Foreign Netting Member if it “(i) has a home country regulator that has entered into a memorandum of understanding with the SEC regarding the sharing or exchange of information, and (ii) maintains a presence in the United States, either directly or through a suitable agent, that both has available individuals fluent in English who are knowledgeable in the Foreign Person’s business and can assist the Corporation’s representatives as necessary, and ensures that the Foreign Person will be able to meet its data submission, settlement, and other obligations to the Corporation as a Member in a timely manner.”) and Section 4(b)(ii)(E) (specifying the minimum financial requirements for an applicant to be a Foreign Netting Member).

In this way, the proposed changes would clarify that Foreign Persons may be eligible to be direct participants of FICC under any of the existing categories of Netting Members and, therefore, would facilitate access to GSD's clearance and settlement services through direct membership with FICC to these market participants.

To implement these proposed changes, FICC would amend the qualifications of each Netting Member category listed in Section 3(a) to include a foreign equivalent of the currently eligible legal entity types. The proposed changes would also move the eligibility criteria for Foreign Netting Members from Section 3(a)(v) of Rule 2A to a revised Section 3(b)(i) of Rule 2A. The proposed changes would remove the definitions of "Foreign Member" and "Foreign Netting Member" and revise the definition of "Foreign Person" in Rule 1. References to Foreign Netting Member would also be removed or replaced, as appropriate, in Section 4(b)(ii)(E) of Rule 2A and in Sections 2(f), 8(g) and 12(b)(i)(C) of Rule 3.

Because the defined term "Foreign Member" is currently only used in two places in the Rules, the proposed change to remove this term would simplify the Rules. Reference to "Foreign Member" would be removed from the definition of "Foreign Person" in the revisions to this definition described below. The other reference to "Foreign Member" in Section 7(g) of Rule 2A would be replaced with "a Member that is a Foreign Person".

In connection with these proposed changes, FICC is also proposing to move requirements that Foreign Persons applying to be a Netting Member and other applicants

that are referred to as “FFI Members”⁶⁵ make certain financial representations and certifications. These requirements would be moved from Section 3(a)(v) of Rule 2A to Section 5(c) of Rule 2A, which currently describes membership application documents, where such certifications would be included. This proposed change would improve the clarity of the Rules by including this membership requirement in the same place as similar membership requirements.

Finally, FICC is proposing to remove the requirement that an entity can only be one category of Netting Member at a time, but would retain the statement that, if an applicant qualified for multiple Netting Member categories, FICC would determine the category of Netting Member for which that applicant would be considered. This statement would be included in Section 3(a) of Rule 2A, just prior to the list of qualifications for each category of Netting Member.

(ii) *Other Applicants.* The proposed rule changes would provide a framework for FICC to consider an applicant, including a Foreign Person, to be a Netting Member if that applicant does not meet the eligibility criteria of one of the existing Netting Member categories. The intent behind these proposed changes is to facilitate FICC’s ability to provide access to GSD’s clearing services to a broader and more diverse range of market participants in a timely and efficient manner and, therefore, would support FICC’s

⁶⁵ “FFI Members” are defined as “any Person that is treated as a non-U.S. entity for U.S. federal income tax purposes. For the avoidance of doubt, FFI Member includes any Member that is a U.S. branch of an entity that is treated as a non-U.S. entity for U.S. federal income tax purposes.” Supra note 3.

compliance with its requirement to facilitate access to its clearance and settlement services.⁶⁶

Section 3(a) of Rule 2A lists each category of Netting Member, which are defined by different types of eligible legal entities, for example, Bank Netting Members, Dealer Netting Members and Futures Commission Merchant Netting Members. FICC does not have the authority to consider applicants to be a Netting Member if the applicant does not meet the eligibility criteria of one of these Netting Member categories. Therefore, FICC is proposing to expand its authority to consider any applicant, including Foreign Persons, to be a Netting Member. FICC believes it is both appropriate and consistent with its requirements to facilitate access to its services to allow other legal entity types to apply to be a Netting Member.

The proposed rule change would first require that an applicant demonstrate to FICC that its business and capabilities are such that it could reasonably expect material benefit from direct access to FICC's services.⁶⁷ An applicant would demonstrate this through its responses to the application questionnaire and other initial application materials. Next, the proposed rule would provide that FICC would apply minimum membership standards to an applicant that it deems reasonable and appropriate. Such minimum standards would be developed by FICC based on information provided by or

⁶⁶ 17 CFR 240.17Ad-22(e)(18)(iv)(C).

⁶⁷ This proposed change would harmonize the Rules with the rules of NSCC, which includes the same language. See Addendum B, Section 1(A)(vi) of NSCC's Rules and Procedures, which provides that, if an applicant does not qualify as one of the legal entity types specified in that rule, it may qualify if it "has demonstrated to the Board of Directors that its business and capabilities are such that it could reasonably expect material benefit from direct access to [NSCC's] services." Supra note 26.

concerning the applicant and the applicant's risk profile. Such information would include, for example, (i) the applicant's business model, (ii) its regulatory framework and designated examining authority, (iii) its organizational structure and risk management framework, and (iv) its anticipated use of the Corporation's services. By describing the factors and information that FICC would consider in developing the applicant minimum standards, the proposed changes would require that FICC develop and apply minimum membership standards that are both objective and risk-based.

These rule changes would be added to new Section 3(b)(ii) of Rule 2A, following the proposed changes regarding applicants that are Foreign Persons, described above. In connection with these changes, the proposal would move a statement that any additional categories of Netting Member, including the applicable eligibility criteria and minimum membership standards, would be subject to approval of the Commission from Section 3(a)(x) to a new Section 3(c).

As noted above, these proposed changes would support FICC's compliance with its requirement to facilitate access to its clearance and settlement services. Following the adoption of the Treasury Clearing Rules, additional market participants will need to access FICC clearance and settlement services, either as direct Netting Members or as indirect participants. FICC cannot reliably predict which types of legal entities will apply for direct membership or predict the risk profiles of those entities in order to preemptively develop applicable qualifications and membership standards. Therefore, the proposed rule change would provide FICC with the necessary flexibility to consider any potential applicants, including legal entities that do not fit into its current Netting

Member categories, through a framework that is consistent with the rules of its affiliate, NSCC.

On an annual basis, FICC will review and conduct an assessment of GSD's access models, in compliance with the requirements of Rule 17Ad-22(e)(18)(iv)(C) under the Act.⁶⁸ In connection with this annual assessment, FICC would review the types and number of legal entities that have applied to be a Netting Member under the proposed provision over the prior 12 months. Based on that review, FICC would determine whether it would be appropriate to adopt, through a proposed rule change, a new category of Netting Member and the applicable qualifications and membership standards. FICC would address this annual review in its proposed amendments to the Clearing Agency Risk Management Framework, where the annual review of GSD access models would also be addressed.⁶⁹

3. *Improve Clarity of Public Disclosures Regarding Access Models and Membership Categories*

The proposed revisions to the Rules would also simplify and, therefore, improve the transparency and clarity of how FICC discloses to the public its criteria and other requirements for GSD's different participation models and membership categories. Collectively, these proposed changes would improve market participants' understanding

⁶⁸ 17 CFR 240.17Ad-22(e)(18)(iv)(C). Contemporaneously with this proposed rule change, FICC and its affiliates, NSCC and The Depository Trust Company, are proposing changes to the Clearing Agency Risk Management Framework to provide for the annual assessment and subsequent review of GSD's access models by the Board, as required by Rule 17Ad-22(e)(18)(iv)(C). See supra note 4.

⁶⁹ Id.

regarding the availability and the comparative tradeoffs across these services and, therefore, facilitate increased access to those services.

a. Create a Public Road Map for Access Models and Membership Types in Rule 2

First, the proposed changes would revise Rule 2 to provide a public road map for the types of available memberships and the different participation models. Rule 2 currently describes how FICC makes its services available to entities that are approved for membership, lists the different membership types (*i.e.*, Comparison-Only Members, Netting Members, Sponsoring Members) and identifies the different categories of Netting Member (*i.e.*, Dealer Netting Member, Bank Netting Member, Inter-Dealer Broker Netting Member). This Rule also references some of the other Rules that govern certain memberships and addresses the liability of Members for activity they process through FICC on behalf of entities that are not Members.

The proposed changes would expand Rule 2 significantly to outline the various participation models available to market participants that allow for both direct and indirect access to GSD's clearance and settlement services. This outline would include descriptions of the services available to each membership type and provide a public road map for where those services are described in other Rules. These proposed changes are designed to address one of the key findings from FICC's outreach to market participants, that its various participation models are not well understood.⁷⁰

⁷⁰ See supra note 10.

Section 1 of Rule 2 would be revised to include a statement that GSD's services may be available directly or indirectly through either the Sponsored Service or a relationship with an Agent Clearing Member.

Section 1 of Rule 2 would be revised to remove a reference to FICC's Board of Directors approving membership applications. As provided in Rule 44, action by the Corporation may include action by the Board or by another authorized person as may be designated by the Board from time to time. This proposed change would permit the Board to either retain the authority to approve these applications or authorize management to do so, consistent with Rule 44 and the Board's authority under the FICC By-laws. Specifically, the Board's authority to empower management with certain responsibilities originates in the FICC By-laws, which have been filed as a rule of FICC.⁷¹ The FICC By-laws document the responsibilities of the Board in electing and appointing officers of FICC and prescribing and assigning to those officers their respective powers, authority and duties.⁷² This revision would simplify the statement in Rule 2, consistent with Rule 44. Section 2 would list the different memberships that have direct access to GSD's services, which include Netting Members, CCIT Members, Funds-Only Settling Bank Members and Comparison-Only Members. Separate subsections would describe each of these membership types, including a general description of the types of firms that would qualify for these membership types and

⁷¹ See Securities Exchange Act Release Nos. 54173 (July 19, 2006), 71 FR 42890 (July 28, 2006) (SR-DTC-2006-10, SR-FICC-2006-09, and SR-NSCC-2006-08); 82917 (Mar. 20, 2018), 83 FR 12982 (Mar. 26, 2018) (SR-FICC-2018-002).

⁷² See Sections 3.2 through 3.9 of the FICC By-laws, available at www.dtcc.com/~media/Files/Downloads/legal/rules/FICC-By-Laws.pdf.

where those qualifications are described with more specificity in the Rules. These subsections would also generally describe which of GSD's services are available to each membership type and would identify the Rules where those available services are described in more detail. The subsection describing Netting Members would also include a description of the additional ways Netting Members may use GSD's services, as Agent Clearing Members in connection with the use of the Agent Clearing Service and Sponsoring Members in connection with the participation in the Sponsored Service.⁷³

In connection with these changes, the proposal would also move a statement regarding the designation of different categories of Netting Members as either Tier One Netting Member or Tier Two Member from Rule 2A and move it to Rule 2.⁷⁴ Rule 2A describes eligibility criteria for different membership types and these designations are not eligibility criteria, but relate to how FICC's loss allocation provisions, described in Rule 4, apply to a Netting Member.⁷⁵ This proposed change would make these designations easy to locate by Netting Members or market participants considering a direct membership by including them in the Rule where the different membership types are described.

Section 3 of Rule 2 would be revised to describe FICC's two indirect participation models that are available to Sponsored Members utilizing the Sponsored Service and Executing Firm Customers utilizing the Agent Clearing Service. Like the other sections

⁷³ See Rule 8 and Rule 3A, respectively, supra note 3.

⁷⁴ "Tier One Netting Member" and "Tier Two Member" are defined in Rule 1, supra note 3.

⁷⁵ Supra note 3.

of the revised Rule 2, this Section 3 would clarify how a market participant may utilize one of these models to access FICC's clearance and settlement services as an indirect participant and would include a reference to the Rules that describe these indirect access models with more specificity.

