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Page 1 of * 86		SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No. * SR 2025 - * 014 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"/>	
Pilot <input type="checkbox"/>		Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	
		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) * <input type="checkbox"/>			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) * <input type="checkbox"/>		
Exhibit 2 Sent As Paper Document <input type="checkbox"/>			Exhibit 3 Sent As Paper Document <input type="checkbox"/>		
Description Provide a brief description of the action (limit 250 characters, required when Initial is checked *). <div>Amend and Restate the Cross-Margining Agreement between FICC and CME</div>					
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 * <div></div> Last Name * <div></div> Title * <div></div> E-mail * <div>RuleFilingAdmin@dtcc.com</div> Telephone * <div></div> Fax <div></div>					
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 <div>05/09/2025</div> (Title *) By <div></div> <div></div> (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. <div>Date: 2025.05.09 12:30:39 -04'00'</div>					

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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Form 19b-4 Information *

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Narrative - FICC CME Cross-Marginin		

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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Exhibit 1A - FICC CME Cross-Margini		

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.

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Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit 3 (Redacted) - FICC CME Cros		

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

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Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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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

Add	Remove	View
Exhibit 5 - FICC CME Cross-Marginin		

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

Partial Amendment

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

1. Text of the Proposed Rule Change

(a) The Fixed Income Clearing Corporation (“FICC”) is proposing a rule change related to its cross-margining arrangement (the “Cross-Margining Arrangement”) with the Chicago Mercantile Exchange Inc. (“CME”). The proposed rule change consists of a proposed Second Amended and Restated Cross-Margining Agreement (the “Second A&R Agreement”) between FICC and CME (CME, collectively FICC and CME are referred to herein as the “Clearing Organizations” or “Parties”). The proposed Second A&R Agreement would replace the current Amended and Restated Cross-Margining Agreement between the Parties (the “Existing Agreement”)¹ in its entirety and would be incorporated into the FICC Government Securities Division (“GSD”) Rulebook (“GSD Rules”). The proposed rule change does not require any changes to the text of the GSD Rules.² The proposed Second A&R Agreement is provided in Exhibit 5.³

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The filing of this proposed rule change was approved by the Risk Committee of FICC’s Board of Directors on December 17, 2024.

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

(a) Purpose

Executive Summary

Generally, the purpose of the Cross-Margining Arrangement is to enable FICC and CME to recognize for margin purposes the offsetting risk of positions maintained by a member (or a

¹ See Securities Exchange Act Release No. 98327 (Sept. 8, 2023), 88 FR 63185 (Sept. 14, 2023) (SR-FICC-2023-010).

² The Existing Agreement is incorporated in the GSD Rules available at www.dtcc.com/legal/rules-and-procedures. Unless otherwise specified, capitalized terms not defined herein shall have the meanings ascribed to them in the GSD Rules (as amended by recent rule changes approved by the Securities and Exchange Commission (“SEC” or “Commission”) on November 21, 2024), which includes the Existing Agreement. See Securities Exchange Act Release No. 101694 (Nov. 21, 2024), 89 FR 93784 (Nov. 27, 2024) (SR-FICC-2024-005); and No. 101695 (Nov. 21, 2024), 89 FR 93763 (Nov. 27, 2024) (SR-FICC-2024-007).

³ Proposed Second Amended and Restated Cross-Margining Agreement by Fixed Income Clearing Corporation and Chicago Mercantile Exchange Inc.

member and its Affiliate) at the two Clearing Organizations in circumstances when the Clearing Organizations can look to all of those positions (and all associated margin) for performance of the member's obligations. In particular, the Cross-Margining Arrangement allows the Clearing Organizations to consider the net risk of a participant's eligible positions at FICC and CME when setting margin requirements for such positions.⁴ Any resulting margin reductions create capital efficiencies for participating members and incentivize such members to maintain portfolios that present lower overall risk. It also facilitates the ability of clearing members and their indirect participant affiliates to access central clearing by ensuring that their margin obligations are commensurate to the risks of their portfolios.

Pursuant to the terms of the Existing Agreement, a joint clearing member of the Clearing Organizations (a "Joint Clearing Member") that participates in the Cross-Margining Arrangement may designate any of its accounts at FICC (except its Sponsoring Member Omnibus Account) to be cross-margined with a cross-margining account on the books of CME (each such account, a "Cross-Margining Account"). In addition, a Joint Clearing Member may include in a Cross-Margining Account both its proprietary positions and those of an affiliate, as long as the affiliate is not a customer under certain rules of the SEC and its account on the records of the Joint Clearing Member is a "proprietary account" within the meaning of 17 CFR 1.3 (an "Eligible Affiliate").

On December 13, 2023, the SEC amended Rule 17ad-22 to require FICC to mandate that Netting Members submit for the clearance and settlement of eligible secondary market transactions (the "U.S. Treasury Clearing Rule") and to require FICC to calculate, collect, and hold margin for transactions in U.S. Treasury securities that a Netting Member submits to FICC on behalf of an indirect participant, including an affiliate of the Netting Member, separately and independently from margin for the Netting Member's proprietary positions in U.S. Treasury securities ("Separate Margining Requirement").⁵

FICC has adopted amendments to the GSD Rules to implement the Separate Margining Requirement (the "Separate Margining Amendments").⁶ These amendments went into effect on March 24, 2025.⁷ Under the Separate Margining Amendments, a Netting Member will need to

⁴ See Section 4, "Calculation of the Cross-Margin Requirements" of the Existing Agreement, supra note 2.

⁵ See Securities Exchange Act Release No. 99149 (Dec. 13, 2023), 89 FR 2714 (Jan. 16, 2024) (S7-23-22).

⁶ See Securities Exchange Act Release No. 101695 (Nov. 21, 2024), 89 FR 93763 (Nov. 27, 2024) (SR-FICC-2024-007).

⁷ On February 25, 2025, the SEC granted temporary exemptive relief to covered clearing agencies providing central counterparty services for U.S. Treasury securities from enforcing their written policies and procedures related to the Separate Margining Requirement until September 30, 2025. FICC has issued an Important Notice concerning

ensure that transactions it submits to FICC for the benefit of an indirect participant are recorded in an Indirect Participants Account, such as an Agent Clearing Member Omnibus Account, rather than in one of the Netting Member's Proprietary Accounts.⁸ At the same time, the regulations promulgated by the Commodity Futures Trading Commission ("CFTC") applicable to the positions that a Joint Clearing Member maintains at CME for an Eligible Affiliate require that such positions be maintained in the Joint Clearing Member's house account in which the Joint Clearing Member may also maintain its own proprietary positions.⁹

The purpose of the proposed Second A&R Agreement is to make certain technical changes that are designed to account for this difference in account structure so that an Eligible Affiliate of a Joint Clearing Member that accesses FICC's clearing services and the Cross-Margining Arrangement through a Joint Clearing Member will continue to be able to participate in the Cross-Margining Arrangement in accordance with the Separate Margining Requirement and Separate Margining Amendments.

The key changes reflected in the proposed Second A&R Agreement set forth below are principally those necessary to enable Eligible Affiliates to continue participating in the Cross-Margining Arrangement in accordance with the Separate Margining Requirement and Separate Margining Amendments. They consist of:

- A requirement for any Joint Clearing Member that wishes to subject the eligible positions of an Eligible Affiliate (a "Participating Affiliate") to the Cross-Margining Arrangement to cause such positions, to the extent cleared at FICC, to be recorded in an Agent Clearing Member Omnibus Account, which account must contain exclusively the positions of the Joint Clearing Member's Eligible Affiliates.
- Changes to reflect the role of a Participating Affiliate as a principal on the FICC-cleared eligible positions that are subject to the Cross-Margining Arrangement and recorded in an Agent Clearing Member Omnibus Account. These changes include adjustments to descriptions of payment and transfer obligations to make clear that they may be owed by or to an Eligible Affiliate in the case of FICC-cleared eligible

such relief, which is available at www.dtcc.com/-/media/Files/pdf/2025/2/26/GOV1909-25.pdf.

⁸ See supra note 6.

⁹ See 7 U.S.C. 6d (permitting the commingling of futures customer property solely with the property of other futures customers); 17 CFR 1.3, "Customer" (deeming the holder of a "proprietary account" not to be a customer for purposes of 7 U.S.C. 6d); 17 CFR 1.3 "proprietary account" ("This term means commodity futures . . . account carried on the books and records of an individual, a partnership, corporation or other type of association: . . . (2) Of which ten percent or more is owned by one of the following persons, or an aggregate of ten percent or more of which is owned by more than one of the following persons: . . . (vii) A business affiliate that directly or indirectly controls such individual, partnership, corporation or association; or (viii) A business affiliate that, directly or indirectly is controlled by or is under common control with, such individual, partnership, corporation or association. . . .").

positions. They also include provisions to preserve the ability of the Clearing Organizations to look to the positions a Joint Clearing Member carries for a Participating Affiliate and all associated margin to satisfy the Joint Clearing Member's obligations to the Clearing Organizations in relation to Cross-Margining Accounts.

Clarifications to ensure that the use of the Cross-Margining Arrangement by Participating Affiliates does not affect the claims of any non-participating customers of a Joint Clearing Member under applicable Customer Protection Regimes (as defined below). In addition to the foregoing changes, the proposed Second A&R Agreement would contain revisions to extend from 30 days to 180 days the notice period in which FICC or CME may provide written notice to the other party of its election to terminate the proposed Second A&R Agreement.¹⁰ Although this proposed change is not necessary to enable Eligible Affiliates to participate in the Cross-Margining Arrangement in accordance with the Separate Margining Requirement, the Parties believe this adjustment would provide FICC and CME with the necessary time needed to unwind the Cross-Margining Arrangement if that ever becomes necessary.

These changes would not otherwise affect the functioning of the Cross-Margining Arrangement, including the calculation of margin reductions and default management, under the Existing Agreement.

In addition, the Existing Agreement is supplemented by a Service Level Agreement ("SLA") between FICC and CME. FICC and CME will make edits to the SLA as necessary to ensure conformance with the proposed Second A&R Agreement.¹¹

A. The Proposed Second A&R Agreement

Overview

As noted above, FICC proposes to enter into the proposed Second A&R Agreement with CME. The proposed amendments to the Existing Agreement are designed to permit an Eligible Affiliate to have its positions cross-margined pursuant to the Cross-Margining Arrangement consistent with Separate Margining Requirement and the Separate Margining Amendments. FICC believes that such amendments would promote the maintenance of lower risk and more balanced portfolios and facilitate the access of indirect participants to central clearing in accordance with Rule 17ad-22.

1. Proposal to Ensure Compliance with Separate Margining Requirement

In order to facilitate an Eligible Affiliate's participation in the Cross-Margining Arrangement consistent with the Separate Margining Requirement and the Separate Margining Amendments, the proposed Second A&R Agreement would continue to permit a Joint Clearing Member to subject eligible positions cleared for an Eligible Affiliate to the Cross-Margining

¹⁰ See Sections 15(a) and (b), "Termination" of the Existing Agreement, supra note 2.

¹¹ The SLA is provided as confidential Exhibit 3 to this proposed rule change.

Arrangement but would require any such positions cleared at FICC to be recorded in an Agent Clearing Member Omnibus Account. More specifically, the proposed Second A&R Agreement would contain a new clause providing that in the event transactions or positions maintained in an Account are not the proprietary transactions or positions of the Cross-Margining Participant,¹² then such transactions or positions and margin therefore may only be maintained in a Cross-Margining Account at FICC if (i) the transactions, positions and margin are maintained by the Cross-Margining Participant for an Eligible Affiliate, and (ii) the Account in which the transactions and positions in FICC Eligible Products are recorded is an Agent Clearing Member Omnibus Account¹³ that contains exclusively the transactions and positions of the Eligible Affiliate(s).¹⁴ In order to ensure these conditions (the “Separate Margining Conditions”) are satisfied, the proposed Second A&R Agreement would add certain provisions to the Cross-Margining Agreement (Common Member) attached as Appendix A to the proposed Second A&R Agreement (the “Common Member Agreement”), which all Joint Clearing Members

¹² See Section 1 of the Existing Agreement (defining “Cross Margining Participant” as “a Joint Clearing Member that has become, or a Clearing Member that is part of a pair of Cross-Margining Affiliates each of which has become, a participant in the cross-margining arrangement between FICC and CME established pursuant to this Agreement. . . .”), supra note 2.

¹³ See GSD Rule 8, Section 5, supra note 2. As a result of the recent amendment to GSD Rules to facilitate access to clearance and settlement of all eligible secondary market transactions in U.S. Treasury securities (the “Access Amendments”), FICC will offer two different types of Indirect Participant Accounts for use without margin segregation: the Agent Clearing Member Omnibus Account and the Sponsoring Member Omnibus Account. Securities Exchange Act Release No. 101694 (Nov. 21, 2024), 89 FR 93784 (Nov. 27, 2024) (SR-FICC-2024-005). The GSD Rules do not currently permit a Joint Clearing Member to designate a Sponsoring Member Omnibus Account as a Cross-Margining Account. See GSD Rule 3A, Section 10(h). FICC is not proposing to change this limitation. FICC calculates margin obligations for Sponsoring Member Omnibus Accounts that are not designated for segregation in a different manner from how it calculates margin requirements for Proprietary Accounts and Agent Clearing Member Omnibus Accounts that are not designated for segregation. In particular, FICC generally calculates margin requirements for Sponsoring Member Omnibus Accounts on a gross (i.e., Sponsored Member-by-Sponsored Member) basis, while it calculates margin for Agent Clearing Member Omnibus Accounts that are not designated for segregation and Proprietary Accounts on a net basis across all positions in the account. As a result, significant systems and other changes would be necessary to allow Joint Clearing Members to record Eligible Positions of Participating Affiliates in a Sponsoring Member Omnibus Account. FICC is not aware of any market interest in using unsegregated Sponsoring Member Omnibus Accounts for purposes of cross-margining involving Eligible Affiliates.

¹⁴ A Joint Clearing Member and any Eligible Affiliate(s) would need to satisfy FICC’s requirements to be an Agent Clearing Member and an Executing Firm, respectively, in accordance with GSD Rule 8, supra note 2.

would be required to execute with the Clearing Organizations. Those provisions would consist of representations by the Joint Clearing Member to the Clearing Organizations that the Separate Margining Conditions are met.¹⁵

By virtue of these changes, in no circumstance would any proprietary securities positions of the Joint Clearing Member at FICC (or any proprietary margin securing those positions) be incorporated into or netted against FICC's calculation of the margin requirement applicable to the positions the Joint Clearing Member carries for its Eligible Affiliates.

2. Proposals to Address the Role of Participating Affiliates as Principal

Under the GSD Rules, when an Agent Clearing Member clears an Agent Clearing Member Transaction for an Executing Firm Customer, it "acts solely as agent."¹⁶ Accordingly, an Executing Firm Customer, such as a Participating Affiliate, is a principal on such transaction. The proposed Second A&R Agreement would include changes to reflect the role of a Participating Affiliate as principal on the Eligible Positions recorded in an Agent Clearing Member Omnibus Account. In particular, the proposed Second A&R Agreement would adjust a number of defined terms, including "Cross-Margin VM Gain," "Cross-Margin VM Loss," "Liquidation Cost," "Margin," "Other VM Gain," "Other VM Loss," "Variation Margin,"¹⁷ as well as the provisions of Section 7 relating to the termination of a Cross-Margining Participant to recognize that payment or delivery obligations may be owed by or to an Eligible Participant, rather than by or to the Joint Clearing Member.¹⁸

In addition, the proposed Second A&R Agreement would include a number of additions to the Common Member Agreement to ensure that, as is the case with the Existing Agreement, FICC and CME would be able to look to the entirety of a Participating Affiliate's Eligible Positions and all associated margin to satisfy the obligations arising from the Joint Clearing Member's Cross-Margining Accounts at FICC and CME. In particular, the proposed Second A&R Agreement would require each Joint Clearing Member to agree in the Common Member Agreement, as agent for each of its Participating Affiliates, that each such Participating Affiliate (i) unconditionally promises to pay any amounts owing in respect of the Cross-Margining Accounts established for such Participating Affiliate (each, an "Affiliate Account"), (ii) agrees that it is jointly and severally liable for any payment obligation in respect of any Cross-Margining Account of the Joint Clearing Member, in an amount up to the liquidation value of the positions maintained for the Participating Affiliate in any Affiliate Account and, without

¹⁵ See Appendix A, "Fixed Income Clearing Corporation/Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member)" of the proposed Second A&R Agreement, supra note 3.

¹⁶ See GSD Rules, Rule 8, Section 5(b), supra note 2; Securities Exchange Act Release No. 101695 (Nov. 21, 2024), 89 FR 93763 (Nov. 27, 2024) (SR-FICC-2024-007).

¹⁷ See Section 1, "Definitions" of the proposed Second A&R Agreement, supra note 3.

¹⁸ See Section 7(a), "Suspension and Liquidation of Cross-Margining Participant" of the proposed Second A&R Agreement, supra note 3.

duplication, the value realized on any margin or other collateral held for any such account, and (iii) agrees it is bound by the GSD Rules and the CME rules as applicable to a Participating Affiliate and by the provisions of the proposed Second A&R Agreement and Common Member Agreement.¹⁹

In order to ensure the effectiveness of these agreements by a Joint Clearing Member on behalf of its Participating Affiliates, each Joint Clearing Member would represent and warrant in the Common Member Agreement that it has full power and authority to bind each of its Participating Affiliates to the foregoing terms and that before permitting an Eligible Affiliate to be a Participating Affiliate it will have obtained such Participating Affiliate's written consent to such terms.²⁰ The proposed Common Member Agreement would require each Joint Clearing Member to provide such written consent to the Clearing Organizations upon their request.²¹

Furthermore, the proposed Second A&R Agreement would include revisions to the security interest language in the Common Member Agreement so that the obligations secured include those of the Participating Affiliate, and that the Joint Clearing Member grants the security interest on behalf of itself and each Participating Affiliate.²²

These proposed changes to the Common Member Agreement would ensure that, if a Joint Clearing Member defaults and FICC makes payment to CME pursuant to the cross-guarantee set forth in the proposed Second A&R Agreement,²³ FICC would be able to set off and apply to its claim for reimbursement the positive liquidation value of each Participating Affiliate's positions and the margin securing such positions.²⁴

¹⁹ See supra note 15.

²⁰ See id.

²¹ See id.

²² See id.

²³ The cross-guarantee would remain unchanged, see Section 8, "Guaranty of FICC to CME" and Section 9 "Guaranty of CME to FICC" of the Existing Agreement, supra note 2.

²⁴ The proposed Second A&R Agreement also includes a number of acknowledgments and agreements from each Joint Clearing Member, as agent for each Participating Affiliate, about the treatment of CME-cleared positions and CME-held margin and the Participating Affiliate's rights and obligations related thereto. See Appendix A, "Fixed Income Clearing Corporation/Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member)" of the proposed Second A&R Agreement, supra note 3.

3. Proposals Relating to Customer Protection

The proposed Second A&R Agreement would include provisions to ensure that, consistent with the Existing Agreement, the use of the Cross-Margining Arrangement by Participating Affiliates would not affect the customer protections available to any non-participating customers of the Joint Clearing Member under the Securities Investor Protection Act (“SIPA”), the stockbroker liquidation provisions of Subchapter III of Chapter 7 of the Bankruptcy Code, the commodity broker liquidation provisions of Subchapter IV of Chapter 7 of the Bankruptcy Code, or the Commodity Futures Trading Commission’s Part 190 regulations thereunder (collectively, the “Customer Protection Regimes”). In order to accomplish this, the proposed Second A&R Agreement would limit the scope of Eligible Affiliates to entities that are Non-Customers,²⁵ which the proposed Second A&R Agreement would define as “any Affiliate of the Clearing Member (i) that is not a ‘customer’ of the Clearing Member within the meaning of Securities Investor Protection Act, Subchapter III of Chapter 7 of the U.S. Bankruptcy Code, or Rule 15c3-3 as promulgated under the Act²⁶ and (ii) whose Eligible Positions in CME Eligible Products are carried in a Proprietary Account of the Clearing Member.”²⁷

In addition, the proposed Second A&R Agreement would require that each Affiliate Account be limited to the positions of Non-Customers (or in the case of an Affiliate Account at CME, the Joint Clearing Member’s proprietary positions) and any margin posted to FICC in relation to such an account would not be subject to segregation. It would achieve this by requiring a Joint Clearing Member to represent in the Common Member Agreement that any Participating Affiliate is a Non-Customer, that any Cross-Margining Account (whether at CME or FICC) includes exclusively the positions of Non-Customers or the Joint Clearing Member, and that any margin posted to FICC in relation to an Eligible Affiliate account is not subject to segregation under the Rules.²⁸ These proposed changes are designed to ensure that no Participating Affiliate would have a claim under any Customer Protection Regime in relation to its Affiliate Account or Eligible Positions that could disrupt the priority rights of any customers of a Joint Clearing Member under those regimes to segregated pools of property.

4. Proposal to Extend the Termination Notification Period

The proposed Second A&R Agreement would revise Sections 15(a) and (b) of the Existing Agreement (Termination) to extend the prior written notification period for either party

²⁵ See “Recitals” of the proposed Second A&R Agreement, supra note 3.

²⁶ In order for an Affiliate to constitute a non-customer for purposes of SIPA, the Affiliate would generally need to enter into a subordination agreement with the Joint Clearing Member pursuant to which the Affiliate agrees and acknowledges that its FICC-cleared positions and margin maintained in a Cross-Margining Account will not receive customer treatment under the Exchange Act or SIPA or be treated as “customer property” as defined in 11 U.S.C. 741 in a liquidation of the Joint Clearing Member.

²⁷ See Section 1, “Definitions” of the proposed Second A&R Agreement, supra note 3.

²⁸ See Section 15, “Termination” of the proposed Second A&R Agreement, supra note 3.

to terminate the Cross-Margining Arrangement from 30 days to 180 days.²⁹ While this proposed change is not required to facilitate the principal purpose of the proposed Second A&R Agreement, which is to allow Eligible Affiliates to participate in the Cross-Margining Arrangement consistently with the Separate Margining Requirement and Separate Margining Amendments, it would provide for a more effective timeframe for the Parties to unwind the Cross-Margining Arrangement, which would benefit FICC as well as all Cross-Margining Participants, including any Eligible Affiliates, where applicable.

B. Implementation of the Proposal

As noted above, the principal purpose of the proposed Second A&R Agreement is to allow Eligible Affiliates to participate in cross-margining in a manner consistent with the Separate Margining Requirement and the Separate Margining Amendments. The proposed Second A&R Agreement would therefore not become effective and replace the Existing Agreement until the latest of (i) the date both the SEC approves this proposed rule change and the CFTC approves CME's proposed rule change and (ii) a date agreed to by FICC and CME.³⁰ No later than two (2) business days following the date of the Commission's approval of this proposed rule change, FICC would add a legend to the proposed Second A&R Agreement to state that the specified changes are approved but not yet operative. The legend would also include the file number of the approved proposed rule change, and would state that once operative, the legend would automatically be removed from the proposed Second A&R Agreement. FICC would issue an important notice to members providing notice of the specific operative date at least two weeks prior to such date.

(b) Statutory Basis

FICC believes that the proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934 ("Act")³¹ and the rules thereunder applicable to FICC.

Section 17A(b)(3)(F) of the Act, requires, in part, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.³² FICC believes that the proposed rule change would assure the safeguarding of securities and funds which are in its custody or control for which it is responsible for a number of reasons.