The proposed changes would revise the existing statements in Rule 2 that describe the liability of Members who submit activity to FICC on behalf of entities that are not Members. These proposed changes would not alter that liability, but would improve the clarity of these statements, specifically by replacing reference to Members as being "liable in principal" to "fully liable for the performance of all obligations, financial or otherwise" This change would restate, without changing, the responsibility of Members with respect to activity submitted to FICC on behalf of other entities. By better explaining the Member's obligations and replacing the reference to principal liability, the proposed change would address any confusion regarding the Member's responsibility for a transaction away from FICC.

b. Simplify Definitions of Membership Categories and Other Related Definitions

The proposed rule changes would simplify the definitions of the different types of GSD membership, including the categories of Netting Members, and enhance the disclosures regarding eligibility qualifications for membership categories. By improving these statements and public disclosures in the Rules, the proposed changes would clarify the availability of different membership types and, therefore, improve the understanding of market participants regarding the availability of a direct clearing membership and of indirect participants in determining which of GSD's indirect, intermediated access models they prefer to use.

Simplify Definitions of Netting Member Categories. Currently, the definitions of each category of Netting Member in Rule 1 refer to Section 3 of Rule 2A, where the qualifications for each category of Netting Member are described. Each subsection of Section 2 of Rule 2A includes a statement that defines each category of Netting Member as an entity that is admitted to membership in the Netting System as that category of Netting Member pursuant to the applicable qualifications and whose membership has not been terminated. The proposed rule changes would move these definitions of each category of Netting Member from Rule 2A to the defined terms in Rule 1. By moving the terms into Rule 1, the proposed change would simplify the descriptions of eligibility criteria in Section 3 of Rule 2A.

These proposed rule changes would also remove defined terms that are used only once in the Rules and replace the uses of those defined terms with the actual definitions. Some of these defined terms are used in the criteria for different categories of Netting Member. For example, the Rules include a definition of “Inter-Dealer Broker”, and this defined term is only used once in the Rules, in the qualifications to be an Inter-Dealer Broker Netting Member in Section 3 of Rule 2A. Therefore, the proposed changes would remove this defined term from the Rules and use the definition of an Inter-Dealer Broker in the eligibility criteria for that category of Netting Member, in Section 3(a)(iii) of Rule 2A. Similar changes would be made in connection with the relevant defined terms and eligibility criteria for Government Securities Issuer Netting Member and Insurance Company Netting Member. These proposed changes would provide clearer descriptions of the qualifications for different categories of Netting Member in Rule 2A, and would

not require a reader to refer back to the definitions in Rule 1 to understand those qualifications.

Other examples of these proposed changes include deleting the defined terms for “Registered Broker” and “Registered Government Securities Broker”, which are both only used in the definition of “Broker”, and instead use the definitions of these terms in the definition of Broker. FICC is proposing to make similar changes to the definition of “Dealer” which currently includes the only uses of the defined terms for “Registered Dealer” and “Registered Government Securities Dealer”.

The proposed changes would update the eligibility criteria for Futures Commission Merchant Netting Members to clarify that an applicant for this category of Netting Member must be a member, and subject to the regulatory supervision, of the National Futures Association. The Rules currently require that an applicant to this Netting Member category be a Futures Commission Merchant, as such term is defined in the Commodity Exchange Act and that it be registered with the Commodity Futures Trading Commission (“CFTC”).⁷⁶ Because any Futures Commission Merchant that is registered with the CFTC is also required to be a member of the National Futures Association,⁷⁷ the proposed rule change would just clarify, but would not add to, the qualifications for this category of membership.

Finally, the proposed rule changes would state in the introduction of Section 3(a) of Rule 2A that applicants can only be one category of Netting Member and that FICC would determine the appropriate category for applicants that meet the eligibility criteria

⁷⁶ 7 U.S.C. 1(a)(28).

⁷⁷ 17 CFR 170.15(a).

for multiple categories. This limitation is currently in Section 3(b) of Rule 2A, at the end of the list of categories of Netting Member. The proposed change would move this requirement more prominently to the top of this Section.

Simplify Other Defined Terms. In connection with, and related to, the proposed changes described above to simplify the definitions of the different categories of Netting Member, the proposed rule changes would also revise other defined terms to improve the clarity and transparency of the Rules.

The proposed changes would revise the defined term for “CCIT Member” and move a statement in this definition that Registered Investment Companies are not eligible to be CCIT Members to Section 2 of Rule 3B, where the rest of the eligibility and qualifications for CCIT Members are described. Similarly, the proposed changes would move a statement from the definition of “Funds-Only Settling Bank Member”, describing a requirement that these members be party to certain agreements, to Section 4 of Rule 13, where the requirements applicable to these members are described. These proposed changes would improve the transparency of the Rules by including all of the qualifications applicable to these different membership types in the same places in the Rules.

4. Other Corrections and Clarifications to the Rules

The proposed rule changes would make other revisions to correct, clarify and conform provisions of the Rules to improve their accuracy in describing GSD’s services and improve the transparency of the Rules.

First, the proposed rule changes would revise the definition of “Person” to clarify that this term was not intended to include individuals (*i.e.*, natural persons). The proposed

changes would also remove the defined term for “Non-Member” and replace this term in the Rules to use more descriptive terms appropriate to the context where the term is used. For example, Rule 15 would be revised to replace reference to “Non-Member” with the term “customer” in describing activity submitted to FICC by Repo Brokers. The proposed changes would also make immaterial, technical changes to simplify the definition of “Member” in Rule 1.

Finally, the proposed rule changes would amend the first sentence of Section 4 of Rule 2A and Section 2 of Rule 3A to replace reference to the Board as being responsible for approving membership applications with reference to the Corporation, consistent with Rule 44. These changes would conform to the proposed changes being made to Rule 2, described above, to permit the Board to either retain the authority to approve these applications or authorize management to do so, consistent with Rule 44 and the FICC By-laws.

Implementation Timeframe

Subject to approval by the Commission, FICC expects to implement the proposal by no later than March 31, 2025, and would announce the effective date of the proposed change by an Important Notice posted to FICC’s website.

2. Statutory Basis

FICC believes the proposed changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, FICC believes the proposed rule changes are consistent with Section

17A(b)(3)(F) of the Act,⁷⁸ and Rules 17Ad-22(e)(18)(iii), (e)(18)(iv)(C), (e)(19) and (e)(23)(ii), each promulgated under the Act,⁷⁹ for the reasons described below.

Section 17A(b)(3)(F) of the Act requires that the rules of FICC be designed to, among other things, to promote the prompt and accurate clearance and settlement of securities transactions, as well as to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.⁸⁰ As described in greater detail below, the proposed changes to redefine the correspondent clearing / prime broker services as the Agent Clearing Service and the other proposed changes to the disclosures in the Rules regarding membership types and access models would clarify and improve public understanding of the ways a market participant may access FICC's clearance and settlement systems, thereby facilitating increased access to those systems. The proposed changes to eliminate the two categories of Sponsoring Members, remove the QIB requirement for Sponsored Members, and clarify the framework for both Foreign Persons and other applicants to be Netting Members would facilitate broader access to FICC's clearance and settlement systems.

The collective impact of these proposed changes would be to permit an increase in diversity and scope of market participants able to utilize FICC's central counterparty services, which can reduce the costs of securities transactions through FICC's multilateral netting, its trade guaranty and centralized default management, and mitigate and manage counterparty risks. Therefore, the proposed changes would support FICC's compliance

⁷⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁷⁹ 17 CFR 240.17Ad-22(e)(18)(iii), (e)(18)(iv)(C), (e)(19), and (e)(23)(ii).

⁸⁰ 15 U.S.C. 78q-1(b)(3)(F).

with Section 17A(b)(3)(F) of the Act by promoting the prompt and accurate clearance and settlement of securities through expanded access to its clearance and settlement systems.⁸¹ In making changes that clarify, simplify, and potentially expand the universe of intermediaries and access models that are available to market participants, including indirect participants, the proposed changes also would foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

Rule 17Ad-22(e)(18)(iii) under the Act requires that FICC monitor compliance with its participant requirements on an ongoing basis.⁸² The proposed rule changes would allow FICC to assess the risk profiles of its Netting Members, in their capacity as Agent Clearing Members, through the information Netting Members would provide when they apply to use the Agent Clearing Service and through the subsequent due diligence requests. The collection of this information, which would include, for example, information regarding the controls the Agent Clearing Member has in place to monitor and mitigate its risks, would allow FICC to monitor its Members' compliance with the requirements of participating in the Agent Clearing Service. The proposed rule changes to eliminate the two categories of Sponsoring Member would expand FICC's ability to set appropriate activity limits to all Sponsoring Members. The activity limits allow FICC to monitor the activity and, therefore, the risks that this activity may present to FICC.

⁸¹ Id.

⁸² 17 CFR 240.17Ad-22(e)(18)(iii).

Therefore, these proposed rule changes support FICC's compliance with the requirements of Rule 17Ad-22(e)(18)(iii).⁸³

Rule 17Ad-22(e)(18)(iv)(C) under the Act requires, among other things, that FICC, as a covered clearing agency that provides central counterparty services for transactions in U.S. Treasury securities, ensure that it has appropriate means to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.⁸⁴

FICC has conducted a review of its existing access models that, as described above, included consideration of whether FICC's existing policies and procedures treat transactions differently based on the identity of the participant submitting the transaction, the fact that an indirect participant is a party to the transaction, the method of execution, and other factors and that included a survey of market participants.⁸⁵ Following this review, FICC believes that its existing direct and indirect participation models provide market participants with appropriate means to access to its clearance and settlement services, including indirect participants. As described below, the proposed rule changes would clarify and, therefore, improve market participants' understanding of these participation models. Certain proposed changes would expand the availability of participation to more, and a wider variety of, market participants. Collectively, the proposed changes are designed to support FICC's continued compliance with the requirements of Rule 17Ad-22(e)(18)(iv)(C) under the Act by enhancing the Rules in

⁸³ Id.

⁸⁴ 17 CFR 240.17Ad-22(e)(18)(iv)(C).

⁸⁵ Supra note 10.

describing various means for accessing its clearance and settlement services, including those of indirect participants.

The proposed changes to re-name the correspondent clearing / prime broker services to a single Agent Clearing Service would better disclose to the public, through the Rules, the operation and availability of this indirect participation model, and the rights and obligations of both Netting Members that use this service and their customers, who use this service to indirectly access central clearing at FICC. As described above, the proposed changes to Rule 8 would more clearly define the service through a number of additional disclosures. Among other things, the proposed changes would describe how a Netting Member can apply to use this service as an Agent Clearing Member, specify the rights and obligations of Agent Clearing Members in their use of this service and define the transactions that are eligible to be cleared and settled through this service, in addition to addressing other key aspects of the service.

In this way, the proposed changes would provide a framework for Agent Clearing Members, their customers, and other market participants regarding how to access FICC's clearance and settlement services. By making these public disclosures clearer and more detailed, the proposed changes would improve market participants' understanding of the operation, availability, and comparative tradeoffs of this service, thereby facilitating access to FICC's clearance and settlement services for Executing Firm Customers as indirect participants.

The proposed rule changes to update the eligibility criteria for both direct and indirect membership are also designed to improve the availability of GSD membership to more, and a wider variety of, market participants. By eliminating the two categories of

Sponsoring Members, FICC would apply the same eligibility criteria and conditions for continued membership to all Sponsoring Members, without applying different standards based on the identity of the participant. This proposed rule change would also make more Bank Netting Members eligible to apply to be a Sponsoring Member, improving access to this indirect participation model by expanding the potential universe of Sponsoring Member intermediaries. The proposal to eliminate the QIB requirement for Sponsored Members would permit market participants that did not meet this eligibility criteria to participate in FICC's Sponsored Service and, therefore, access its clearance and settlement systems as indirect participants. The proposed changes to provide a framework for how additional Netting Member applicants, including Foreign Persons, may be eligible to apply to be Netting Members would allow additional market participants to be considered for direct membership. These rule changes clarify the process FICC would follow in considering an applicant for direct membership and, therefore, facilitate broader access to clearance and settlement services.

Finally, by revising the Rules to include a roadmap for the different categories of membership and various participation models, and to clarify and simplify the descriptions of membership types, these proposed rule changes, like the changes described above, would improve market participants' understanding of the available means for accessing FICC's clearance and settlement services.