²⁹ Pursuant to the Existing Agreement, either Party may terminate the Agreement without cause by delivering written notice of termination to the other Party specifying a termination date not less than 30 days following the date on which such notice is sent. See Sections 15(a) and (b), "Termination" of the Existing Agreement, supra note 2.

³⁰ See Section 18(j), "Effective Date" of the proposed Second A&R Agreement, supra note 3.

³¹ 15 U.S.C. 78q-1.

³² 15 U.S.C. 78q-1(b)(3)(F).

First, the proposed rule change would create a framework through which Eligible Affiliates may engage in cross-margining consistent with the Separate Margining Requirement and Separate Margining Amendments.³³ As the Commission recently found, those rule changes should allow FICC to better identify and measure the unique risk profiles of each Netting Member and indirect participant, enhancing FICC's ability to calculate and collect sufficient margin from each Netting Member and indirect participant to cover potential losses from a Netting Member or indirect participant default, thereby reducing the likelihood that FICC, Netting Members, or indirect participants would incur losses resulting from a default. As a result, the changes should limit FICC's risk to a Netting Member or indirect participant default and thereby enhance its ability to safeguard securities and funds in its control and for which it is responsible.³⁴

Cross-margining likewise reduces the likelihood of FICC, its Netting Members, or its indirect participants incurring a loss on account of a default by aligning each participant's margin requirements with the risk of such participant's positions. Such alignment serves to incentivize the participant to maintain portfolios that present lower risk, which in turn serves to reduce the risk of such participant's default and FICC's exposure thereto. Accordingly, by allowing an Eligible Affiliate to engage in cross-margining activity in a way that is consistent with the Separate Margining Requirement and the Separate Margining Amendments, the proposed rule change would serve to promote both the risk-reducing effects of the Separate Margining Requirements and the Separate Margining Amendments and those of cross-margining. They would thus serve to enhance FICC's ability to safeguard the securities and funds in its control or for which it is responsible.

Second, the proposed rule change would ensure that FICC and CME can continue to look to the entirety of a Participating Affiliate's cross-margined positions and all associated margin to satisfy the obligations arising from the Joint Clearing Member's Cross-Margining Accounts at FICC and CME.³⁵ The Existing Agreement currently allows FICC and CME to apply to a Joint Clearing Member's obligations arising from its Cross-Margining Accounts, any of the positions forming part of the Joint Clearing Member's Cross-Margining Accounts, and any associated margin, including positions carried by the Joint Clearing Member for an affiliate. By retaining the ability of FICC and CME to look to those positions and associated margin to satisfy a Joint Clearing Member's obligations, the proposed rule change would ensure that allowing Participating Affiliates to participate in cross-margining in accordance with FICC's revised account structure would not increase FICC's or CME's risk exposure in relation to the Cross-Margining Arrangement. Accordingly, the proposed rule change would serve to limit FICC's risk related to a default of a Joint Clearing Member or its Participating Affiliate and thereby enhance FICC's ability to safeguard funds and securities.

³³ See "Recitals" of the proposed Second A&R Agreement, supra note 3.

³⁴ Supra note 6.

³⁵ Supra note 3.

Third, the proposed rule change would include provisions to ensure that the participation of Participating Affiliates would not disrupt the claims of any non-participating customers of a Joint Clearing Member under the Customer Protection Regimes for the return of their funds or securities held at FICC. More specifically, the proposed rule change would require that an Affiliate Account contains positions carried for Participating Affiliates, such positions must be positions of Non-Customers that have not elected margin segregation.³⁶ By doing so, the proposed rule change would ensure that neither Participating Affiliates nor others whose positions are carried in Affiliate Accounts are eligible to make claims under the Customer Protection Regimes that could reduce the property available to satisfy any veritable customer claims against a Joint Clearing Member. Accordingly, it would ensure that funds and securities in FICC's control or custody that are held for customers remain safeguarded for those customers to the same extent as would be the case in the absence of the Cross-Margining Arrangement.

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.³⁷ For the reasons set out below, FICC believes that the proposed rule change would remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

First, the proposed rule change would permit Eligible Affiliates to continue participating in the Cross-Margining Arrangement in accordance with the Separate Margining Requirement. By doing so, the proposed rule change would serve to maintain the incentives for Joint Clearing Members and their Eligible Affiliates to submit transactions for central clearing. Specifically, the proposed rule change would continue to allow Joint Clearing Members and Participating Affiliates to benefit from margin efficiencies and savings that arise from cross-margining and that serve to reduce the costs of Eligible Affiliates to access FICC's clearance and settlement services and the costs of Joint Clearing Members to facilitate such access. Therefore, the proposed rule change would continue encouraging market participants to submit more Treasury securities transactions to be cleared at FICC. The maintenance of such incentives to submit transactions for clearance and settlement at FICC would promote the diversity and scope of market participants able to utilize FICC's multilateral netting, trade guaranty and centralized default management services, which would help reduce the aggregate costs that would be incurred by market participants to engage in securities transactions. Therefore, the proposed rule change would serve to promote prompt and accurate clearance and settlement of securities transactions.³⁸

Second, the proposed rule change would include clarifying changes to reflect the role of a Participating Affiliate as a principal. These changes would improve public understanding of how the Cross-Margining Arrangement works and make it easier for Eligible Affiliates to consider

³⁶ See id.

³⁷ 15 U.S.C. 78q-1(b)(3)(F).

³⁸ Id.

the benefits and risks of participating in the Cross-Margining Arrangement, thereby improving the ability of Joint Clearing Members and Eligible Affiliates to access FICC's clearance and settlement systems.³⁹

Given the foregoing, FICC believes that the proposed rule change is designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.⁴⁰

Rule 17ad-22(e)(6)(i) under the Act requires that a covered clearing agency establish a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market and, if the covered clearing agency provides central counterparty services for U.S. Treasury securities, calculates, collects, and holds margin amounts from a direct participant for its proprietary positions in Treasury securities separately and independently from margin calculated and collected from that direct participant in connection with U.S. Treasury securities transactions by an indirect participant that relies on the services provided by the direct participant to access the covered clearing agency's payment, clearing, or settlement facilities.⁴¹ FICC believes that the proposed rule change would ensure the satisfaction of this Separate Margining Requirement. This is because the proposed Second A&R Agreement would require that the FICC-cleared eligible positions of a Participating Affiliate be carried in an Agent Clearing Member Omnibus Account.⁴² Accordingly, the proposed rule change would ensure that the FICC-cleared positions of a Participating Affiliate are never netted against any FICC-cleared positions of its Joint Clearing Member in FICC's calculation of margin requirements.

Rule 17ad-22(e)(4)(i) under the Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.⁴³ FICC believes that the proposed rule change would ensure that FICC continues to effectively measure and manage its credit exposure to participants by maintaining sufficient financial resources to cover its exposure thereto with a high degree of confidence. This is because the proposed rule change, as discussed above, would include changes to the Common Member Agreement to ensure that FICC can continue to look to all of the positions a Joint Clearing

³⁹ For the avoidance of doubt, the proposed rule change would not implicate the inter-affiliate exception under the U.S. Treasury Clearing Rule because that relates to transactions between a Netting Member and an affiliate. Supra note 5.

⁴⁰ 15 U.S.C. 78q-1(b)(3)(F).

⁴¹ 17 CFR 240.17ad-22(e)(6)(i).

⁴² See Section 3(b), "Establishment of Cross-Margining Accounts" of the proposed Second A&R Agreement, supra note 3.

⁴³ 17 CFR 240.17ad-22(e)(4)(i).

Member carries in a Cross-Margining Account at FICC or CME, and all associated margin, to satisfy that Joint Clearing Member's obligations in relation to a Cross-Margining Account, even when those positions are carried for a Participating Affiliate.⁴⁴ By doing so, the proposed rule change would ensure that the Separate Margining Requirement and FICC's implementing rules thereof do not reduce the scope of resources that FICC can rely upon to satisfy cross-margining exposures.

Rule 17ad-22(e)(23)(ii) under the Act requires that a covered clearing agency establish written policies and procedures providing sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency.⁴⁵ As described above, the proposed rule change would include clarifications regarding the types of indirect participants eligible to participate in the Cross-Margining Agreement and the role of Participating Affiliates as principals.⁴⁶ The proposed rule change would also include express language making clear that a Participating Affiliate's positions recorded in a Cross-Margining Account, and all associated margin, may be used to satisfy the Joint Clearing Member's obligations in relation to its Cross-Margining Accounts.⁴⁷ These changes would accordingly provide clarity to market participants to enable them to evaluate the risks and costs of participating in the Cross-Margining Arrangement in accordance with Rule 17ad-22(e)(23)(ii).

Rule 17ad-22(e)(18)(iv)(C) under the Act requires, among other things, that 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. As described above, the proposed rule change would ensure that Eligible Affiliates would continue to be able to participate in the Cross-Margining Arrangement consistent with the Separate Margining Requirement and incentivize market participants, including indirect participants that are Eligible Affiliates, to submit more eligible secondary market transactions in U.S. Treasury securities for clearing under the Cross-Margining Arrangement in light of the margin efficiency. Therefore, the proposed rule change would continue to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.⁴⁸

⁴⁴ Supra note 3.

⁴⁵ 17 CFR 240.17ad-22(e)(23)(ii).

⁴⁶ Supra note 3.

⁴⁷ See id.

⁴⁸ 17 CFR 240.17ad-22(e)(18)(iv)(C).

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

FICC believes that the proposed rule change to replace the Existing Agreement with the proposed Second A&R Agreement would promote competition by ensuring Eligible Affiliates' continued access to the Cross-Margining Arrangement.

The proposed Second A&R Agreement would ensure that Eligible Affiliates can continue to participate in the Cross-Margining Arrangement consistent with the Separate Margining Requirement. Such uninterrupted access would allow Eligible Affiliates to remain on a level playing field with other market participants, such as Joint Clearing Members and Cross-Margining Affiliates, which will continue to be eligible to participate in the Cross-Margining Arrangement for their proprietary positions in accordance with the Separate Margining Requirement and Separate Margining Amendments. Accordingly, the proposed rule change would ensure that the advent of the Separate Margining Requirement and the adoption of the Separate Margining Amendments do not place Eligible Affiliates at an undue competitive disadvantage relative to Joint Clearing Members or Cross-Margining Affiliates by depriving the former, but not the latter, of the ability to cross-margin.

Although the proposed rule change would not extend cross-margining to indirect participants that do not satisfy the definition of Eligible Affiliates, that does not represent a change. Such indirect participants are currently unable to participate in cross-margining due to the account structures, customer protection arrangements, and regulatory approvals that would be necessary to allow such participation. The proposed rule change would not change that, but would merely preserve the status quo of allowing Eligible Affiliates to participate in cross-margining and remain competitive with Joint Clearing Members and Cross-Margining Affiliates.

While the proposed rule change would clarify the scope of what constitutes a Non-Customer and thus the scope of Eligible Participants, FICC does not believe that this change represents a material modification of the market participants that are able to engage in cross-margining. Rather, this change simply aims to clarify what is currently the case, (i.e., that Eligible Participants do not include entities eligible for the Customer Protection Regimes). Accordingly, FICC does not believe this change would materially affect competition.

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 a Comment*, [available at www.sec.gov/rules-regulations/how-submit-comment](http://www.sec.gov/rules-regulations/how-submit-comment). General

questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

FICC reserves the right to not 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 Act⁴⁹ 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.

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 – Service Level Agreement between the Clearing Organizations in accordance with Section 6(a) of the proposed Second A&R Agreement. *Omitted and filed separately*

⁴⁹ 15 U.S.C. 78s(b)(2).

with the Commission. Confidential treatment of this Exhibit 3 requested pursuant to 17 CFR 240.24b-2.

Exhibit 4 – Not applicable.

Exhibit 5 – Proposed Second A&R Agreement (marked to reflect changes as compared to the Existing Agreement).

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-[____]; File No. SR-FICC-2025-014)

[DATE]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change to Amend and Restate the Cross-Margining Agreement between FICC and CME

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 May __, 2025, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“SEC” or “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 FICC is proposing a rule change related to its cross-margining arrangement (the “Cross-Margining Arrangement”) with the Chicago Mercantile Exchange Inc. (“CME”). The proposed rule change consists of a proposed Second Amended and Restated Cross-Margining Agreement (the “Second A&R Agreement”) between FICC and CME (CME, collectively FICC and CME are referred to herein as the “Clearing Organizations” or “Parties”). The proposed Second A&R Agreement would replace the current Amended and Restated Cross-Margining Agreement between the Parties (the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

“Existing Agreement”)³ in its entirety and would be incorporated into the FICC Government Securities Division (“GSD”) Rulebook (“GSD Rules”). The proposed rule change does not require any changes to the text of the GSD Rules.^{4 5}

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.

³ See Securities Exchange Act Release No. 98327 (Sept. 8, 2023), 88 FR 63185 (Sept. 14, 2023) (SR-FICC-2023-010).

⁴ The Existing Agreement is incorporated in the GSD Rules available at www.dtcc.com/legal/rules-and-procedures. Unless otherwise specified, capitalized terms not defined herein shall have the meanings ascribed to them in the GSD Rules (as amended by recent rule changes approved by the SEC) on November 21, 2024), which includes the Existing Agreement. See Securities Exchange Act Release No. 101694 (Nov. 21, 2024), 89 FR 93784 (Nov. 27, 2024) (SR-FICC-2024-005); and No. 101695 (Nov. 21, 2024), 89 FR 93763 (Nov. 27, 2024) (SR-FICC-2024-007).

⁵ Proposed Second Amended and Restated Cross-Margining Agreement by Fixed Income Clearing Corporation and Chicago Mercantile Exchange Inc.

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

1. Purpose

Executive Summary

Generally, the purpose of the Cross-Margining Arrangement is to enable FICC and CME to recognize for margin purposes the offsetting risk of positions maintained by a member (or a member and its Affiliate) at the two Clearing Organizations in circumstances when the Clearing Organizations can look to all of those positions (and all associated margin) for performance of the member's obligations. In particular, the Cross-Margining Arrangement allows the Clearing Organizations to consider the net risk of a participant's eligible positions at FICC and CME when setting margin requirements for such positions.⁶ Any resulting margin reductions create capital efficiencies for participating members and incentivize such members to maintain portfolios that present lower overall risk. It also facilitates the ability of clearing members and their indirect participant affiliates to access central clearing by ensuring that their margin obligations are commensurate to the risks of their portfolios.

Pursuant to the terms of the Existing Agreement, a joint clearing member of the Clearing Organizations (a "Joint Clearing Member") that participates in the Cross-Margining Arrangement may designate any of its accounts at FICC (except its Sponsoring Member Omnibus Account) to be cross-margined with a cross-margining account on the books of CME (each such account, a "Cross-Margining Account"). In addition, a Joint Clearing Member may include in a Cross-Margining Account both its

⁶ See Section 4, "Calculation of the Cross-Margin Requirements" of the Existing Agreement, supra note 4.

proprietary positions and those of an affiliate, as long as the affiliate is not a customer under certain rules of the SEC and its account on the records of the Joint Clearing Member is a “proprietary account” within the meaning of 17 CFR 1.3 (an “Eligible Affiliate”).

On December 13, 2023, the SEC amended Rule 17ad-22 to require FICC to mandate that Netting Members submit for the clearance and settlement of eligible secondary market transactions (the “U.S. Treasury Clearing Rule”) and to require FICC to calculate, collect, and hold margin for transactions in U.S. Treasury securities that a Netting Member submits to FICC on behalf of an indirect participant, including an affiliate of the Netting Member, separately and independently from margin for the Netting Member’s proprietary positions in U.S. Treasury securities (“Separate Margining Requirement”).⁷

FICC has adopted amendments to the GSD Rules to implement the Separate Margining Requirement (the “Separate Margining Amendments”).⁸ These amendments went into effect on March 24, 2025.⁹ Under the Separate Margining Amendments, a Netting Member will need to ensure that transactions it submits to FICC for the benefit of

⁷ See Securities Exchange Act Release No. 99149 (Dec. 13, 2023), 89 FR 2714 (Jan. 16, 2024) (S7-23-22).

⁸ See Securities Exchange Act Release No. 101695 (Nov. 21, 2024), 89 FR 93763 (Nov. 27, 2024) (SR-FICC-2024-007).

⁹ On February 25, 2025, the SEC granted temporary exemptive relief to covered clearing agencies providing central counterparty services for U.S. Treasury securities from enforcing their written policies and procedures related to the Separate Margining Requirement until September 30, 2025. FICC has issued an Important Notice concerning such relief, which is available at www.dtcc.com/-/media/Files/pdf/2025/2/26/GOV1909-25.pdf.

an indirect participant are recorded in an Indirect Participants Account, such as an Agent Clearing Member Omnibus Account, rather than in one of the Netting Member's Proprietary Accounts.¹⁰ At the same time, the regulations promulgated by the Commodity Futures Trading Commission ("CFTC") applicable to the positions that a Joint Clearing Member maintains at CME for an Eligible Affiliate require that such positions be maintained in the Joint Clearing Member's house account in which the Joint Clearing Member may also maintain its own proprietary positions.¹¹

The purpose of the proposed Second A&R Agreement is to make certain technical changes that are designed to account for this difference in account structure so that an Eligible Affiliate of a Joint Clearing Member that accesses FICC's clearing services and the Cross-Margining Arrangement through a Joint Clearing Member will continue to be able to participate in the Cross-Margining Arrangement in accordance with the Separate Margining Requirement and Separate Margining Amendments.

The key changes reflected in the proposed Second A&R Agreement set forth below are principally those necessary to enable Eligible Affiliates to continue

¹⁰ See supra note 8.

¹¹ See 7 U.S.C. 6d (permitting the commingling of futures customer property solely with the property of other futures customers); 17 CFR 1.3, "Customer" (deeming the holder of a "proprietary account" not to be a customer for purposes of 7 U.S.C. 6d); 17 CFR 1.3 "proprietary account" ("This term means commodity futures . . . account carried on the books and records of an individual, a partnership, corporation or other type of association: . . . (2) Of which ten percent or more is owned by one of the following persons, or an aggregate of ten percent or more of which is owned by more than one of the following persons: . . . (vii) A business affiliate that directly or indirectly controls such individual, partnership, corporation or association; or (viii) A business affiliate that, directly or indirectly is controlled by or is under common control with, such individual, partnership, corporation or association. . . .").

participating in the Cross-Margining Arrangement in accordance with the Separate Margining Requirement and Separate Margining Amendments. They consist of:

- A requirement for any Joint Clearing Member that wishes to subject the eligible positions of an Eligible Affiliate (a “Participating Affiliate”) to the Cross-Margining Arrangement to cause such positions, to the extent cleared at FICC, to be recorded in an Agent Clearing Member Omnibus Account, which account must contain exclusively the positions of the Joint Clearing Member’s Eligible Affiliates.
- Changes to reflect the role of a Participating Affiliate as a principal on the FICC-cleared eligible positions that are subject to the Cross-Margining Arrangement and recorded in an Agent Clearing Member Omnibus Account. These changes include adjustments to descriptions of payment and transfer obligations to make clear that they may be owed by or to an Eligible Affiliate in the case of FICC-cleared eligible positions. They also include provisions to preserve the ability of the Clearing Organizations to look to the positions a Joint Clearing Member carries for a Participating Affiliate and all associated margin to satisfy the Joint Clearing Member’s obligations to the Clearing Organizations in relation to Cross-Margining Accounts.

Clarifications to ensure that the use of the Cross-Margining Arrangement by Participating Affiliates does not affect the claims of any non-participating customers of a Joint Clearing Member under applicable Customer Protection Regimes (as defined below). In addition to the foregoing changes, the proposed Second A&R Agreement would contain revisions to extend from 30 days to 180 days the notice period in which

FICC or CME may provide written notice to the other party of its election to terminate the proposed Second A&R Agreement.¹² Although this proposed change is not necessary to enable Eligible Affiliates to participate in the Cross-Margining Arrangement in accordance with the Separate Margining Requirement, the Parties believe this adjustment would provide FICC and CME with the necessary time needed to unwind the Cross-Margining Arrangement if that ever becomes necessary.

These changes would not otherwise affect the functioning of the Cross-Margining Arrangement, including the calculation of margin reductions and default management, under the Existing Agreement.

In addition, the Existing Agreement is supplemented by a Service Level Agreement (“SLA”) between FICC and CME. FICC and CME will make edits to the SLA as necessary to ensure conformance with the proposed Second A&R Agreement.¹³

A. The Proposed Second A&R Agreement

Overview

As noted above, FICC proposes to enter into the proposed Second A&R Agreement with CME. The proposed amendments to the Existing Agreement are designed to permit an Eligible Affiliate to have its positions cross-margined pursuant to the Cross-Margining Arrangement consistent with Separate Margining Requirement and the Separate Margining Amendments. FICC believes that such amendments would

¹² See Sections 15(a) and (b), “Termination” of the Existing Agreement, supra note 4.

¹³ The SLA is provided as confidential Exhibit 3 to this proposed rule change.

promote the maintenance of lower risk and more balanced portfolios and facilitate the access of indirect participants to central clearing in accordance with Rule 17ad-22.

1. Proposal to Ensure Compliance with Separate Margining Requirement

In order to facilitate an Eligible Affiliate's participation in the Cross-Margining Arrangement consistent with the Separate Margining Requirement and the Separate Margining Amendments, the proposed Second A&R Agreement would continue to permit a Joint Clearing Member to subject eligible positions cleared for an Eligible Affiliate to the Cross-Margining Arrangement but would require any such positions cleared at FICC to be recorded in an Agent Clearing Member Omnibus Account. More specifically, the proposed Second A&R Agreement would contain a new clause providing that in the event transactions or positions maintained in an Account are not the proprietary transactions or positions of the Cross-Margining Participant,¹⁴ then such transactions or positions and margin therefore may only be maintained in a Cross-Margining Account at FICC if (i) the transactions, positions and margin are maintained by the Cross-Margining Participant for an Eligible Affiliate, and (ii) the Account in which the transactions and positions in FICC Eligible Products are recorded is an Agent Clearing Member Omnibus Account¹⁵ that contains exclusively the transactions and

¹⁴ See Section 1 of the Existing Agreement (defining "Cross Margining Participant" as "a Joint Clearing Member that has become, or a Clearing Member that is part of a pair of Cross-Margining Affiliates each of which has become, a participant in the cross-margining arrangement between FICC and CME established pursuant to this Agreement. . . ."), supra note 4.

¹⁵ See GSD Rule 8, Section 5, supra note 4. As a result of the recent amendment to GSD Rules to facilitate access to clearance and settlement of all eligible secondary market transactions in U.S. Treasury securities (the "Access Amendments"), FICC will offer two different types of Indirect Participant Accounts for use without margin segregation: the Agent Clearing Member

positions of the Eligible Affiliate(s).¹⁶ In order to ensure these conditions (the “Separate Margining Conditions”) are satisfied, the proposed Second A&R Agreement would add certain provisions to the Cross-Margining Agreement (Common Member) attached as Appendix A to the proposed Second A&R Agreement (the “Common Member Agreement”), which all Joint Clearing Members would be required to execute with the Clearing Organizations. Those provisions would consist of representations by the Joint Clearing Member to the Clearing Organizations that the Separate Margining Conditions are met.¹⁷

Omnibus Account and the Sponsoring Member Omnibus Account. Securities Exchange Act Release No. 101694 (Nov. 21, 2024), 89 FR 93784 (Nov. 27, 2024) (SR-FICC-2024-005). The GSD Rules do not currently permit a Joint Clearing Member to designate a Sponsoring Member Omnibus Account as a Cross-Margining Account. See GSD Rule 3A, Section 10(h). FICC is not proposing to change this limitation. FICC calculates margin obligations for Sponsoring Member Omnibus Accounts that are not designated for segregation in a different manner from how it calculates margin requirements for Proprietary Accounts and Agent Clearing Member Omnibus Accounts that are not designated for segregation. In particular, FICC generally calculates margin requirements for Sponsoring Member Omnibus Accounts on a gross (i.e., Sponsored Member-by-Sponsored Member) basis, while it calculates margin for Agent Clearing Member Omnibus Accounts that are not designated for segregation and Proprietary Accounts on a net basis across all positions in the account. As a result, significant systems and other changes would be necessary to allow Joint Clearing Members to record Eligible Positions of Participating Affiliates in a Sponsoring Member Omnibus Account. FICC is not aware of any market interest in using unsegregated Sponsoring Member Omnibus Accounts for purposes of cross-margining involving Eligible Affiliates.