As described above, while FICC is not proposing to materially change its existing access models, it is proposing to further disclose to the public, through the Rules, the criteria and related requirements for how both Members and, indirectly, legal entities that are not Members, can access GSD's services through these participation models. By

doing so, the proposed changes would lead to better understanding of the available methods for accessing FICC's clearance and settlement systems, including by indirect participants in support of its compliance with Rule 17Ad-22(e)(18)(iv)(C).⁸⁶

Rule 17Ad-22(e)(19) under the Act requires that FICC identify, monitor, and manage the material risks to the covered clearing agency arising from arrangements in which firms that are indirect participants in the covered clearing agency rely on the services provided by direct participants to access the covered clearing agency's payment, clearing, or settlement facilities.⁸⁷

The proposed rule changes would describe the various ways FICC would identify, monitor and manage the risks that may be presented to it through the Agent Clearing Service. When a Netting Member applies to use this service as an Agent Clearing Member, FICC would first collect information through an application, which would include information regarding its customers, past and/or projected volumes of its customer activity, and its controls for monitoring and mitigating risks, including risks presented by those customers. FICC would also continue to require Agent Clearing Members to identify their Executing Firm Customers, provide FICC with a current LEI for any customers, and confirm such customers' agent clearing relationship with the Agent Clearing Member before submitting trades on their behalf. The proposed rule changes to Rule 8 would also affirm FICC's existing authority to request reports and other information from Netting Members, in their capacity as Agent Clearing Member, through annual and ongoing due diligence requests. As described above, these

⁸⁶ Id.

⁸⁷ 17 CFR 240.17Ad-22(e)(19).

information requests are, and would continue to be, an important tool for FICC to identify and monitor the risks that arise from these indirect participation arrangements. As described above, FICC uses these risk profiles to determine when to take further risk management measures available under its Rules to manage any risks a Member may pose to it.

In this way, these proposed changes would support FICC's compliance with Rule 17Ad-22(e)(19) and the requirement that it identify, monitor, and manage the material risks that may arise from the Agent Clearing Service.⁸⁸

Rule 17Ad-22(e)(23)(ii) under the Act requires that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for providing sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in FICC.⁸⁹ As described in detail above, the proposed rule changes are collectively designed to improve the public disclosures, in the Rules, describing the different types of membership, different categories of Netting Member and different participation models available to market participants.

By revising Rule 8 to describe the Agent Clearing Service with greater clarity and specificity, the proposed rule changes would provide both Agent Clearing Members and their Executing Firm Customers with sufficient information regarding the rights and obligations of all parties using this service. By defining the process by which a Netting Member may apply to use the Agent Clearing Service, the operation of that service, and

⁸⁸ Id.

⁸⁹ 17 CFR 240.17Ad-22(e)(23)(ii).

the rights and obligations of Agent Clearing Members, these additional disclosures would provide market participants with sufficient information to evaluate the risks, fees, and other costs they may incur through participation in this service.

For example, the proposed rule changes would specify in Section 5 of Rule 8 that the Agent Clearing Member is fully liable for the performance of all obligations, financial or otherwise, to FICC arising in connection with Agent Clearing Transactions. The proposed rule changes would also provide, in Section 3 of Rule 8, that nothing in the Rules prohibit an Agent Clearing Member from seeking reimbursement from an Executing Firm Customer for payments made by the Agent Clearing Member under the Rules, or as otherwise may be agreed between the Agent Clearing Member and the Executing Firm Customer.

The proposed rule changes to clarify the descriptions of the criteria and related requirements for how both Members and, indirectly, legal entities that are not Members, can access GSD's services also would support FICC's compliance with the requirements of Rule 17Ad-22(e)(23). These proposed rule changes would simplify and, therefore, clarify the criteria and related descriptions of the different models for accessing GSD's services. As described above, the proposed changes include adding a public road map for the different models for accessing GSD's services, simplifying the definitions of the different types of membership, and clarifying the eligibility criteria for different categories of Netting Members. These proposed changes are designed to enhance the ability of market participants to understand GSD's access models that are available, thereby allowing them to determine, whether as direct or indirect participants, how to access, offer, and price those models to obtain access to central clearing. In this way, the

proposed rule changes would support FICC's continued compliance with the requirements of Rule 17Ad-22(e)(23).

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

FICC believes that the proposed rule changes described in this filing would promote competition by improving market participants' understanding of the different membership categories and various models for accessing its clearance and settlement services.

As stated above, while some of the proposed changes include enhancements to membership qualifications and use of indirect access models, in general, the proposed rule changes would not materially change how market participants can access GSD's services today. The proposed application process and ongoing due diligence requests that would be applicable to Agent Clearing Members are not currently required for use of the existing correspondent clearing / prime broker services. The proposed application process could prohibit a Netting Member from using the Agent Clearing Service if FICC determines, based on the information provided in the application, that the applicant does not, for example, have the proper risk management controls in place to submit trades to FICC on behalf of its customers. This could create a competitive disadvantage between such applicant and other Netting Members that are approved to use the Agent Clearing Service. The proposed due diligence requests could result in additional risk management measures, such as increased reporting obligations or Clearing Fund deposits, if FICC deems such measures appropriate to mitigate risks that are identified through the course of such due diligence. Such risk management measures could also create a competitive

disadvantage between the Agent Clearing Members that are subject to those measures and those that are not.

However, FICC believes the application process and the due diligence information requests are important tools for FICC to identify and monitor the risks that arise from these indirect participation arrangements. FICC believes these proposed changes are appropriate in allowing FICC to assess the risk profiles of its Netting Members either as applicants or in their capacity as Agent Clearing Members through the information they would provide when they elect to use the Agent Clearing Service and the subsequent due diligence requests. FICC also believes these proposed measures are necessary for it to comply with its requirements under Rule 17Ad-22(e)(19) under the Act, as described above.⁹⁰

By providing Members and other market participants with more information regarding these different access models, the proposed changes would collectively promote competition by facilitating greater access to FICC's services by contemplating a more diverse and wider scope of market participants who could serve as intermediaries, thereby increasing the potential range of avenues by which indirect participants can seek to access GSD's clearing services. The proposed rule changes to eliminate the two categories of Sponsoring Members would also promote competition by applying the same eligibility criteria and ongoing risk management conditions to all Sponsoring Members. This proposed change and the proposal to eliminate the QIB requirement for Sponsored Members would promote competition further by permitting additional firms to participate in the Sponsored Service as either Sponsoring Members or Sponsored Members,

⁹⁰ 17 CFR 240.17Ad-22(e)(19).

respectively. The proposed rule changes to provide a clear framework for how Foreign Persons can apply to be Netting Members and for how FICC may consider applicants, including Foreign Persons, that do not meet the eligibility criteria for an existing category of Netting Member. As such, these proposed rule changes would facilitate greater access to FICC's clearance and settlement systems and promote competition in the relevant markets.

FICC does not believe the proposal to make technical corrections and other clarification changes to the Rules would impact competition. These changes are being proposed to ensure the clarity and accuracy of the Rules. They would not change FICC's current practices or affect Members' rights and obligations. As such, FICC believes the proposal to make technical, clarifying and conforming 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.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at 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 SEC's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

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

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FICC-2024-005 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-2024-005. 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 (dtcc.com/legal/sec-rule-filings). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-FICC-2024-005 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.⁹¹

Secretary

⁹¹ 17 CFR 200.30-3(a)(12).

Bold and underlined text indicates proposed new language

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

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

RULE 1 – DEFINITIONS

* * *

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Agent Clearing Member Omnibus Account

The term “Agent Clearing Member Omnibus Account” means an Account maintained by the Corporation for an Agent Clearing Member and through which to record Agent Clearing Transactions submitted to the Corporation by the Agent Clearing Member on behalf of its Executing Firm Customers.

Agent Clearing Member

The term “Agent Clearing Member” means a Netting Member that has been approved to be an Agent Clearing Member by the Corporation pursuant to the applicable qualifications set forth in Rule 8.

Agent Clearing Service

The term “Agent Clearing Service” means the service described in Rule 8.

Agent Clearing Transaction

The term “Agent Clearing Transaction” shall have the meaning given to such term in Rule 8.

* * *

Bank Netting Member

The term “Bank Netting Member” ~~shall have the meaning given that term in Section 3 of Rule 2A~~ means a Person that is admitted to membership in the Netting System as a Bank Netting Member pursuant to the applicable qualifications set forth in Rule 2A.

* * *

Broker

The term “Broker” means a Member that is either (1) a Registered Broker-broker that is registered as such with the SEC under Section 15 of the Exchange Act or (2) Registered Government Securities Broker a Government Securities Broker that is

registered with the SEC under Section 15C of the Exchange Act, and that is regularly engaged in the business of effecting transactions in Eligible Securities for the account of other Members.

* * *

Category 1 Sponsoring Member

~~The term “Category 1 Sponsoring Member” shall have the meaning given that term in Section 2(a) of Rule 3A.~~

Category 2 Sponsoring Member

~~The term “Category 2 Sponsoring Member” shall have the meaning given that term in Section 2(a) of Rule 3A.~~

* * *

~~Centrally Cleared Institutional Triparty Member or~~ CCIT Member

~~The terms “Centrally Cleared Institutional Triparty Member” and “CCIT Member” means a Person that is admitted to membership in the CCIT Service pursuant to the applicable qualifications set forth in Rule 3B and whose membership in the CCIT Service has not been terminated mean a legal entity other than a Registered Investment Company approved to participate in the Corporation’s CCIT Service as a cash lender.~~

* * *

Comparison System

The term “Comparison System” means the (1) system of services provided by the Corporation to ~~Persons that are~~ Members ~~thereof~~, and (2) operations carried out by the Corporation in the course of providing such services, as provided for in Rules 5 through 10.

Comparison-Only Member

The term “Comparison-Only Member” means a Person that is admitted to membership in the Comparison System pursuant to the applicable qualifications set forth in Rule 2A and whose membership in the Comparison System has not been terminated~~means a Member that is a Member only of the Comparison System.~~

* * *

Dealer

The term “Dealer” means a Member that is either (1) a dealer that is registered as such with the SEC under Section 15 of the Exchange Act, a Registered Dealer or (2) a

Government Securities Dealer that is registered as such with the SEC under Section 15C of the Exchange Act, or (3) a bank or trust company that has filed with the Appropriate Regulatory Authority under Section 15C of the Exchange Act written notice that it is a Government Securities Dealer~~Registered Government Securities Dealer.~~

* * *

Dealer Netting Member

The term “Dealer Netting Member” ~~shall have the meaning given that term in Section 3 of Rule 2A~~ means a Person that is admitted to membership in the Netting System as a Dealer Netting Member pursuant to the applicable qualifications set forth in Rule 2A.

* * *

Executing Firm Customer

The term “Executing Firm Customer” ~~shall have the meaning given that term in Rule 8~~ means a Non-Member on whose behalf data on trades that it has engaged in have been submitted to the Corporation by a Submitting Member pursuant to these Rules.

* * *

Foreign Member

~~The term “Foreign Member” (also referred to as “Non-U.S. Member” or “Non-domestic Member”) means a Foreign Person that is a Member. A foreign Bank Netting Member that participates in the Corporation through a branch or agency located in the U.S. which is regulated by a U.S. and/or state regulatory authority shall not be deemed to be a Foreign Member for purposes of the Corporation’s Rules and procedures.~~

Foreign Netting Member

~~The term “Foreign Netting Member” (also referred to as “Non-U.S. Netting Member” or “Non-domestic Netting Member”) shall have the meaning given that term in Section 3 of Rule 2A.~~

Foreign Person

The term “Foreign Person” ~~(also referred to as “Non-U.S. Person” or “Non-domestic Person”)~~ means a Person that is organized or established under the laws of a country other than the United States ~~and does not include a foreign Bank Netting Member which is not deemed to be a Foreign Member pursuant to the definition of that term.~~

* * *

Funds-Only Settling Bank Member or Funds-Only Settling Bank

The terms “Funds-Only Settling Bank Member” and “Funds-Only Settling Bank” mean a Person that is admitted to membership as a Funds-Only Settling Bank Member pursuant to the applicable qualifications set forth in Rule 13~~means a bank, trust company or other entity specified in Section 4 of Rule 13 which has qualified pursuant to the provisions of Rule 13 and which is a party to an effective “Appointment of Funds-Only Settling Bank and Funds-Only Settling Bank Agreement” whereby the Funds-Only Settling Bank undertakes to perform funds-only settlement services for the Netting Member which also is a party thereto. The term “Funds-Only Settling Bank Member” shall be used interchangeably with the term “Funds-Only Settling Bank”.~~

* * *

Futures Commission Merchant Netting Member

The term “Futures Commission Merchant Netting Member” ~~shall have the meaning given that term in Section 3 of Rule 2A~~ means a Person that is admitted to membership in the Netting System as a Futures Commission Merchant Netting Member pursuant to the applicable qualifications set forth in Rule 2A.