¹⁶ A Joint Clearing Member and any Eligible Affiliate(s) would need to satisfy FICC’s requirements to be an Agent Clearing Member and an Executing Firm, respectively, in accordance with GSD Rule 8, supra note 4.

¹⁷ See Appendix A, “Fixed Income Clearing Corporation/Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member)” of the proposed Second A&R Agreement, supra note 5.

By virtue of these changes, in no circumstance would any proprietary securities positions of the Joint Clearing Member at FICC (or any proprietary margin securing those positions) be incorporated into or netted against FICC’s calculation of the margin requirement applicable to the positions the Joint Clearing Member carries for its Eligible Affiliates.

2. Proposals to Address the Role of Participating Affiliates as Principal

Under the GSD Rules, when an Agent Clearing Member clears an Agent Clearing Member Transaction for an Executing Firm Customer, it “acts solely as agent.”¹⁸ Accordingly, an Executing Firm Customer, such as a Participating Affiliate, is a principal on such transaction. The proposed Second A&R Agreement would include changes to reflect the role of a Participating Affiliate as principal on the Eligible Positions recorded in an Agent Clearing Member Omnibus Account. In particular, the proposed Second A&R Agreement would adjust a number of defined terms, including “Cross-Margin VM Gain,” “Cross-Margin VM Loss,” “Liquidation Cost,” “Margin,” “Other VM Gain,” “Other VM Loss,” “Variation Margin,”¹⁹ as well as the provisions of Section 7 relating to the termination of a Cross-Margining Participant to recognize that payment or delivery obligations may be owed by or to an Eligible Participant, rather than by or to the Joint Clearing Member.²⁰

¹⁸ See GSD Rules, Rule 8, Section 5(b), supra note 2; Securities Exchange Act Release No. 101695 (Nov. 21, 2024), 89 FR 93763 (Nov. 27, 2024) (SR-FICC-2024-007).

¹⁹ See Section 1, “Definitions” of the proposed Second A&R Agreement, supra note 5.

²⁰ See Section 7(a), “Suspension and Liquidation of Cross-Margining Participant” of the proposed Second A&R Agreement, supra note 5.

In addition, the proposed Second A&R Agreement would include a number of additions to the Common Member Agreement to ensure that, as is the case with the Existing Agreement, FICC and CME would be able to look to the entirety of a Participating Affiliate's Eligible Positions and all associated margin to satisfy the obligations arising from the Joint Clearing Member's Cross-Margining Accounts at FICC and CME. In particular, the proposed Second A&R Agreement would require each Joint Clearing Member to agree in the Common Member Agreement, as agent for each of its Participating Affiliates, that each such Participating Affiliate (i) unconditionally promises to pay any amounts owing in respect of the Cross-Margining Accounts established for such Participating Affiliate (each, an "Affiliate Account"), (ii) agrees that it is jointly and severally liable for any payment obligation in respect of any Cross-Margining Account of the Joint Clearing Member, in an amount up to the liquidation value of the positions maintained for the Participating Affiliate in any Affiliate Account and, without duplication, the value realized on any margin or other collateral held for any such account, and (iii) agrees it is bound by the GSD Rules and the CME rules as applicable to a Participating Affiliate and by the provisions of the proposed Second A&R Agreement and Common Member Agreement.²¹

In order to ensure the effectiveness of these agreements by a Joint Clearing Member on behalf of its Participating Affiliates, each Joint Clearing Member would represent and warrant in the Common Member Agreement that it has full power and authority to bind each of its Participating Affiliates to the foregoing terms and that before permitting an Eligible Affiliate to be a Participating Affiliate it will have obtained such

²¹ See supra note 17.

Participating Affiliate's written consent to such terms.²² The proposed Common Member Agreement would require each Joint Clearing Member to provide such written consent to the Clearing Organizations upon their request.²³

Furthermore, the proposed Second A&R Agreement would include revisions to the security interest language in the Common Member Agreement so that the obligations secured include those of the Participating Affiliate, and that the Joint Clearing Member grants the security interest on behalf of itself and each Participating Affiliate.²⁴

These proposed changes to the Common Member Agreement would ensure that, if a Joint Clearing Member defaults and FICC makes payment to CME pursuant to the cross-guarantee set forth in the proposed Second A&R Agreement,²⁵ FICC would be able to set off and apply to its claim for reimbursement the positive liquidation value of each Participating Affiliate's positions and the margin securing such positions.²⁶

²² See id.

²³ See id.

²⁴ See id.

²⁵ The cross-guarantee would remain unchanged, see Section 8, "Guaranty of FICC to CME" and Section 9 "Guaranty of CME to FICC" of the Existing Agreement, supra note 4.

²⁶ The proposed Second A&R Agreement also includes a number of acknowledgments and agreements from each Joint Clearing Member, as agent for each Participating Affiliate, about the treatment of CME-cleared positions and CME-held margin and the Participating Affiliate's rights and obligations related thereto. See Appendix A, "Fixed Income Clearing Corporation/Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member)" of the proposed Second A&R Agreement, supra note 5.

3. Proposals Relating to Customer Protection

The proposed Second A&R Agreement would include provisions to ensure that, consistent with the Existing Agreement, the use of the Cross-Margining Arrangement by Participating Affiliates would not affect the customer protections available to any non-participating customers of the Joint Clearing Member under the Securities Investor Protection Act (“SIPA”), the stockbroker liquidation provisions of Subchapter III of Chapter 7 of the Bankruptcy Code, the commodity broker liquidation provisions of Subchapter IV of Chapter 7 of the Bankruptcy Code, or the Commodity Futures Trading Commission’s Part 190 regulations thereunder (collectively, the “Customer Protection Regimes”). In order to accomplish this, the proposed Second A&R Agreement would limit the scope of Eligible Affiliates to entities that are Non-Customers,²⁷ which the proposed Second A&R Agreement would define as “any Affiliate of the Clearing Member (i) that is not a ‘customer’ of the Clearing Member within the meaning of Securities Investor Protection Act, Subchapter III of Chapter 7 of the U.S. Bankruptcy Code, or Rule 15c3-3 as promulgated under the Act²⁸ and (ii) whose Eligible Positions in CME Eligible Products are carried in a Proprietary Account of the Clearing Member.”²⁹

²⁷ See “Recitals” of the proposed Second A&R Agreement, supra note 5.

²⁸ In order for an Affiliate to constitute a non-customer for purposes of SIPA, the Affiliate would generally need to enter into a subordination agreement with the Joint Clearing Member pursuant to which the Affiliate agrees and acknowledges that its FICC-cleared positions and margin maintained in a Cross- Margining Account will not receive customer treatment under the Exchange Act or SIPA or be treated as “customer property” as defined in 11 U.S.C. 741 in a liquidation of the Joint Clearing Member.

²⁹ See Section 1, “Definitions” of the proposed Second A&R Agreement, supra note 5.

In addition, the proposed Second A&R Agreement would require that each Affiliate Account be limited to the positions of Non-Customers (or in the case of an Affiliate Account at CME, the Joint Clearing Member's proprietary positions) and any margin posted to FICC in relation to such an account would not be subject to segregation. It would achieve this by requiring a Joint Clearing Member to represent in the Common Member Agreement that any Participating Affiliate is a Non-Customer, that any Cross-Margining Account (whether at CME or FICC) includes exclusively the positions of Non-Customers or the Joint Clearing Member, and that any margin posted to FICC in relation to an Eligible Affiliate account is not subject to segregation under the Rules.³⁰ These proposed changes are designed to ensure that no Participating Affiliate would have a claim under any Customer Protection Regime in relation to its Affiliate Account or Eligible Positions that could disrupt the priority rights of any customers of a Joint Clearing Member under those regimes to segregated pools of property.

4. Proposal to Extend the Termination Notification Period

The proposed Second A&R Agreement would revise Sections 15(a) and (b) of the Existing Agreement (Termination) to extend the prior written notification period for either party to terminate the Cross-Margining Arrangement from 30 days to 180 days.³¹ While this proposed change is not required to facilitate the principal purpose of the

³⁰ See Section 15, "Termination" of the proposed Second A&R Agreement, supra note 5.

³¹ Pursuant to the Existing Agreement, either Party may terminate the Agreement without cause by delivering written notice of termination to the other Party specifying a termination date not less than 30 days following the date on which such notice is sent. See Sections 15(a) and (b), "Termination" of the Existing Agreement, supra note 4.

proposed Second A&R Agreement, which is to allow Eligible Affiliates to participate in the Cross-Margining Arrangement consistently with the Separate Margining Requirement and Separate Margining Amendments, it would provide for a more effective timeframe for the Parties to unwind the Cross-Margining Arrangement, which would benefit FICC as well as all Cross-Margining Participants, including any Eligible Affiliates, where applicable.

B. Implementation of the Proposal

As noted above, the principal purpose of the proposed Second A&R Agreement is to allow Eligible Affiliates to participate in cross-margining in a manner consistent with the Separate Margining Requirement and the Separate Margining Amendments. The proposed Second A&R Agreement would therefore not become effective and replace the Existing Agreement until the latest of (i) the date both the SEC approves this proposed rule change and the CFTC approves CME's proposed rule change and (ii) a date agreed to by FICC and CME.³² No later than two (2) business days following the date of the Commission's approval of this proposed rule change, FICC would add a legend to the proposed Second A&R Agreement to state that the specified changes are approved but not yet operative. The legend would also include the file number of the approved proposed rule change, and would state that once operative, the legend would automatically be removed from the proposed Second A&R Agreement. FICC would issue an important notice to members providing notice of the specific operative date at least two weeks prior to such date.

³² See Section 18(j), "Effective Date" of the proposed Second A&R Agreement, supra note 5.

2. Statutory Basis

FICC believes that the proposed rule change is consistent with Section 17A of the Act³³ and the rules thereunder applicable to FICC.

Section 17A(b)(3)(F) of the Act, requires, in part, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.³⁴ FICC believes that the proposed rule change would assure the safeguarding of securities and funds which are in its custody or control for which it is responsible for a number of reasons.

First, the proposed rule change would create a framework through which Eligible Affiliates may engage in cross-margining consistent with the Separate Margining Requirement and Separate Margining Amendments.³⁵ As the Commission recently found, those rule changes should allow FICC to better identify and measure the unique risk profiles of each Netting Member and indirect participant, enhancing FICC's ability to calculate and collect sufficient margin from each Netting Member and indirect participant to cover potential losses from a Netting Member or indirect participant default, thereby reducing the likelihood that FICC, Netting Members, or indirect participants would incur losses resulting from a default. As a result, the changes should limit FICC's risk to a Netting Member or indirect participant default and thereby enhance its ability to safeguard securities and funds in its control and for which it is responsible.³⁶

³³ 15 U.S.C. 78q-1.

³⁴ 15 U.S.C. 78q-1(b)(3)(F).