* * *

GCF Counterparty

The term “GCF Counterparty” means a Netting Member, other than a Repo Broker, that is a counterparty ~~(or is acting as Submitting Member for an Executing Firm that is the counterparty)~~ to a GCF-Authorized Inter-Dealer Broker with regard to a GCF Repo Transaction.

* * *

Government Securities Issuer

~~The term “Government Securities Issuer” means an entity that issues “government securities”, as that term is defined in subparagraphs (A), (B), and (C) of Section 3(a)(42) of the Exchange Act.~~

Government Securities Issuer Netting Member

The term “Government Securities Issuer Netting Member” ~~shall have the meaning given that term in Section 3 of Rule 2A~~ means a Person that is admitted to membership in the Netting System as a Government Securities Issuer Netting Member pursuant to the applicable qualifications set forth in Rule 2A.

* * *

Insurance Company

~~The term “Insurance Company” shall have the meaning given that term in Section 2(a)(17) of the Investment Company Act of 1940, as amended.~~

Insurance Company Netting Member

The term “Insurance Company Netting Member” ~~shall have the meaning given that term in Section 3 of Rule 2A~~ **means a Person that is admitted to membership in the Netting System as an Insurance Company Netting Member pursuant to the applicable qualifications set forth in Rule 2A.**

* * *

Inter-Dealer Broker

~~The term “Inter-Dealer Broker” means a Person which is in the business of buying and selling securities as agent on behalf of dealers and is registered under Section 15 or Section 15C of the Exchange Act.~~

Inter-Dealer Broker Netting Member

The term “Inter-Dealer Broker Netting Member” ~~shall have the meaning given that term in Section 3 of Rule 2A~~ **means a Person that is admitted to membership in the Netting System as an Inter-Dealer Broker Netting Member pursuant to the applicable qualifications set forth in Rule 2A.**

* * *

Investment Company

~~The term “Investment Company” shall have the meaning given that term in Section 3 of the Investment Company Act of 1940, as amended.~~

* * *

Member

The term “Member” means a Comparison-Only Member; ~~or a Netting Member;~~ ~~The term “Member” shall include~~ a Sponsoring Member, in its capacity as a Sponsoring Member; ~~and a Sponsored Member, each to the extent specified in Rule 3A;~~ ~~The term “Member” shall include~~ a CCIT Member, to the extent specified in Rule 3B; **or an Agent Clearing Member, in its capacity as an Agent Clearing Member, to the extent specified in Rule 8.**

* * *

Non-Member

~~The term “Non-Member” means any Person that is not a Member.~~

* * *

Person

The term “Person” means a partnership, ~~C~~corporation, limited liability corporation or other organization, or entity, ~~or individual.~~

* * *

Registered Broker

~~The term “Registered Broker” means a broker that is registered with the SEC under Section 15 of the Exchange Act.~~

* * *

Registered Clearing Agency Netting Member

The term “Registered Clearing Agency Netting Member” ~~shall have the meaning given that term in Section 3 of Rule 2A~~ means a Person that is admitted to membership in the Netting System as a Registered Clearing Agency Netting Member pursuant to the applicable qualifications set forth in Rule 2A.

Registered Dealer

~~The term “Registered Dealer” means a dealer that is registered with the SEC under Section 15 of the Exchange Act.~~

Registered Government Securities Broker

~~The term “Registered Securities Broker” means a Government Securities Broker that is registered with the SEC under Section 15C of the Exchange Act.~~

Registered Government Securities Dealer

~~The term “Registered Government Securities Dealer” means either:~~

- ~~(i) a Government Securities Dealer that is registered with the SEC under Section 15C of the Exchange Act or~~
- ~~(ii) a bank or trust company that has filed with the Appropriate Regulatory Authority under Section 15C of the Exchange Act written notice that it is a Government Securities Dealer.~~

Registered Investment Company

The term “Registered Investment Company” means ~~an~~ **Person that is an “Investment Company”, as such term is defined in Section 3 of the Investment Company Act of 1940, as amended and** that is registered as such with the SEC.

Registered Investment Company Netting Member

The term “Registered Investment Company Netting Member” ~~shall have the meaning given that term in Section 3 of Rule 2A means a Person that is admitted to membership in the Netting System as a Registered Investment Company Netting Member pursuant to the applicable qualifications set forth in Rule 2A.~~

* * *

Sponsoring Member

The term “Sponsoring Member” means a Netting Member whose application to become a ~~Category 1 Sponsoring Member or a Category 2 Sponsoring Member~~ has been approved by the Board pursuant to Rule 3A.

* * *

Submitting Member

~~The term “Submitting Member” means a Member of the Comparison System, other than a Repo Broker, that has submitted to the Corporation pursuant to these Rules data on trades of an Executing Firm.~~

* * *

RULE 2 – MEMBERS

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

(a) — Section 1 – General

The Corporation shall make its services, or certain of its services, available to Persons which (i) apply for membership to the Corporation for the use of its services, (ii) meet the **applicable** eligibility, qualifications and standards specified in these Rules, (iii) are approved by the Corporation or the Board, as applicable, and (iv) if required, have contributed to the Clearing Fund as provided in Rule 4.

As described below, the Corporation’s services may be made available to eligible Persons either through a direct membership with the Corporation, or indirectly through either (i) a sponsored membership, pursuant to Rule 3A or (ii) a relationship with an Agent Clearing Member, pursuant to Rule 8.

(b) — Section 2 – Membership Types

The Corporation shall have the following membership types **that have direct access to the Corporation’s services:**

(i)(a) — ~~Comparison-Only~~ Netting Members;

A Person may be approved by the Corporation to be a Netting Member pursuant to the applicable qualifications set forth in Rule 2A, which qualifications are generally based on the applicant’s legal entity type and/or risk profile. All categories of Netting Members may access all services made available by the Corporation and shall be entitled to settle contracts through the Corporation and participate in the Comparison System and the Netting System, unless otherwise limited by the Corporation pursuant to the Rules.

References to Members and Netting Members in the Rules shall be applicable to all categories of Netting Members listed in Rule 2A, unless the context makes clear it refers to one or more specific member types.

Unless otherwise stated in Rule 2A, each category of Netting Member shall be a Tier One Netting Member. With respect to other categories of Netting Member that are not specified in Rule 2A but approved by the Corporation pursuant to Section 3(a)(ix) of Rule 2A, the Corporation shall make a determination as to whether such applicant shall be a Tier One Netting Member or Tier Two Member.

(b) Other Types of Memberships Available to Netting Members

A Netting Member may also be eligible to participate in the Corporation's services under the following additional types of membership.

(i) Agent Clearing Member

A Netting Member, other than an Inter-Dealer Broker Netting Member, may be approved by the Corporation to be an Agent Clearing Member pursuant to the applicable qualifications set forth in Rule 8.

Agent Clearing Members shall be permitted to submit to the Corporation Agent Clearing Transactions on behalf of one or more Executing Firm Customers pursuant to Rule 8.

Each Agent Clearing Member shall maintain one or more Agent Clearing Member Omnibus Accounts through which it shall process Agent Clearing Transactions pursuant to Rule 8.

(ii) Sponsoring Member

A Netting Member may be approved by the Corporation to be a Sponsoring Member pursuant to the applicable qualifications set forth in Rule 3A.

Sponsoring Members may enter into a sponsored membership relationship under which it sponsors an approved Sponsored Member into membership with the Corporation pursuant to Rule 3A.

Each Sponsoring Member shall maintain one or more Sponsoring Member Omnibus Accounts through which it shall process Sponsored Member Trades pursuant to Rule 3A.

(c)(ii) ~~Netting Members;~~ CCIT Members

A Person may be approved by the Corporation to be a CCIT Member pursuant to the applicable qualifications set forth in Rule 3B. CCIT Members may participate in the Corporation's CCIT Service as a cash lender as described in Rule 3B.

CCIT Members are Tier Two Members.

(d) Funds-Only Settling Bank Members

A Person shall be eligible to be a Funds-Only Settling Bank Member if it is a bank, trust company or other entity that has been approved by the Corporation pursuant to the applicable qualifications set forth in Rule 13. Funds-Only Settling Bank Members may perform funds-only settlement services on behalf of one or more Netting Members as described in Rule 13.

(e) Comparison-Only Members

A Person may be approved by the Corporation to be a Comparison-Only Member pursuant to the applicable qualifications set forth in Rule 2A. Comparison-Only Members may participate only in the Comparison System of the Corporation as described in these Rules. A Person may not be a Comparison-Only Member and a Netting Member at the same time.

~~(iii) Sponsoring Members and Sponsored Members;~~

~~(iv) CCIT Members; and~~

~~(v) Funds-Only Settling Bank Members.~~

~~With respect to item (ii) above, there shall be the following categories of Netting Members: Bank Netting Members, Dealer Netting Members, Inter-Dealer Broker Netting Members, Futures Commission Merchant Netting Members, Foreign Netting Members, Government Securities Issuer Netting Members, Insurance Company Netting Members, Registered Clearing Agency Netting Members and Registered Investment Company Netting Members.~~

~~With respect to item (iii) above, Sponsored Members and Sponsoring Members shall be governed by Rule 3A.~~

~~With respect to (iv) above, CCIT Members shall be governed by Rule 3B.~~

~~With respect to item (v) above, Funds-Only Settling Bank Members shall be governed by Rule 13.~~

(e)Section 3 – Indirect Access to the Corporation’s Services

An eligible Person may access the Corporation’s services indirectly through a sponsored membership pursuant to Rule 3A or a relationship with an Agent Clearing Member pursuant to Rule 8.

(a) Sponsored Members

A Person may be sponsored into membership with the Corporation by a Sponsoring Member if it has been approved by the Corporation to be a Sponsored Member pursuant to the applicable qualifications set forth in Rule 3A.

(b) Executing Firm Customer

A Person may access the Corporation’s services as an Executing Firm Customer, as such term is defined in Rule 8, if an Agent Clearing Member submits to the Corporation on behalf of the Executing Firm Customer and in the manner described in Rule 8 data on trades entered into by the Executing Firm Customer. Executing Firm Customers are not Members of the Corporation, and the Corporation

shall not have any liability or obligation to an Executing Firm Customer arising out of or with respect to any activity of such an Executing Firm Customer on behalf of whom an Agent Clearing Member submitted that activity to the Corporation.