³⁵ See "Recitals" of the proposed Second A&R Agreement, supra note 5.

³⁶ Supra note 8.

Cross-margining likewise reduces the likelihood of FICC, its Netting Members, or its indirect participants incurring a loss on account of a default by aligning each participant's margin requirements with the risk of such participant's positions. Such alignment serves to incentivize the participant to maintain portfolios that present lower risk, which in turn serves to reduce the risk of such participant's default and FICC's exposure thereto. Accordingly, by allowing an Eligible Affiliate to engage in cross-margining activity in a way that is consistent with the Separate Margining Requirement and the Separate Margining Amendments, the proposed rule change would serve to promote both the risk-reducing effects of the Separate Margining Requirements and the Separate Margining Amendments and those of cross-margining. They would thus serve to enhance FICC's ability to safeguard the securities and funds in its control or for which it is responsible.

Second, the proposed rule change would ensure that FICC and CME can continue to look to the entirety of a Participating Affiliate's cross-margined positions and all associated margin to satisfy the obligations arising from the Joint Clearing Member's Cross-Margining Accounts at FICC and CME.³⁷ The Existing Agreement currently allows FICC and CME to apply to a Joint Clearing Member's obligations arising from its Cross-Margining Accounts, any of the positions forming part of the Joint Clearing Member's Cross-Margining Accounts, and any associated margin, including positions carried by the Joint Clearing Member for an affiliate. By retaining the ability of FICC and CME to look to those positions and associated margin to satisfy a Joint Clearing Member's obligations, the proposed rule change would ensure that allowing Participating

³⁷ Supra note 5.

Affiliates to participate in cross-margining in accordance with FICC's revised account structure would not increase FICC's or CME's risk exposure in relation to the Cross-Margining Arrangement. Accordingly, the proposed rule change would serve to limit FICC's risk related to a default of a Joint Clearing Member or its Participating Affiliate and thereby enhance FICC's ability to safeguard funds and securities.

Third, the proposed rule change would include provisions to ensure that the participation of Participating Affiliates would not disrupt the claims of any non-participating customers of a Joint Clearing Member under the Customer Protection Regimes for the return of their funds or securities held at FICC. More specifically, the proposed rule change would require that an Affiliate Account contains positions carried for Participating Affiliates, such positions must be positions of Non-Customers that have not elected margin segregation.³⁸ By doing so, the proposed rule change would ensure that neither Participating Affiliates nor others whose positions are carried in Affiliate Accounts are eligible to make claims under the Customer Protection Regimes that could reduce the property available to satisfy any veritable customer claims against a Joint Clearing Member. Accordingly, it would ensure that funds and securities in FICC's control or custody that are held for customers remain safeguarded for those customers to the same extent as would be the case in the absence of the Cross-Margining Arrangement.

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities

³⁸ See id.

transactions.³⁹ For the reasons set out below, FICC believes that the proposed rule change would remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

First, the proposed rule change would permit Eligible Affiliates to continue participating in the Cross-Margining Arrangement in accordance with the Separate Margining Requirement. By doing so, the proposed rule change would serve to maintain the incentives for Joint Clearing Members and their Eligible Affiliates to submit transactions for central clearing. Specifically, the proposed rule change would continue to allow Joint Clearing Members and Participating Affiliates to benefit from margin efficiencies and savings that arise from cross-margining and that serve to reduce the costs of Eligible Affiliates to access FICC's clearance and settlement services and the costs of Joint Clearing Members to facilitate such access. Therefore, the proposed rule change would continue encouraging market participants to submit more Treasury securities transactions to be cleared at FICC. The maintenance of such incentives to submit transactions for clearance and settlement at FICC would promote the diversity and scope of market participants able to utilize FICC's multilateral netting, trade guaranty and centralized default management services, which would help reduce the aggregate costs that would be incurred by market participants to engage in securities transactions. Therefore, the proposed rule change would serve to promote prompt and accurate clearance and settlement of securities transactions.⁴⁰

³⁹ 15 U.S.C. 78q-1(b)(3)(F).

⁴⁰ Id.

Second, the proposed rule change would include clarifying changes to reflect the role of a Participating Affiliate as a principal. These changes would improve public understanding of how the Cross-Margining Arrangement works and make it easier for Eligible Affiliates to consider the benefits and risks of participating in the Cross-Margining Arrangement, thereby improving the ability of Joint Clearing Members and Eligible Affiliates to access FICC's clearance and settlement systems.⁴¹

Given the foregoing, FICC believes that the proposed rule change is designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.⁴²

Rule 17ad-22(e)(6)(i) under the Act requires that a covered clearing agency establish a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market and, if the covered clearing agency provides central counterparty services for U.S. Treasury securities, calculates, collects, and holds margin amounts from a direct participant for its proprietary positions in Treasury securities separately and independently from margin calculated and collected from that direct participant in connection with U.S. Treasury securities transactions by an indirect participant that relies on the services provided by the direct participant to access the covered clearing agency's payment, clearing, or settlement facilities.⁴³ FICC believes that the proposed rule change

⁴¹ For the avoidance of doubt, the proposed rule change would not implicate the inter-affiliate exception under the U.S. Treasury Clearing Rule because that relates to transactions between a Netting Member and an affiliate. Supra note 7.

⁴² 15 U.S.C. 78q-1(b)(3)(F).

⁴³ 17 CFR 240.17ad-22(e)(6)(i).

would ensure the satisfaction of this Separate Margining Requirement. This is because the proposed Second A&R Agreement would require that the FICC-cleared eligible positions of a Participating Affiliate be carried in an Agent Clearing Member Omnibus Account.⁴⁴ Accordingly, the proposed rule change would ensure that the FICC-cleared positions of a Participating Affiliate are never netted against any FICC-cleared positions of its Joint Clearing Member in FICC's calculation of margin requirements.

Rule 17ad-22(e)(4)(i) under the Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.⁴⁵ FICC believes that the proposed rule change would ensure that FICC continues to effectively measure and manage its credit exposure to participants by maintaining sufficient financial resources to cover its exposure thereto with a high degree of confidence. This is because the proposed rule change, as discussed above, would include changes to the Common Member Agreement to ensure that FICC can continue to look to all of the positions a Joint Clearing Member carries in a Cross-Margining Account at FICC or CME, and all associated margin, to satisfy that Joint Clearing Member's obligations in relation to a Cross-Margining Account, even when

⁴⁴ See Section 3(b), "Establishment of Cross-Margining Accounts" of the proposed Second A&R Agreement, supra note 5.

⁴⁵ 17 CFR 240.17ad-22(e)(4)(i).

those positions are carried for a Participating Affiliate.⁴⁶ By doing so, the proposed rule change would ensure that the Separate Margining Requirement and FICC's implementing rules thereof do not reduce the scope of resources that FICC can rely upon to satisfy cross-margining exposures.

Rule 17ad-22(e)(23)(ii) under the Act requires that a covered clearing agency establish written policies and procedures providing sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency.⁴⁷ As described above, the proposed rule change would include clarifications regarding the types of indirect participants eligible to participate in the Cross-Margining Agreement and the role of Participating Affiliates as principals.⁴⁸ The proposed rule change would also include express language making clear that a Participating Affiliate's positions recorded in a Cross-Margining Account, and all associated margin, may be used to satisfy the Joint Clearing Member's obligations in relation to its Cross-Margining Accounts.⁴⁹ These changes would accordingly provide clarity to market participants to enable them to evaluate the risks and costs of participating in the Cross-Margining Arrangement in accordance with Rule 17ad-22(e)(23)(ii).

Rule 17ad-22(e)(18)(iv)(C) under the Act requires, among other things, that a covered clearing agency that provides central counterparty services for transactions in

⁴⁶ Supra note 5.

⁴⁷ 17 CFR 240.17ad-22(e)(23)(ii).

⁴⁸ Supra note 5.

⁴⁹ See id.

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. As described above, the proposed rule change would ensure that Eligible Affiliates would continue to be able to participate in the Cross-Margining Arrangement consistent with the Separate Margining Requirement and incentivize market participants, including indirect participants that are Eligible Affiliates, to submit more eligible secondary market transactions in U.S. Treasury securities for clearing under the Cross-Margining Arrangement in light of the margin efficiency. Therefore, the proposed rule change would continue to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.⁵⁰

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

FICC believes that the proposed rule change to replace the Existing Agreement with the proposed Second A&R Agreement would promote competition by ensuring Eligible Affiliates' continued access to the Cross-Margining Arrangement.

The proposed Second A&R Agreement would ensure that Eligible Affiliates can continue to participate in the Cross-Margining Arrangement consistent with the Separate Margining Requirement. Such uninterrupted access would allow Eligible Affiliates to remain on a level playing field with other market participants, such as Joint Clearing Members and Cross-Margining Affiliates, which will continue to be eligible to participate in the Cross-Margining Arrangement for their proprietary positions in accordance with the Separate Margining Requirement and Separate Margining Amendments. Accordingly,

⁵⁰ 17 CFR 240.17ad-22(e)(18)(iv)(C).

the proposed rule change would ensure that the advent of the Separate Margining Requirement and the adoption of the Separate Margining Amendments do not place Eligible Affiliates at an undue competitive disadvantage relative to Joint Clearing Members or Cross-Margining Affiliates by depriving the former, but not the latter, of the ability to cross-margin.

Although the proposed rule change would not extend cross-margining to indirect participants that do not satisfy the definition of Eligible Affiliates, that does not represent a change. Such indirect participants are currently unable to participate in cross-margining due to the account structures, customer protection arrangements, and regulatory approvals that would be necessary to allow such participation. The proposed rule change would not change that, but would merely preserve the status quo of allowing Eligible Affiliates to participate in cross-margining and remain competitive with Joint Clearing Members and Cross-Margining Affiliates.

While the proposed rule change would clarify the scope of what constitutes a Non-Customer and thus the scope of Eligible Participants, FICC does not believe that this change represents a material modification of the market participants that are able to engage in cross-margining. Rather, this change simply aims to clarify what is currently the case, (i.e., that Eligible Participants do not include entities eligible for the Customer Protection Regimes). Accordingly, FICC does not believe this change would materially affect 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 a Comment*, available at www.sec.gov/rules-regulations/how-submit-comment. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

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

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

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 (www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FICC-2025-014 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-2025-014. 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 (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 (www.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-2025-014 and should be submitted on or before [insert date 21 days after publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵¹

Secretary

⁵¹ 17 CFR 200.30-3(a)(12).

EXHIBIT 3

The information contained in this Exhibit 3 is subject to exemption from mandatory disclosure under Exemptions #4 and #8 of the Freedom of Information Act because the information concerns (i) trade secrets and commercial information that is privileged or confidential and (ii) the supervision of Fixed Income Clearing Corporation (FICC), a financial institution. This Exhibit 3 contains one or more electronic files embedded in a one-page document for filing efficiency, as listed below. The information contained in the embedded file or files is not intended for public disclosure. Accordingly, this Exhibit 3 has been redacted and confidential treatment requested pursuant to 17 CFR 240.24b-2. An unredacted version was filed separately and confidentially with the Securities and Exchange Commission.

Embedded File(s):

- Service Level Agreement between the Clearing Organizations; 19 pages.

PAGE REDACTED IN ITS ENTIRETY

EXHIBIT 5

Bold and underlined text indicates proposed added language.

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

[Changes to this Second Amended and Restated Cross-Margining Agreement, as amended and restated by File No. SR-FICC-2025-014, are available at dtcc.com/legal/sec-rule-filings. These changes have not yet been implemented. These changes will not be implemented until the latest of (i) the date both the SEC approves this proposed rule change and the Commodity Futures Trading Commission approves Chicago Mercantile Exchange Inc.'s ("CME") proposed rule change and (ii) a date agreed to by FICC and CME. Upon that date, these changes will become operative and this legend will be automatically removed from the Second Amended and Restated Cross-Margining Agreement.]

**SECOND AMENDED AND RESTATED
CROSS-MARGINING AGREEMENT**

This **Second** Amended and Restated Cross-Margining Agreement (this "Agreement") is entered into as of this day of , ~~2023~~ , **2025** by Fixed Income Clearing Corporation ("FICC"), a New York corporation, and Chicago Mercantile Exchange Inc. ("CME"), a Delaware corporation (FICC and CME, each a "Party" and together, the "Parties").

RECITALS

A. FICC is registered as a clearing agency with the U.S. Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and acts as a clearing organization for transactions involving U.S. Government securities, securities of U.S. federal Agencies and U.S. Government-sponsored enterprises, financing products and certain mortgage-backed securities.

B. CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission (the "CFTC") under the Commodity Exchange Act, as amended (the "CEA"), and acts as a clearing organization for futures contracts and options on futures contracts, including U.S. dollar-denominated interest rate and fixed income futures contracts and options on such contracts, and swaps.

C. FICC and CME have established a cross-margining arrangement whereby (i) an entity that is a Clearing Member (defined below) of both FICC and CME (a "Joint Clearing Member") and (ii) a Clearing Member of one such Clearing Organization that has an Affiliate (defined below) that is a Clearing Member of the other such Clearing Organization (a "Cross-Margining Affiliate") may elect to have positions in Eligible Products (defined below) at CME and positions in Eligible Products at FICC carried in a

Cross-Margining Account (defined below) and margined based upon the combined risk presented by positions in Eligible Products.

D. In order to facilitate such cross-margining arrangement, FICC and CME entered into that certain Cross-Margining Agreement, dated as of January 2, 2004 ~~as amended (the “Original Agreement”), whereby,”~~

E. The parties amended and restated the Original Agreement in the Amended and Restated Cross-Margining Agreement, dated as of January 22, 2024 (the “First A&R Agreement”).

F. Pursuant to the First A&R Agreement, CME guarantees certain obligations of Cross-Margining Participants to FICC, and FICC guarantees certain obligations of Cross-Margining Participants to CME, with reimbursement of amounts paid under such guarantees being collateralized by the positions and Margin of such Cross-Margining Participants held by the Guarantor.

G. Pursuant to SEC Rule 17ad-22 under the Exchange Act, FICC’s GSD maintains appropriate rules to calculate, collect, and hold margin for the proprietary transactions in U.S. Treasury securities of a Clearing Member separately and independently from the margin for transactions in U.S. Treasury securities that the Clearing Member submits to FICC on behalf of indirect participants (“Separate Calculation Requirement”).

~~**E.H.**~~ FICC and CME now desire to amend and restate the ~~Original~~**First A&R Agreement to, among other things, enhance the efficiency of the current arrangement between the Parties, and to amend and restate the Original permit positions maintained by a Joint Clearing Member for an affiliate that is a Non-Customer, as defined below, (each, an “Eligible Affiliate”) to be cross-margined pursuant to this Agreement in its entirety on compliance with FICC’s obligations under the Separate Calculation Requirement.**

AGREEMENTS

In consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

1. **Definitions.** In addition to the terms defined elsewhere in this Agreement, certain other terms used in this Agreement shall be defined as follows:

(a) “Affiliate” means, when used in respect of a Clearing Member of one Clearing Organization, a Clearing Member of the other Clearing Organization that directly or indirectly controls, is controlled by, or is under common control with such particular Clearing Member. Ownership of 50% or more of the equity interests of the relevant entity will conclusively be deemed to be in control of that entity for purposes of this definition.

(b) “Allocated Net Gain” has the meaning set forth in Section 7(c)(iii).

- (c) “Allocated Net Loss” has the meaning set forth in Section ~~7(e)(ii)~~**7(c)(i)**.
- (d) “Bankruptcy Code” shall mean 11 U.S.C. §§ 101 et seq.
- (e) “Beneficiary” has the meaning set forth in Section 7(i).
- (f) “Business Day” means each day on which trading in Eligible Products is conducted and on which FICC and CME both conduct money settlements.
- (g) “CEA” has the meaning set forth in the recitals.
- (h) “CFTC” has the meaning set forth in the recitals.
- (i) “Claims and Losses” has the meaning set forth in Section 12(b).
- (j) “Clearing Member” means, with respect to FICC, any member of the netting system of the Government Securities Division of FICC deemed eligible for cross-margining by FICC, and with respect to CME, any clearing member of CME deemed eligible for cross-margining by CME.
- (k) “Clearing Member Agreement” means the agreement set forth as Appendix A or B, as applicable, between the Clearing Organizations and a Clearing Member and, if applicable, its Cross-Margining Affiliate that elects to participate in the cross-margining arrangement established pursuant to this Agreement and the Rules.
- (l) “Clearing Organization” means either FICC, acting through its Government Securities Division or CME and “Clearing Organizations” means both FICC and CME.
- (m) “CME” has the meaning set forth in the preamble.
- (n) “CME Eligible Products” means certain contracts cleared by CME as listed on Exhibit A, and as modified from time to time upon mutual agreement of the Parties, as set forth in Section 6(a).
- (o) “CME Guaranty Fund” means the Base Guaranty Fund established pursuant to CME Rules.
- (p) “CME’s Debtor” has the meaning set forth in Section 8(a).
- (q) “Collateral on Hand” means the Margin held by a Clearing Organization with respect to the Cross-Margining Account of a Defaulting Member immediately prior to the time at which the Default Event occurred.
- (r) “Combined Portfolio” has the meaning set forth in Section 4(a).
- (s) “Confidential Information” has the meaning set forth in Section 10(a).
- (t) “Cross-Margining Account” means, with respect to a Clearing Member of FICC, the transactions, positions and margin maintained in ~~the~~**an** Account (as defined in the

GSD Rules) at FICC that are identified in FICC's books and records as being subject to this Agreement, and, with respect to a Clearing Member of CME, means a cross-margining account that is carried on the books of CME for such Clearing Member that is limited to the transactions, positions and Margin of the Proprietary Accounts of such Clearing Member that are subject to this Agreement.

(u) "Cross-Margin Positions" means, with respect to a Defaulting Member of FICC, the securities that have been identified by FICC at the time of default to be subject to the Cross-Margin Agreement.

(v) "Cross-Margin Requirement" means, with respect to a Cross-Margining Participant, the joint amount of Margin required by the Clearing Organizations with respect to the Cross-Margining Participant's Combined Portfolio for its separate Cross-Margining Accounts at each Clearing Organization as provided in Section 4(a).

(w) "Cross-Margin VM Gain" or "Cross-Margin VM Loss" means, with respect to the Cross-Margining Account of a Defaulting Member, the amounts owed to or by the Defaulting Member, **(or, if applicable for FICC Eligible Products, an Eligible Affiliate)** as applicable, by or to a Clearing Organization due to the mark-to-market movement arising from or related to the positions in the Defaulting Member's Cross-Margining Account at CME or the Defaulting Member's Cross-Margin Positions at FICC.

(x) "Cross-Margining Affiliate" has the meaning set forth in the recitals.

(y) "Cross-Margining Participant" means a Joint Clearing Member that has become, or a Clearing Member that is part of a pair of ~~affiliated Clearing Members~~ **Cross-Margining Affiliates** each of which has become, a participant in the cross-margining arrangement between FICC and CME established pursuant to this Agreement. In the latter case, the term "Cross-Margining Participant" shall, where the context requires, refer collectively to the pair of Cross-Margining Affiliates.

(z) "Default Event" has the meaning set forth in Section 7(a).

(aa) "Defaulting Member" has the meaning set forth in Section 7(a).

(bb) "Effective Date" has the meaning set forth in Section 18(j).

(cc) "Eligible Affiliate" has the meaning set forth in the recitals.

~~(ee)~~(dd) "Eligible Positions" means positions in CME Eligible Products or positions in FICC Eligible Products in a Cross-Margining Account.

~~(dd)~~(ee) "Eligible Products" means the products listed on Exhibit A for CME and Exhibit B for FICC in each case attached hereto, and any other products mutually agreed to in the future between the Parties by amendment to Exhibit A and Exhibit B, respectively.

~~(ee)~~(ff) ("Exchange Act" has the meaning set forth in the recitals.

- ~~(ff)~~(gg) “FICC” has the meaning set forth in the preamble.
- ~~(gg)~~(hh) “FICC Clearing Fund” means the clearing fund established pursuant to GSD Rules.
- ~~(hh)~~(ii) “FICC Eligible Products” means certain Government securities cleared by FICC as listed on Exhibit B, and as modified from time to time upon mutual agreement of the Parties, as set forth in Section 6(a).
- ~~(ii)~~(jj) “FICC’s Debtor” has the meaning set forth in Section 9(a).
- ~~(jj)~~(kk) “GSD” means FICC’s Government Securities Division.
- ~~(kk)~~(ll) “GSD Account” means, with respect to a Clearing Member of FICC, the Accounts (as defined under the GSD Rules) of the Clearing Member at FICC which includes positions that are cross-margined pursuant to this Agreement and positions that are not cross-margined pursuant to this Agreement.
- ~~(ll)~~(mm) “Guarantor” has the meaning set forth in Section 7(i).
- ~~(mm)~~(nn) “Guaranty” means the obligation of FICC to CME, or of CME to FICC, as in effect at a particular time with respect to a particular Cross-Margining Participant as set forth in Sections 8 and 9 of this Agreement. The term “Guaranties” refers to both the Guaranty of CME to FICC and the Guaranty of FICC to CME, including, without limitation, the obligation to make the Payment Obligation.
- ~~(nn)~~(oo) “Indebtedness to CME” has the meaning set forth in Section 8(a).
- ~~(oo)~~(pp) “Indebtedness to FICC” has the meaning set forth in Section 9(a).
- ~~(pp)~~(qq) “Indemnified Party” has the meaning set forth in Section 12(a).
- ~~(qq)~~(rr) “Indemnitor” has the meaning set forth in Section 12(a).
- ~~(rr)~~(ss) “Joint Clearing Member” has the meaning set forth in the recitals.
- ~~(ss)~~(tt) “Liquidation Cost” means, with respect to a Cross-Margining Account of a Defaulting Member at a Clearing Organization, the amount of any net gain or net loss, realized in the liquidation, transfer or management of Eligible Positions held by the Clearing Organization in the Cross-Margining Account of the Defaulting Member, including, without limitation, (i) any Variation Margin owed to the Defaulting Member **(or, if applicable for FICC Eligible Products, an Eligible Affiliate)** by the Clearing Organization and unpaid (which shall constitute gains); (ii) any Variation Margin owed by the Defaulting Member **(or, if applicable for FICC Eligible Products, an Eligible Affiliate)** to the Clearing

Organization and unpaid (which shall constitute losses); and (iii) any reasonable costs, fees and expenses incurred by the Clearing Organization in connection therewith.

~~(tt)~~**(uu)** “Margin” means, with respect to a Cross-Margining Participant, any type of performance bond or initial margin, including deposits or pledges of CME original margin, ~~FICC~~ Actual Deposits (as defined under the GSD Rules) and option premiums held in or for the Cross-Margining Account of such Cross-Margining Participant at a Clearing Organization, and other margin collateral, whether in the form of cash, securities, letters of credit or other assets of such Cross-Margining Participant, required or held by or for the account of a Clearing Organization to secure the obligations of such Cross-Margining Participant **(or, if applicable for FICC Eligible Products, an Eligible Affiliate)** with respect to the Cross-Margining Account carried at the Clearing Organization, to a Clearing Organization under this Agreement, the Clearing Member Agreement and the Rules, and all proceeds of the foregoing.

~~(uu)~~**(vv)** “Margin Reduction” means, the amount by which a Cross-Margining Participant’s Margin requirement for its Cross-Margining Account at a Clearing Organization is reduced by such Clearing Organization pursuant to Section 4(a) of this Agreement.