Section 4 – Member Responsibilities

Except as otherwise provided in these Rules, a Member that compares and nets through the Corporation any contract or transaction on behalf of a ~~Non-Member~~**Person that is not a Member of the Corporation** shall, so far as the rights of the Corporation ~~and all other Members~~ are concerned, be ~~liable as a principal~~ **fully liable for the performance of all obligations, financial or otherwise, to the Corporation arising in connection with any activity that it submits to the Corporation on behalf of such Person pursuant to the Rules. Without limiting the generality of the foregoing, the Corporation shall not have any liability or obligation to any Person that is not a Member arising out of or with respect to any activity of such Person on behalf of whom a Member submitted that activity to the Corporation.**

RULE 2A – INITIAL MEMBERSHIP REQUIREMENTS

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 3 – Eligibility for Membership: Netting Members

(a) **A Person shall be eligible to apply to become a Netting Member if it meets the applicable eligibility criteria for one of the categories of Netting Members set forth below. If a Person qualifies for more than one category of Netting Member, the Corporation, in its sole discretion, may determine the category of Netting Member for which that Person will be considered.**

Eligibility for each category of Netting Member shall be as follows:

(i) Bank Netting Member – A Person shall be eligible to apply to become a Bank Netting Member if it is a bank or trust company chartered as such under the laws of the United States, or a State thereof, or is a bank or trust company established or chartered under the laws of a non-U.S. jurisdiction and **either** participates in the Corporation through its U.S. branch or agency **or meets the qualifications applicable to a Foreign Person in this Section 3.** ~~A bank or trust company that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be a Bank Netting Member.~~

(ii) Dealer Netting Member – A Person shall be eligible to apply to become a Dealer Netting Member if it is a Dealer, **or is an equivalent of a Dealer in a non-U.S. jurisdiction, as determined by the Corporation in its sole discretion and meets the qualifications applicable to a Foreign Person in this Section 3,** and is not a bank or trust company. ~~A Dealer that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be a Dealer Netting Member.~~

(iii) Futures Commission Merchant Netting Member – A Person shall be eligible to apply to become a Futures Commission Merchant Netting Member if it is **a futures commission merchant, as such term is defined in the definitions section of the Commodity Exchange Act, is registered as such with the CFTC and is a member, and subject to the regulatory supervision, of the National Futures Association, or is an equivalent of such an entity in a non-U.S. jurisdiction, as determined by the Corporation in its sole discretion and meets the qualifications applicable to a Foreign Person in this Section 3** ~~a Futures Commission Merchant. A Futures Commission Merchant that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be a Futures Commission Merchant Netting Member.~~

(iv) Inter-Dealer Broker Netting Member – A Person shall be eligible to apply to become an Inter-Dealer Broker Netting Member if it is a Person that is in the business of buying and selling securities as agent on behalf of dealers and is either registered under Section 15 or Section 15C of the Exchange Act or is registered in a non-U.S. jurisdiction under a similar regulatory framework, as determined by the Corporation in its sole discretion and meets the qualifications applicable to a Foreign Person in this Section 3—an Inter-Dealer Broker. ~~An Inter-Dealer Broker that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be an Inter-Dealer Broker Netting Member.~~

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

(vi) Government Securities Issuer Netting Member – A Person shall be eligible to apply to become a Government Securities Issuer Netting Member if it is either (1) an entity that issues “government securities”, as that term is defined in subparagraphs (A), (B), and (C) of Section 3(a)(42) of the Exchange Act, (2) a Government Sponsored Enterprise, or (3) is an equivalent of either of these types of entities in a non-U.S.

~~jurisdiction, as determined by the Corporation in its sole discretion and meets the qualifications applicable to a Foreign Person in this Section 3—a Government Securities Issuer or a Government Sponsored Enterprise. A Government Securities Issuer or a Government Sponsored Enterprise that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be a Government Securities Issuer Netting Member.~~

(vii) Insurance Company Netting Member – A Person shall be eligible to apply to become an Insurance Company Netting Member if it is an insurance company, as such term is defined in Section 2(a)(17) of the Investment Company Act of 1940, as amended, or is an equivalent of such an entity in a non-U.S. jurisdiction, as determined by the Corporation in its sole discretion and meets the qualifications applicable to a Foreign Person in this Section 3 ~~an Insurance Company in good standing with its primary regulator. An Insurance Company that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be an Insurance Company Netting Member.~~

(viii) Registered Clearing Agency Netting Member - A Person shall be eligible to apply to become a Registered Clearing Agency Netting Member if it is a Registered Clearing Agency, or is clearing agency that is registered in a non-U.S. jurisdiction, as determined by the Corporation in its sole discretion and meets the qualifications applicable to a Foreign Person in this Section 3. ~~A Registered Clearing Agency that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be a Registered Clearing Agency Netting Member.~~

(viii) Registered Investment Company Netting Member – A Person shall be eligible to apply to become a Registered Investment Company Netting Member if it is a Registered Investment Company, or is an equivalent of such an entity in a non-U.S. jurisdiction, as determined by the Corporation in its sole discretion and meets the qualifications applicable to a Foreign Person in this Section 3. ~~A Registered Investment Company that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be a Registered Investment Company Netting Member. Registered Investment Company Netting Members are Tier Two Members.~~

~~(x) The Corporation shall make its services available to Persons in such other categories as the Corporation may from time to time determine, subject to approval of such categories and their minimum membership standards by the SEC.~~

~~Applicants in categories (i) through (viii) above that are admitted into membership shall be Tier One Netting Members. Applicants in category (ix) above that are admitted into membership shall be Tier Two Members. With respect to applicants in category (x), the Corporation shall make a determination as to whether such applicant shall be a Tier One Netting Member or Tier Two Member.~~

~~(b) A Person may be only one category of Netting Member at a time. Notwithstanding anything to the contrary in this Rule, if a Person qualifies for more than one category of Netting Member, the Corporation, in its sole discretion, may determine the category of Netting System Member for which that Person will be considered. Foreign Persons and Other Applicants~~

(i) Foreign Person – A Foreign Person shall be eligible to apply to become a Netting Member if either (1) it qualifies under one of the categories of Netting Member listed in this Rule, or (2) the Corporation determines, in its sole discretion, that the Foreign Person may apply pursuant to section (b)(ii) below.

In addition to meeting the minimum membership standards of the applicable Netting Member category, in order for a Foreign Person to be eligible to apply to become a Netting Member, the Corporation, in its sole discretion, must determine that it: (1) has a home country regulator that has entered into a memorandum of understanding with the SEC regarding the sharing or exchange of information, and (2) maintains a presence in the United States, either directly or through an agent that is deemed suitable by the Corporation, in its sole discretion based on factors that include, but are not limited to, the availability of individuals fluent in English who are knowledgeable in the Foreign Person's business and can assist the Corporation's representatives as necessary, and assurances that the Foreign Person will be able to meet its data submission, settlement, and other obligations to the Corporation as a Member in a timely manner.

Where an applicable category of Netting Member is subject to minimum membership standards, including financial and other qualifications for membership, that are inconsistent with the minimum membership standards applicable to a Foreign Person applying to be a Netting Member, then the standards applicable to a Foreign Person shall apply to that applicant.

(ii) Other Applicants – A Person, including a Foreign Person, that does not meet the eligibility criteria for one of the categories of Netting Members set forth in (a) above may be eligible to apply to be a Netting Member if it has demonstrated that its business and capabilities are such that it could reasonably expect material benefit from direct access to the Corporation's services.

The Corporation shall apply such minimum membership standards, including financial and other qualifications for membership, as it may determine are reasonable and appropriate based on information provided by or concerning such an applicant to become a Netting Member.

The Corporation's determination of the minimum membership standards to apply to that applicant would be based on the risk profile of the applicant, as determined by the Corporation in its sole discretion and information related to (i) the applicant's business model, (ii) its regulatory framework and designated examining authority, (iii) its organizational structure and risk management framework, and (iv) its anticipated use of the Corporation's services.

A Person that is admitted to membership in the Netting System pursuant to this section (b)(ii) shall be a Netting Member under the Rules.

(c) The Corporation may make its services available to Persons in such other Netting Member categories as the Corporation may from time to time determine, subject to approval of such categories and the applicable minimum membership standards by the SEC.

* * *

Section 4 – Membership Qualifications and Standards for Netting Members

Subject to the limitations set forth in ~~this the~~ Rules, the Board shall approve an application to become a Netting Member by a Person that is eligible to apply to become a Netting Member pursuant to ~~this the~~ Rules upon a determination that such applicant meets the following requirements:

* * *

(b) Financial Responsibility – The applicant shall:

* * *

(ii) satisfy the following minimum financial requirements:

* * *

(E) Foreign ~~Person Netting Member~~ – If the applicant is a Foreign Person that is applying to become a ~~Foreign~~ Netting Member, it must, at a minimum, satisfy its home country regulator’s minimum financial requirements, in addition to the following, **as applicable**:

(1) In the case of a Foreign Person that is a broker or dealer, it must have total equity capital of at least \$25 million; ~~and~~

(2) In the case of a Foreign Person that is a bank or trust company established or chartered under the laws of a non-U.S. jurisdiction (and not applying to become a Bank Netting Member through a U.S. branch or agency), it must (i) have CET1 Capital of at least \$500 million, (ii) comply with the minimum capital requirements (including, but not limited to, any capital conservation buffer, countercyclical buffer, and any D-SIB or G-SIB buffer, if applicable) and capital ratios required by its home country regulator, or, if greater, with such minimum capital requirements or capital ratios standards promulgated by the Basel Committee on Banking Supervision and (iii) provide an attestation for itself and its parent bank holding company detailing the minimum capital requirements (including, but not limited to, any capital conservation buffer, countercyclical buffer, and any D-SIB or G-SIB buffer, if

applicable) and capital ratios required by their home country regulator; **and**

(3) In the case of other Foreign Persons applying to be a Netting Member, ~~the~~ the Corporation may, based on information provided by or concerning ~~an the~~ applicant ~~applying to become a Foreign Netting Member, also~~ assign minimum financial requirements for the applicant based on (i) how closely the applicant resembles another existing category of Netting Member and (ii) the applicant's risk profile, which assigned minimum financial requirements will be promptly communicated to, and discussed with, the applicant.

In all cases, any Foreign Person applying to become a Netting Member must represent and certify to the Corporation that it is in compliance with the financial reporting and responsibility standards of its home country and that it is regulated in its home country by a financial regulatory authority in the areas of maintenance of relevant books and records, regular inspections and examinations, and minimum capital standards, and make such other representations, certifications or assurances as the Corporation deems necessary to address jurisdictional and tax concerns.

* * *

(c) Additional Requirements for FFI Members

The Corporation shall require each applicant that is an FFI Member to certify and periodically recertify to the Corporation that it is FATCA Compliant under such procedures as are set forth under FATCA, unless such requirements have been explicitly waived in writing by the Corporation, provided, however, that no such waiver will be issued if it shall cause the Corporation to be obligated to withhold under FATCA on gross proceeds from the sale or other disposition of any property. In addition, as part of its membership application, each applicant that shall be an FFI Member agrees to indemnify each Indemnified Person for any loss, liability or expense sustained by the Indemnified Person as a result of the applicant failing to be FATCA Compliant.

(d) Business History – The applicant must have an established, profitable business history of a minimum of six months or personnel with sufficient operational background and experience to ensure, in the judgment of the Board, the ability of the firm to conduct its business.

* * *

Section 7 – Membership Agreement

Each Member agrees:

* * *

(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 Member that is a Foreign Member Person, all agreements, opinions of counsel, and other legal documentation required by the Corporation.

RULE 3 – ONGOING MEMBERSHIP REQUIREMENTS

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 2 – Reports by Netting Members

Each Netting Member shall submit to the Corporation the reports, financial or other information set forth below and such other reports, financial and other information as the Corporation from time to time may reasonably require. Unless specifically set forth below, the time periods prescribed by the Corporation are set forth in the form of notices posted at the Corporation's Website and/or distributed by the Corporation from time to time. It shall be the Member's responsibility to retrieve all notices daily from the Website.

* * *

(f) if the Netting Member is a Foreign Person Netting Member other than ~~one that is~~ a broker, dealer or bank subject to regulation by its home country regulator in such jurisdiction, financial information as requested by the Corporation;

* * *

Moreover, ~~Foreign~~ Netting Members that are Foreign Persons and Bank Netting Members that are U.S. branches or agencies of non-U.S. banks or trust companies must submit to the Corporation, concurrently with their submission to the relevant regulator or similar authority, copies of any regulatory notifications required to be made when an entity does not comply with the financial reporting and responsibility standards set by their home country regulator. ~~Foreign~~ Netting Members that are Foreign Persons and Bank Netting Members that are U.S. branches or agencies of non-U.S. banks or trust companies must also notify the Corporation in writing within 2 Business Days of becoming subject to a disciplinary action by their home country regulator.

* * *

~~Notwithstanding anything to the contrary in this Rule, if a Member qualifies for more than one category of Netting System membership, the Corporation, in its sole discretion, may require that such member provide those reports and other financial or other information required to be provided to the Corporation by Members of any of those membership categories for which such Member qualifies.~~

* * *

Section 8 – Specific Continuance Standards

In addition to the requirements set forth in Section 6 above of this Rule, the following requirements shall apply to Members that fall out of compliance with an applicable membership standard:

* * *

(g) If a ~~Foreign~~-Netting Member **that is a Foreign Person** falls out of compliance with the minimum financial requirements that the Corporation has determined are applicable to it pursuant to these Rules, the consequences under this Section of such noncompliance shall be determined by the Corporation in its sole discretion.

* * *

Section 12 – Ongoing Monitoring

(a) All Netting Members, Sponsoring Members, **Agent Clearing Members** and Funds-Only Settling Bank Members will be monitored and reviewed by the Corporation on an ongoing and periodic basis, which may include monitoring of news and market developments and review of financial reports and other public information.

(b) (i) A Member that is (A) a Bank Netting Member that files the Call Report, (B) a Dealer Netting Member or Inter-Dealer Broker Netting Member that files the FOCUS Report or the equivalent with its regulator, or (C) a ~~Foreign~~-Netting Member that is **a Foreign Person and is** a bank or trust company and that has audited financial data that is publicly available will be assigned a credit rating by the Corporation in accordance with the Credit Risk Rating Matrix. Such Member's credit rating will be reassessed each time the Member provides the Corporation with requested information pursuant to Section 7 of Rule 3, or as may be otherwise required under the Rules (including this Section 12 of Rule 3).

* * *

RULE 3A – SPONSORING MEMBERS AND SPONSORED MEMBERS

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 2 – Qualifications of Sponsoring Members, the Application Process and Continuance Standards

(a) A Netting Member ~~shall be eligible to apply to become a Category 1 Sponsoring Member if it: (i) is a Bank Netting Member, (ii) has a level of equity capital of at least \$5 billion, (iii) is Well Capitalized, and (iv) has a bank holding company that is registered under the Bank Holding Company Act of 1956, as amended, such bank holding company is also Well Capitalized.~~ A Netting Member that is a Tier One Netting Member, other than an Inter-Dealer Broker Netting Member, or a Non-IDB Repo Broker with respect to activity in its Segregated Repo Account, shall be eligible to apply to become a ~~Category 2~~ Sponsoring Member. The Corporation may require that a Person be a Netting Member for a time period deemed necessary by the Corporation before that Person may be considered to become a Sponsoring Member.

(b) (i) Each Netting Member applicant to become a Sponsoring Member shall complete and deliver to the Corporation an application in such form as may be prescribed by the Corporation from time to time and any other information requested by the Corporation. An application to become a Sponsoring Member shall first be reviewed by the Corporation. The Corporation shall recommend approve or deny al or disapproval of the application to the Board.

(ii) The Corporation may impose financial requirements on a Netting Member applying to become a ~~Category 2~~ Sponsoring Member that are greater than financial requirements applicable to the applicant in its capacity as a Netting Member under Section 4(b) of Rule 2A, based upon the level of the anticipated positions and obligations of such applicant, the anticipated risk associated with the volume and types of transactions such applicant proposes to process through the Corporation as a ~~Category 2~~ Sponsoring Member, and the overall financial condition of such applicant. The Board shall approve any increased financial requirements imposed by the Corporation in connection with the approval of an application of a Netting Member to become a ~~Category 2~~ Sponsoring Member, and the Corporation shall thereafter regularly review such ~~Category 2~~ Sponsoring Member regarding its compliance with such increased financial requirements.

* * *

(h) ~~If a Category 1 Sponsoring Member falls below one or more of the required minimum financial standards for being a Sponsoring Member set forth in subsection (a) above, it shall, for the period beginning on the day on which it fell below such level and continuing until the later of the 90th calendar day after the date on which (i) it returned to~~

~~compliance with such standard, or (ii) the Corporation received notice of the applicable violation, have a Sponsoring Member Omnibus Account Required Fund Deposit equal to the greater of either: (x) the sum of the normal calculation of its Sponsoring Member Omnibus Account Required Fund Deposit plus \$1,000,000, or (y) 125 percent of the normal calculation of its Sponsoring Member Omnibus Account Required Fund Deposit. If, in the case of a Category 2 Sponsoring Member, the sum of the VaR Charges of it's a Sponsoring Member's Sponsoring Member Omnibus Account(s) and its Netting Member Accounts exceeds its Netting Member Capital, the Category 2 Sponsoring Member shall not be permitted to submit activity into its Sponsoring Member Omnibus Account(s), unless otherwise determined by the Corporation in order to promote orderly settlement.~~

* * *

Section 3 – Qualifications of Sponsored Members, Approval Process and Continuance Standard

(a) A Person shall be eligible to become a Sponsored Member if: ~~(i) it is sponsored into membership by a Sponsoring Member, as provided for in this Rule and (ii) it (A) is a “qualified institutional buyer” as defined by Rule 144A under the Securities Act of 1933, as amended, or (B) is a legal entity that, although not organized as an entity specifically listed in paragraph (a)(1)(i)(H) of Rule 144A under the Securities Act of 1933, as amended, satisfies the financial requirements necessary to be a “qualified institutional buyer” as specified in that paragraph. The Corporation shall have the right to rely on the representation provided by the Sponsoring Member regarding satisfaction of (ii).~~

* * *

RULE 3B – CENTRALLY CLEARED INSTITUTIONAL TRIPARTY SERVICE

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 2 – Eligibility, Qualifications and Standards for Membership: CCIT Member

(a) The Corporation may approve an application **of an eligible Person, other than a Registered Investment Company,** to become a CCIT Member upon a determination that the applicant meets the following requirements:

* * *

RULE 5 – COMPARISON SYSTEM

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 4 – Submission Size Alternatives

The following requirements shall apply to all trades that are submitted to the Corporation by a Member, ~~including all trades that are submitted on behalf of any Affiliate or Executing Firm.~~

* * *

RULE 6A – BILATERAL COMPARISON

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

Section 1 – General

Bilateral Comparison requires the matching by the Corporation of data submitted by two Members (or by an authorized submitter of one or both Members). A Member of the Comparison System may submit to the Corporation for Bilateral Comparison trade data on any Transaction, prior to its maturity date, calling for delivery of Eligible Securities, between a Member of the Comparison System or an Executing Firm **Customer** on whose behalf it is acting, and another Member of the Comparison System or an Executing Firm **Customer** on whose behalf it **or another Member** is acting. The Corporation will, in accordance with these Rules, handle the comparison of Transactions reflected in the trade data so submitted to it.

In order for the Corporation to process a trade for Bilateral Comparison, the Corporation must receive data from the long and short sides of the trade (or, if one or both of the counterparties are not Members or are ~~Sponsoring~~ **ing** Members, the Corporation must receive the data from the **Submitting Agent Clearing** Member(s) or ~~authorized submitters~~ **Sponsoring Members** acting on its or their behalf). For a Bilateral Comparison to be generated by the Corporation, except as otherwise provided in Rule 10, Rule 22A, the Schedule of Required Match Data, or the Schedule of Money Tolerances, there must be an exact match of all Required Match Data submitted on the trade, except for contra-participant identifying information if the Corporation, acting upon the request of, and with instructions deemed appropriate by the Corporation from, a Member translates an internal contra-party identifying number submitted by such Member to a standard Member identification number established by the Corporation. Except as otherwise provided in Rule 10, if there is a money difference in a Required Match Data item within the tolerance specifications set by the Corporation in the Schedule of Money Tolerances that are relevant to the trade, the Corporation shall accept the delivering party's amount. Notwithstanding anything to the contrary in the previous sentence, the Corporation, in its sole discretion, may establish minimum amounts, maximum amounts, and other parameters for the acceptance of data submitted to the Corporation.

* * *

Section 2 – Submission Method Requirements

Trade data may be submitted to the Corporation for Bilateral Comparison using the Interactive Submission Method, Multiple Batch Submission Method, or Single Batch Submission Method. A Member may use a different submission method than its counterparty or the **Submitting Agent Clearing** Member acting on the counterparty's behalf.

* * *

RULE 6C – LOCKED-IN COMPARISON

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 5 – GCF Repo Transactions

A GCF Repo Transaction shall be eligible for comparison by the Corporation subject to the following conditions: (a) the data on such Transaction are submitted to the Corporation by a GCF-Authorized Inter-Dealer Broker; (b) the data are submitted pursuant to communications links, formats, timeframes and deadlines established by the Corporation for such purpose; (c) the data submission meets the requirements set forth in the Schedule of Data Items for GCF Repo Transactions; (d) the data submission meets the authorization requirements of Section 2 of this Rule; (e) the data submission meets the netting-eligibility requirements provided for in Section 2 of Rule 11; and (f) each of the two GCF Counterparties that are the counterparties ~~(or are acting as Submitting Member for an Executing Firm that is the counterparty)~~ to the GCF-Authorized Inter-Dealer Broker on such Transaction has a clearing arrangement with a bank authorized by the Corporation for such purpose.

* * *

RULE 8 – AGENT CLEARING SERVICE EXECUTING FIRM TRADES

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

Section 1 - General

Notwithstanding anything to the contrary in these Rules, and subject to ~~the requirements of Section 3 below~~**this Rule 8, a Netting Member that has qualified as an Agent Clearing Member pursuant to Section 2 below may submit to the Corporation a Submitting Member must submit to the Corporation for comparison and/or netting trade data on any transaction calling for the delivery of Eligible Securities between to which an Executing Firm Customer on whose behalf it is acting pursuant to these Rules is a counterparty and either another Member of the Netting System, Comparison System or another Executing Firm on whose behalf it or another Member is acting pursuant to these Rules.**

Section 2 – Qualifications of Agent Clearing Members and the Application Process

(a) A Netting Member, other than an Inter-Dealer Broker Netting Member, shall be eligible to apply to become an “Agent Clearing Member” as such term is used in the Rules.

(b) Each applicant to be an Agent Clearing Member shall complete and deliver to the Corporation an application in such form as may be prescribed by the Corporation from time to time. In connection with such application, an applicant shall provide to the Corporation information regarding its customers, past and/or projected volumes of its customer activity, and its controls for monitoring and mitigating risks, including risks presented by those customers. The applicant shall be required to provide any other information that the Corporation reasonable requests.

(c) The Corporation may require that a Person be a Netting Member for a time period deemed necessary by the Corporation before that Person may be considered to become an Agent Clearing Member.

Section 3 – Executing Firm Customer Relationships

(a) A Person shall be an “Executing Firm Customer”, as such term is used in the Rules, if an Agent Clearing Member submits to the Corporation on behalf of the Executing Firm Customer and in the manner described in this Rule 8 data on trades entered into by the Executing Firm Customer.

(b) Agent Clearing Members shall provide the following to the Corporation with respect to each Executing Firm Customer for which that Agent Clearing Member proposes to act pursuant to this Rule 8: (i) the legal entity name and executing firm symbol of the Executing Firm Customer; (ii) written authorization of the Executing Firm Customer authorizing the Agent Clearing Member to submit trade data to the Corporation on its behalf and the effective date of such authorization; (iii) a Legal Entity Identifier for the

Executing Firm Customer; (iv) confirmation that the Executing Firm Customer and the Agent Clearing Member have entered into an agreement that binds the Executing Firm Customer to the applicable provisions of the Rules, as required by paragraph (e) below; and (v) confirmation that the Executing Firm Customer understands, acknowledges and agrees to each of the Executing Firm Customer Acknowledgments set forth in, and as required by Section 6 of this Rule 8.

(c) The Corporation shall not act upon any instruction from an Agent Clearing Member on behalf of an Executing Firm Customer until it has received the information in this paragraph from the Agent Clearing Member with respect to such Executing Firm Customer in a form acceptable to the Corporation, in its sole discretion, no later than 3 Business Days prior to the commencement of such Agent Clearing Member's initial data submission on behalf of such Executing Firm Customer.

(d) Each Agent Clearing Member shall provide the Corporation with a Legal Entity Identifier for each of its Executing Firm Customers such that the Corporation shall have a current Legal Entity Identifier for each Executing Firm Customer at all times. The Corporation shall have a current Legal Entity Identifier for each Executing Firm Customer at all times. The Agent Clearing Member shall indemnify the Corporation, and its employees, officers, directors, shareholders, agents, and Members (collectively, the "LEI Indemnified Parties"), for any and all losses, liabilities, expenses and Legal Actions suffered or incurred by the LEI Indemnified Parties arising from an Agent Clearing Member's failure to have the current Legal Entity Identifiers of its Executing Firm Customers on file with the Corporation. "Legal Action" means and includes any claim, counterclaim, demand, action, suit, countersuit, arbitration, inquiry, proceeding or investigation before any federal, state or foreign court or other tribunal, or any investigative or regulatory agency or self-regulatory organization.

(e) Subject to the provisions of the Rules, the Agent Clearing Service may be provided by an Agent Clearing Member to its Executing Firm Customers on any terms and conditions mutually agreed to by the Agent Clearing Member and such customers; provided, that each Agent Clearing Member shall, before providing the Agent Clearing Service to any Executing Firm Customer, enter into an agreement with that Executing Firm Customer that binds the Executing Firm Customer to the provisions of the Rules applicable to Agent Clearing Transactions and Executing Firm Customers.

(f) Nothing in the Rules shall prohibit an Agent Clearing Member from seeking reimbursement from an Executing Firm Customer for payments made by the Agent Clearing Member under the Rules, or as otherwise may be agreed between the Agent Clearing Member and the Executing Firm Customer.

(g) An Agent Clearing Member may provide written notice to the Corporation that it will no longer submit to the Corporation trades on behalf of an Executing Firm Customer.

Section 4 – Agent Clearing Transactions

Transactions that may be submitted by an Agent Clearing Member on behalf of its Executing Firm Customers shall include any type of transaction eligible for submission to the Corporation for comparison, netting and/or settlement calling for the delivery of Eligible Securities, with the exception of Netting Eligible Auction Purchases, Brokered Transactions, GCF Repo Transactions and CCIT Transactions (“Agent Clearing Transactions”).

Section 2 – Comparison of Trade Data

~~Except as otherwise provided in Rule 10, for a comparison to be generated by the Corporation as regards a trade submitted for Bilateral Comparison involving an Executing Firm, in addition to the requirements contained in Rules 5 or 6A, there must be a match of information as to the identity of the Executing Firms involved in the trade. If the identity of an Executing Firm on a side of a trade is omitted by a Submitting Member, until and unless the Submitting Member provides additional or corrected data to the Corporation pursuant to these Rules, the Corporation shall assume that there is no Executing Firm for that side of the trade.~~

Section 35 – Rights and Obligations of the Submitting Agent Clearing Members to Provide Notice

(a) An Agent Clearing Member shall be permitted to submit to the Corporation for Novation Agent Clearing Transactions entered into by one or more Executing Firm Customers on whose behalf it is acting as agent. Any such submission shall be in accordance with the Rules. Without limiting the generality of the foregoing, each Agent Clearing Member shall comply in all material respects with all applicable laws, including applicable laws relating to securities, taxation and money laundering, as well as global sanctions laws, in connection with the use of the Corporation’s services.

(b) The Agent Clearing Member shall act solely as agent of its Executing Firm Customers in connection with the clearing of Agent Clearing Transactions; provided, that the Agent Clearing Member shall remain fully liable for the performance of all obligations, financial or otherwise, to the Corporation arising in connection with Agent Clearing Transactions, including, for example, receiving all Reports and other information related to such Agent Clearing Transactions; and provided further, that the liabilities and obligations of the Corporation with respect to Agent Clearing Transactions shall extend only to the Agent Clearing Member. Without limiting the generality of the foregoing, the Corporation shall have no liability or obligation to any Executing Firm Customer, including, but not limited to, any liability or obligation arising out of or with respect to any Agent Clearing Transaction entered into by such Executing Firm Customer and submitted to the Corporation by the Agent Clearing Member.

(c) Except as expressly set forth herein, the obligations of the Agent Clearing Member under the Rules and any agreement between the Agent Clearing Member and the Corporation continue to apply to the same extent as such Rules and agreements apply to that Agent Clearing Member in its capacity as a Netting Member.

(d) An Agent Clearing Member that has submitted to the Corporation pursuant to these Rules an Agent Clearing Transaction on behalf of an Executing Firm Customer shall be obligated to the Corporation pursuant to these Rules (including, if the trade is netted and settled through the Netting System, as regards the calculation of payment of Required Fund Deposit and Funds-Only Settlement Amounts) in connection with such trade to the same degree as if the Agent Clearing Member itself had executed such trade.

(e) Each Agent Clearing Member shall submit to the Corporation, within the timeframes and in the formats required by the Corporation, the reports and information that all Netting Members are required to submit regardless of type of Netting Member and the reports and information required to be submitted for its respective type of Netting Member, all pursuant to Section 2 of Rule 3. Such reports and information shall include, for example, information regarding its Executing Firm Customers, projected volumes of Agent Clearing Transactions, and its controls for monitoring and mitigating risks, including risks presented by Executing Firm Customers.

~~A Submitting Member shall provide the Corporation, in a form and manner satisfactory to the Corporation, notice of each Executing Firm that such Member intends to act on behalf of pursuant to these Rules; such notice shall indicate the types of eligible transactions that will be submitted for Comparison System and/or Netting System processing. Notice must be provided so as to be received by the Corporation not less than 3 Business Days prior to the commencement of such Member's initial data submission on behalf of each such Executing Firm.~~

~~A Submitting Member must also provide the Corporation, in a form and manner satisfactory to the Corporation, notice of each Executing Firm on whose behalf it has ceased to act as a Submitting Member pursuant to these Rules; such notice must be provided so as to be received by the Corporation not less than 3 Business Days before the Member ceases to act as a Submitting Member for each such Executing Firm. Thereafter, any modifications thereto shall require not less than 3 Business Days' notice to the Corporation.~~

~~Notwithstanding the above, the Corporation, in its sole discretion, may accept data submitted by a Submitting Member on behalf of an Executing Firm even though a written notice required by this Section has not been received by the Corporation from the Submitting Member.~~

Section 6 – Executing Firm Customer Acknowledgments

Each Agent Clearing Member on behalf of each of its Executing Firm Customers agrees that such Executing Firm Customer, by participating in and entering into Agent Clearing Transactions through the Agent Clearing Member, understands, acknowledges, and agrees that:

(a) the service provided by the Corporation with regard to the Agent Clearing Service will be subject to and governed by the Rules;

(b) the Rules shall govern the Novation of Agent Clearing Transactions, and at the time of Novation of an Agent Clearing Transaction, the Executing Firm Customer on

whose behalf it was submitted will be bound by the Agent Clearing Transaction automatically and without any further action by the Executing Firm Customer or by its Agent Clearing Member, and the Executing Firm Customer agrees to be bound by the applicable provisions of the Rules in all respects;

(c) the Corporation shall be under no obligation to deal directly with the Executing Firm Customer, and the Corporation may deal exclusively with the Executing Firm Customer's Agent Clearing Member;

(d) the Corporation shall have no obligations to the Executing Firm Customer with respect to any Agent Clearing Transactions submitted by an Agent Clearing Member on behalf of the Executing Firm Customer, including with respect to any payment or delivery obligations; and

(e) the Executing Firm Customer shall have no right to receive from the Corporation, or any right to assert a claim against the Corporation with respect to, nor shall the Corporation be liable to the Executing Firm Customer for, any payment or delivery obligation in connection with any Agent Clearing Transactions submitted by an Agent Clearing Member on behalf of the Executing Firm Customer, and the Corporation shall make any such payments or redeliveries solely to the relevant Agent Clearing Member.

Section 7 – Agent Clearing Transactions Processing Rules

(a) All Agent Clearing Transactions submitted by an Agent Clearing Member to the Corporation for clearing on behalf of an Executing Firm Customer must be submitted through an Agent Clearing Member Omnibus Account and must contain the identity of that Executing Firm Customer. If the identity of an Executing Firm Customer is omitted on any trade that is submitted by an Agent Clearing Member, the trade will be rejected by the Corporation.

(b) For purposes of these Rules, Agent Clearing Transactions shall be processed in the same manner as non-customer transactions submitted to the Corporation, as such processing and settlement is described in these Rules, unless otherwise specifically stated in this Rule 8. All Agent Clearing Transactions submitted by an Agent Clearing Member shall be netted with other activity in the Agent Clearing Member Omnibus Account.

(c) Clearing Transactions that are submitted for Bilateral Comparison shall be processed in the manner set forth in Rule 6A, provided, however, that, if all other required fields are valid and match but the contra-party executing firm field on the side representing the contra-party has been omitted and the executing firm field on the side representing the Agent Clearing Member is valid, then the Corporation shall compare the Agent Clearing Transaction based on the valid executing firm field.

(d) Notwithstanding the provisions of Rule 11, (i) an Agent Clearing Transaction eligible for netting and settlement through the Netting System shall not be netted and settled through the Netting System if the Agent Clearing Member has provided the Corporation with notice, in a form and manner satisfactory to the Corporation, that it does not wish to have trades submitted by it on behalf of that Executing Firm Customer be netted and settled

through the Netting System; and (ii) an Agent Clearing Transaction eligible for netting and settlement through the Netting System shall not be netted and settled through the Netting System if the Agent Clearing Member had submitted data on a side of the trade on behalf of an Executing Firm Customer whose trades it had provided the Corporation with notice pursuant to these Rules that it did not wish to be netted and settled through the Netting System.

(e) Notwithstanding the provisions of Rule 12, (i) an Agent Clearing Transaction that is a Same-Day Settling Trade eligible for settlement shall not be settled if the Agent Clearing Member has provided the Corporation notice, in a form and manner satisfactory to the Corporation, that it does not wish to have trades submitted by it on behalf of the Executing Firm Customer settled through the Comparison System; and (ii) an Agent Clearing Transaction that is a Same-Day Settling Trade eligible for settlement shall not be settled if either the Agent Clearing Member had submitted data on a side of the trade on behalf of an Executing Firm Customer whose trades it had provided the Corporation with notice pursuant to these Rules that it did not wish to be settled.

(f) To the extent the Corporation incurs a loss or liability from a Defaulting Member Event or a Declared Non-Default Loss Event and a loss allocation obligation arises that would be the responsibility of an Agent Clearing Member, the Corporation shall calculate such loss allocation obligation as if the affected Executing Firm Customers were subject to such allocations pursuant to Section 7 of Rule 4, but the Agent Clearing Member shall, as principal, be responsible for satisfying such obligations.

(g) For purposes of satisfying the Agent Clearing Member's Clearing Fund requirements under the Rules for both its Netting Member activity and its Agent Clearing Member activity, the Agent Clearing Member's Dealer Accounts maintained by it in its capacity as a Netting Member and its separate Agent Clearing Member Omnibus Account through which it processes Agent Clearing Transactions shall be treated separately, as if they were accounts of separate entities. Notwithstanding the previous sentence, however, the Corporation shall have the right to apply an Agent Clearing Member's Clearing Fund deposits to any obligations of that Agent Clearing Member as otherwise permitted pursuant to Rule 4.

(h) Comparison output made available by the Corporation to Agent Clearing Members shall, as appropriate, identify the Executing Firm Customer for any Agent Clearing Transactions.

~~Section 4—Rights and Responsibilities of the Submitting Member as a Member of the Comparison System or Netting System~~

~~A Submitting Member shall have the same rights, and incur the same responsibilities, as regards trade data by it to the Corporation on behalf of an Executing Firm as it does, pursuant to these Rules, regarding data submitted to the Corporation on its own trades.~~

~~Section 5—Discretion of the Corporation to Decline to Accept Certain Trade Data~~

~~The Corporation, in its sole discretion, may decline to accept trade data involving one or more Executing Firms, either generally for all trade data submitted to the Corporation or by Submitting Member.~~

~~Section 6—Reports to Reflect Executing Firm Trade Data~~

~~Comparison output made available by the Corporation to Members shall reflect, as appropriate, the fact that a trade involves an Executing Firm.~~

* * *

RULE 10 – ENHANCED COMPARISON PROCESSES PRESUMED MATCH DATA

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

~~Section 2 – Trades Involving An Executing Firm Customer~~

~~If the data on a trade do not match because the information submitted as regards the identity of the Executing Firm on either side of the trade does not match, the Corporation may, in its discretion, compare the trade based on the identities of the two Submitting Members matching. If the data on a trade do not match because the data on either side of the trade identify the contra party Executing Firm but either omit or incorrectly indicate the information regarding the identity of the Submitting Member for the contra party Executing Firm, the Corporation may, in its discretion, if it has received notice, in a form and manner satisfactory to the Corporation (which notice may vary on a product by product basis), from a Member stating that the Member wishes to be deemed a Submitting Member for such Executing Firm should that the Executing Firm be identified as the contra party Executing Firm on a side of a trade but no Submitting Member for such Executing Firm is properly identified, compare the trade based on such Member being the contra party Submitting Member for that side.~~

Section 32 – Affiliated Members

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Section 43 – Summarization of Par Amounts

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Section 54 – Trade Date Information

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Section 65 – Money Tolerances

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Section 76 – Timing and Cumulative Effect of Presumptions

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RULE 11 – NETTING SYSTEM

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 2 - Eligibility for Netting

* * *

~~Notwithstanding the above, a trade eligible for netting and settlement through the Netting System to which an Executing Firm is a party, the data on which have been submitted to the Corporation on behalf of such Executing Firm by a Submitting Member that is a Netting Member, shall not be netted and settled through the Netting System if the Submitting Member has provided the Corporation with notice, in a form and manner satisfactory to the Corporation, that it does not wish to have trades submitted by it on behalf of that Executing Firm be netted and settled through the Netting System. Also notwithstanding the above, a trade shall not be netted and settled through the Netting System if either Submitting Member had submitted data on a side of the trade on behalf of an Executing Firm whose trades it had provided the Corporation with notice pursuant to these Rules that it did not wish to be netted and settled through the Netting System.~~

* * *

Section 3 - Obligation to Submit Trades

Each Netting Member must submit to the Corporation for comparison and netting, pursuant to these Rules, data on all of its trades, (including trades executed and settled on the same day and trades executed between it or an Executing Firm Customer on whose behalf it is acting) with other Netting Members (or an Executing Firm Customer on whose behalf it or another Member is acting) that are eligible for netting pursuant to these Rules, except that this requirement is not applicable to a Netting Member's Repo Transactions (a Netting Member's obligation to submit to the Corporation data on its Repo Transactions is governed by Rule 18).

* * *

RULE 12 – SECURITIES SETTLEMENT

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 11 – Settlement of Same-Day Settling Trades with the Corporation

* * *

(ii) Eligibility for Settlement

* * *

~~Notwithstanding the above, a Same-Day Settling Trade eligible for settlement to which an Executing Firm is a party, the data on which have been submitted to the Corporation on behalf of such Executing Firm by a Submitting Member that is a Netting Member, shall not be settled if the Submitting Member has provided the Corporation with notice, in a form and manner satisfactory to the Corporation, that it does not wish to have trades submitted by it on behalf of that Executing Firm be settled through the Comparison System. Also notwithstanding the above, a trade shall not be settled if either Submitting Member had submitted data on a side of the trade on behalf of an Executing Firm whose trades it had provided the Corporation with notice pursuant to these Rules that it did not wish to be settled.~~

* * *

RULE 13 – FUNDS-ONLY SETTLEMENT

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 4 – Funds-Only Settling Bank Members

(a) Each Netting Member shall be required to appoint a Funds-Only Settling Bank to perform the Netting Member’s Funds-Only Settlement Amount obligations via the process set forth in Section 5 of this Rule. A Netting Member must at all times have a Funds-Only Settling Bank validly appointed and acting on its behalf. The Netting Member and the Funds-Only Settling Bank shall execute an “Appointment of Funds-Only Settling Bank and Funds-Only Settling Bank Agreement”;**whereby the Funds-Only Settling Bank undertakes to perform funds-only settlement services for the Netting Member which also is a party thereto.**

* * *

**RULE 15 – SPECIAL PROVISIONS FOR CERTAIN NETTING MEMBERS
REPO BROKERS**

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

~~Section 1 – Submitting Members~~

~~A Submitting Member that has submitted to the Corporation pursuant to these Rules data on a trade on behalf of an Executing Firm shall be obligated to the Corporation pursuant to these Rules (including, if the trade is netted and settled through the Netting System, as regards the calculation of payment of Required Fund Deposit and Funds-Only Settlement Amounts) in connection with such trades to the same degree as if it itself had executed such trades.~~

~~Section 2 – Repo Brokers~~

At the request of the Corporation, each Repo Broker shall submit to the Corporation, data on all of its trades in Eligible Netting Securities, including trades done with customers~~Non-Members~~. Such request may include such data as is necessary to indicate, by reference number, a buy side that matches in par amount, and is bound to, one or more sell sides, and vice versa. Moreover, for every trade done by a Repo Broker involving an Eligible Netting Security, including trades done with customers~~Non-Members~~, the identity of each buy side and sell side counterparty shall be disclosed to the Corporation, in the form and manner prescribed by the Corporation for such disclosure. The requirements of this paragraph shall not apply to Repo Transactions.

If a Repo Broker fails to comply with the requirements of this Section, the Corporation in its sole discretion, may treat such Member for purposes of these Rules as if it were a Dealer Netting Member, upon providing notice of such to the Member.

Notwithstanding anything to the contrary elsewhere in these Rules, including Rule 1, trades by a Repo Broker with a customer~~Non-Members~~ that clears all of its trades in Eligible Netting Securities through one or more Netting Members (excluding Netting Members that are Repo Brokers), each of which in turn submits all of such trades of the Repo Broker to the Corporation for netting and settlement through the Netting System, shall be treated by the Corporation for purposes of determining the status of the Repo Broker as if they were trades with a Netting Member.

* * *

RULE 18 – SPECIAL PROVISIONS FOR REPO TRANSACTIONS

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 2 – Obligation to Submit Repo Transactions

Each Netting Member that has requested of the Corporation that it provide its Netting System services for such Member's Repo Transaction data submissions must submit to the Corporation, or to either another Clearing Agency or a Clearing Agency that has been exempted from registration as a Clearing Agency by the SEC, for comparison and netting, data on all of its Repo Transactions, including Repo Transactions executed by an Executing Firm **Customer** on whose behalf it is acting, with any other Netting Member or Executing Firm **Customer** on whose behalf it or another Netting Member is acting, if such Repo Transactions are eligible for netting pursuant to these Rules.

* * *

RULE 24 – CHARGES FOR SERVICES RENDERED

[Changes to this Rule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Rule.]

Section 1

Members shall pay such fees and charges to the Corporation as shall be specified by the Corporation or in the Procedures and approved by the Board of Directors on a reasonable and nondiscriminatory basis.

Sponsoring Members shall be responsible for all fees pertaining to their Sponsoring Member activity as set forth in the Corporation's Fee Structure.

CCIT Members shall be responsible for all fees pertaining to their CCIT Member activity as set forth in the Corporation's Fee Structure. Such fees will be applied at the Joint Account level where applicable.

Agent Clearing Members shall be responsible for all fees related to their Agent Clearing Member activity as set forth in the Corporation's Fee Structure.

Section 2

A Member ~~or a Sponsoring Member~~ may be charged for any unusual expenses caused directly or indirectly by such Member, ~~or including~~, in the case of a Sponsoring Member **and an Agent Clearing Member, such expenses** caused directly or indirectly by ~~itself or one or more~~ of its Sponsored Members **or Executing Firm Customers (as applicable), and** including but without limitation, the cost of producing records pursuant to a court order or other legal process in any litigation or other legal proceeding to which such Member, ~~Sponsoring Member or~~ Sponsored Member **or Executing Firm Customer (as applicable)** is a party or in which such records relating to such Member, ~~Sponsoring Member or~~ Sponsored Member **or Executing Firm Customer (as applicable)** are so required to be produced, whether such production is required at the instance of such Member, ~~Sponsoring Member or~~ Sponsored Member **or Executing Firm Customer (as applicable)** or of any other party other than the Corporation.

* * *

SCHEDULE OF REQUIRED DATA SUBMISSION ITEMS

[Changes to this Schedule, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Schedule.]

In addition to the data items listed in the Schedule of Required Match Data, the following data items are required, as indicated below, to be submitted by Members when they submit trade data to the Corporation:

- (1) Broker reference number - the reference number used by a Repo Broker submitting data to uniquely identify the matching short and long sides of a Brokered Transaction
- (2) Contra ~~Submitting Member's~~ executing firm symbol - if this field is left blank, the Corporation will fill this field with the identifier of the contra ~~Submitting Agent Clearing Member or Sponsoring Member, as applicable's~~ identifying number
- (3) Executing ~~F~~firm symbol - ~~if this field is left blank, the Corporation will fill this field with the submitting Member's identifying number~~ the Executing Firm Customer or Sponsored Member identifier; this field is required for all Sponsored Member Trades and Agent Clearing Transactions
- (4) External reference number - the reference number used by a Member submitting data to uniquely identify the transaction
- (5) Price (rate) - as regards Repo Transaction, the repo rate must be submitted in this field
- (6) Pricing method - for buy/sell transactions, this field must be submitted with either a "D" (discount), "P" (price), or "Y" (yield), while for Repo Transactions, this field must be submitted with an "R" (rate)
- (7) Trade date – the date on which the trade was executed must be submitted in this field

This schedule does not apply to Netting Eligible Auction Purchases and GCF Repo Transactions, and items (1) and (2) above are not required for Sponsored Member Trades.

* * *

FEE STRUCTURE*

[Changes to this Fee Structure, as amended by File No. SR-FICC-2024-005, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. By no later than March 31, 2025, these changes will be implemented, and this legend will be automatically removed from this Fee Structure.]

I. TRANSACTION FEES

* * *

G. Locked-In Trade Data

* * *

The charge to the GCF Counterparty to the GCF-Authorized Inter-Dealer Broker for the processing and reporting by the Corporation of a GCF Repo Transaction or a CCIT Transaction entered into by the Member, ~~or entered into by a Non-Member that the Member is clearing for~~, is a one-time recording fee of \$0.07 per million gross dollar amount of such GCF Repo Transaction or CCIT Transaction (with a minimum charge of \$2.50). The charge to the GCF-Authorized Inter-Dealer Broker for the processing and reporting by the Corporation of a GCF Repo Transaction is a one-time recording fee of \$0.025 per million gross dollar amount of such GCF Repo Transaction (with a minimum charge of \$1.25).

* * *

II. POSITION MANAGEMENT FEES

A. Intraday Position Fee

An intraday position fee of \$0.04 per million par value will be charged to a Member each Business Day based on the largest gross position of the Member (including positions of any ~~customer~~~~Non-Member~~ that the Member is clearing for) that Business Day. The gross position of a Member on a Business Day is determined in 15-minute intervals between 9 a.m. and 4 p.m. on that Business Day by netting par value of all compared buy/sell transactions, Repo Transactions, and unsettled obligations of the Member (and any ~~customers~~~~Non-Members~~ that the Member is clearing for) by CUSIP Number and taking the sum of the absolute par value of each such CUSIP Number. This fee shall not apply to GCF Repo Transactions or CCIT Transactions.

B. End of day Position Fee

An end of day position fee of \$0.105 per million par value will be charged to a Member each Business Day based on the end of day gross position of the Member (including positions of any ~~customer~~~~Non-Member~~ that the Member is clearing for) that Business Day. The end of day gross position of a Member on a Business Day is determined by netting par value of all compared

* Fees stated to apply to CCIT Members shall be applied at the Joint Account level for CCIT Members participating through a Joint Account.

buy/sell transactions, Repo Transactions, and unsettled obligations of the Member (and any ~~customer~~~~Non-Member~~ that the Member is clearing for) at the end of the Business Day by CUSIP Number and taking the sum of the absolute par value of each such CUSIP Number. This fee shall not apply to GCF Repo Transactions or CCIT Transactions.

* * *

VI. SUBMITTING-AGENT CLEARING MEMBERS

~~An Submitting Agent Clearing Member shall be liable for fees and charges arising from buy/sell transactions and Repo Transactions the data on which any Agent Clearing Transactions which~~ it has submitted to the Corporation on behalf of an Executing Firm Customer ~~to the same extent as if such Member had executed the buy/sell transactions and Repo Transactions.~~

VII. SPONSORING MEMBERS

A Sponsoring Member shall be liable for fees and charges arising from Sponsored Member Trades the data on which it, or its Sponsored Member(s), has submitted to the Corporation. A Sponsoring Member shall also be subject to the minimum monthly fee set forth in Section V of this Fee Structure; provided, that a Sponsoring Member Omnibus Account shall be considered a single account for purposes of calculating such fee, regardless of the number of Sponsored Members whose trading activity is conducted through such account. A Sponsoring Member shall also be liable to the Corporation for the Sponsored GC Pre-Payment Assessment to the extent it participates in the Sponsored GC Service. The Corporation's books and records shall reflect the Sponsored GC Pre-Payment Assessment as a credit to such Sponsoring Member until expiration.

* * *