~~(vv)~~**(ww)** “Net Gain” or “Net Loss” means, with respect to the Cross-Margining Account of a Defaulting Member held at a Clearing Organization, the sum of the (i) Collateral on Hand; and (ii) Liquidation Cost. If such amount is a positive number, a Clearing Organization shall be deemed to have a “Net Gain” with respect to the relevant account. If such amount is a negative number, a Clearing Organization shall be deemed to have a “Net Loss” with respect to the relevant account. If the Liquidation Cost amounted to a gain, it shall be a positive number for this calculation. If the Liquidation Cost amounted to a loss, it will be a negative amount for this calculation.

~~(xx)~~ **“Non-Customer” means any affiliate of the Clearing Member (i) that is not a “customer” of the Clearing Member within the meaning of any of Securities Investor Protection Act, Subchapter III of Chapter VII of the U.S. Bankruptcy Code, or SEC Rule 15c3-3 as promulgated by the Securities and Exchange Commission and (ii) whose Eligible Positions in CME Eligible Products are carried in a Proprietary Account of the Clearing Member.**

~~(ww)~~**(yy)** “Other VM Gain” or “Other VM Loss” means: (x) with respect to a Defaulting Member of FICC, the amounts owed to or by the Defaulting Member, **(or, if applicable for FICC Eligible Products, an Eligible Affiliate)** as applicable, by or to FICC due to the Funds-Only Settlement

payments (as defined in the GSD Rules) arising from or related to the mark-to-market movement of the portion of the Defaulting Member's GSD Accounts that does not include the positions in the Cross-Margining Account at FICC; and (y) with respect to a Defaulting Member of CME, the amounts owed to or by the Defaulting Member, as applicable, by or to CME arising from or related to the mark-to-market movement of the positions (excluding positions in IRS Contracts (as defined under CME's Rules)) or positions that are commingled with positions in IRS Contracts pursuant to CME Rule 8G831 in the Defaulting Member's accounts (but excluding its Cross-Margining Account) at CME.

~~(xx)~~(zz) "Original Agreement" has the meaning set forth in the recitals.

~~(yy)~~(aaa) "Party" and "Parties" have the meaning set forth in the preamble.

~~(zz)~~(bbb) "Payment Obligation" means the amount, if any, determined in accordance with Section 7, payable by one Clearing Organization to the other Clearing Organization.

~~(aaa)~~(ccc) "Proprietary Account" has the meaning given that term in CFTC Regulation 1.3~~(y)~~. Unless otherwise expressly provided, the term "Proprietary Account" includes the Proprietary Cross-Margining Account of a Cross-Margining Participant of CME.

~~(bbb)~~(ddd) "Reimbursement Obligation" has the meaning set forth in Section 7(i).

~~(eee)~~(eee) "Rules" means, as applicable, the Rulebook of FICC's Government Securities Division ("GSD Rules") or the Rules of CME ("CME Rules"), as they may be in effect from time to time.

~~(ddd)~~(fff) "SEC" has the meaning set forth in the recitals.

(ggg) **"Separate Calculation Requirement" has the meaning set forth in the recitals.**

~~(eee)~~(hhh) "Share of the Cross-Margining Requirement" means, in respect of a Clearing Organization, the ratio calculated by dividing (i) the amount of Margin required for the Cross-Margining Account at the Clearing Organization after taking into account the Margin Reduction set forth in Section 4(a), by (ii) the Cross-Margining Requirement.

~~(fff)~~(iii) "Stand-Alone Margin Requirement" means, as to each Clearing Organization, the Margin requirement that such Clearing Organization would calculate with respect to a Cross-Margining Account it carries as if calculated by such Clearing Organization without regard to this Agreement or another cross-margining agreement.

~~(ggg)~~(iii) “Variation Margin” means, with respect to the Cross-Margining Account of a Defaulting Member, the amounts owed to or by the Defaulting Member, **(or, if applicable for FICC Eligible Products, an Eligible Affiliate)** as applicable, by or to a Clearing Organization due to the mark-to-market movement arising from or related to the positions in the Defaulting Member’s Cross-Margining Account at CME or the Defaulting Member’s Cross-Margin Positions at FICC from the time immediately prior to a Default Event until the time the liquidation of a Defaulting Member is complete for both CME and FICC.

2. Participation.

(a) FICC and CME shall each determine which of its Clearing Members is eligible to become a Cross-Margining Participant; provided that in order to become a Cross-Margining Participant, a Clearing Member must be a Joint Clearing Member or be an Affiliate of a Clearing Member of the other Clearing Organization that both Clearing Organizations have determined to be eligible to be a Cross-Margining Participant. FICC shall notify CME, and CME shall notify FICC, upon acceptance of a Clearing Member as a Cross-Margining Participant, and the Clearing Organizations shall mutually agree on a start date for the Cross-Margining Participant.

(b) A Joint Clearing Member shall become a Cross-Margining Participant upon the acceptance by FICC and CME of a Clearing Member Cross-Margining Agreement (Joint Clearing Member) in the form of Appendix A hereto.

(c) A Clearing Member of FICC or CME and its Affiliate that is a Clearing Member at the other Clearing Organization shall become Cross-Margining Participants and Cross-Margining Affiliates of one another upon the acceptance by FICC and CME of a Clearing Member Cross-Margining Agreement (Affiliated Clearing Members) in the form of Appendix B hereto.

(d) Either FICC or CME may require a Cross-Margining Participant to provide an opinion of counsel as to the enforceability of the provisions of this Agreement and the Rules of the applicable Clearing Organization with respect to such Cross-Margining Participant and, if applicable, its Cross-Margining Affiliate.

(e) In addition to the rights of each Clearing Organization under Section 7 of the Agreement, either FICC or CME may terminate the participation of a particular Cross-Margining Participant (including, if applicable, a Cross-Margining Affiliate at such Clearing Organization) upon two Business Days’ prior written notice to the other Clearing Organization provided, however, that no such termination shall be effective with respect to any Reimbursement Obligation or Guaranty with respect to that Cross-Margining Participant or its Cross-Margining Affiliate that is incurred prior to the effectiveness of any such termination.

3. Establishment of Cross-Margining Accounts.

(a) Each Cross-Margining Account, and all Eligible Positions and Margin contained therein or deposited in respect thereof, shall be subject to this Agreement, the Clearing Member Agreement and the Rules. If CME determines at any time that any Eligible Position held in a Cross-Margining Participant's Cross-Margining Account at CME are non-risk reducing, CME may either restrict the addition of Eligible Positions to the Cross-Margining Account at CME or require the Cross-Margining Participant to move or liquidate such Eligible Positions at CME.

(b) In the event the transactions or positions maintained in an Account (as defined in the GSD Rules) are not the proprietary transactions or positions of the Cross-Margining Participant (i.e., transactions or positions entered into by such Cross-Margining Participant for its own account), then such transactions or positions and margin therefor may only be maintained in a Cross-Margining Account at FICC if (i) the transactions, positions and margin are maintained by the Cross-Margining Participant for an Eligible Affiliate, (ii) the Account (as defined in the GSD Rules) in which the transactions and positions in FICC Eligible Products are recorded is an Agent Clearing Member Omnibus Account (as defined in the GSD Rules) that contains exclusively the transactions and positions of such Eligible Affiliate(s), and (iii) the margin posted to FICC to support those transactions and positions is not subject to segregation under the GSD Rules.

(c) CME and FICC in their discretion may allow, subject to such conditions that the Clearing Organizations may determine, a Cross-Margining Participant to establish multiple Cross-Margining Accounts, including a Cross-Margining Account for its proprietary positions and separate Cross-Margining Account(s) for positions for its Eligible Affiliates in accordance with Section 3(b) above.

4. Calculation of Cross-Margin Requirements.

(a) On each Business Day, the Cross-Margin Requirement for the Combined Portfolio, and the corresponding reduction in the Margin required (if any) for each Cross-Margining Account shall be determined as follows. Each Clearing Organization will calculate the difference between (x) the sum of the Stand-Alone Margin Requirements for the CME Eligible Products and FICC Eligible Products in the relevant Cross-Margining Accounts and (y) the Margin it would require if the combined portfolio of the CME Eligible Products and FICC Eligible Products were held in a single account (the "Combined Portfolio") and determine the percentage of margin savings that would be derived for such accounts by margining the CME Eligible Products and FICC Eligible Products as a Combined Portfolio. The Clearing Organizations will then compare their respective margin savings percentages, and, if the lesser of such margin savings percentage exceeds the threshold agreed by the Clearing Organizations from time to time, each Clearing Organization will then reduce the Margin required to be deposited by a Clearing Member at such Clearing Organization with respect to the CME Eligible Products or the FICC Eligible Products, as applicable, by the lower of such margin savings percentages. If the respective margin savings percentages are less than the threshold agreed by the Clearing Organizations from time to time, no Margin

Reduction will be applied. The Cross-Margin Requirement with respect to a Cross-Margining Participant may not be changed without the consent of both Clearing Organizations.

(b) Neither CME nor FICC shall permit positions in CME Eligible Products or in FICC Eligible Products, respectively, that are carried in a Cross-Margining Account ~~A~~ pursuant to this Agreement to be subject to any other cross-margin arrangement.

(c) Either Clearing Organization may in its sole discretion and at any time require a Cross-Margining Participant to deposit an amount of Margin which exceeds such Cross-Margining Participant's Stand-Alone Margin Requirement at such Clearing Organization.

(d) Absent gross negligence or willful misconduct, neither Clearing Organization shall have liability to the other Clearing Organization or to any other person based solely upon the fact that information given or calculated by such Clearing Organization pursuant to this Section 4 was inaccurate or inadequate. The liability of CME and FICC to any Cross-Margining Participant, Cross-Margining Affiliate or third party shall be as further provided in CME Rules and GSD Rules.

(e) Although it is contemplated that the Cross-Margin Requirement may be less than the sum of the Stand-Alone Margin Requirements, nothing in this Agreement shall be construed as requiring such result. Any calculation of a Cross-Margin Requirement shall not result in any guarantee to a Cross-Margining Participant that such calculation will yield the lowest possible Cross-Margin Requirement.

5. [Reserved]

6. Daily Procedures for Exchange of Portfolio Cross-Margining Data.

(a) FICC and CME shall establish a separate service level agreement ("SLA") , including time frames, to exchange on each Business Day such information as may reasonably be required in order to value the positions in the Cross-Margining Account and to calculate the Cross-Margin Requirement for each Cross-Margining Participant. The SLA will also include: (i) operational processes consistent with the default management provisions set forth in Section 7 of this Agreement; and (ii) the process and criteria under which FICC or CME may make a request to the other Clearing Organization to modify its list of CME Eligible Products or FICC Eligible Products, as applicable. Such process will include that only products that do not require a change to FICC or CME's margin model ~~are~~ be permitted to be subject to this process, and any modification requires the mutual written consent of both Parties. Each Clearing Organization shall furnish such additional information as the other Clearing Organization may reasonably request in relation to this Agreement.

(b) FICC and CME agree that each will notify the other Clearing Organization promptly if an event occurs that reflects, in the sole discretion of the notifying Clearing Organization, a material problem with respect to a Cross-Margining Participant. Examples of such an event shall include, but shall not be limited to, the events requiring notice pursuant to Section 16 of this Agreement.

7. Suspension and Liquidation of Cross-Margining Participant.

(a) Either FICC or CME may at any time exercise any rights under its Rules to terminate, suspend or otherwise cease to act for or limit the activities of a Cross-Margining Participant (a “Defaulting Member”). When the Clearing Member against which FICC or CME exercises such rights is part of a pair of Cross-Margining Affiliates, the term “Defaulting Member” covers the Cross Margining Affiliates together or individually as the context requires. Upon such event (the “Default Event”), the Clearing Organization that has taken the foregoing actions (the “Liquidating CO”) shall immediately by telephone or in person, and thereafter in writing, notify the other Clearing Organization of the actions it has taken. The other Clearing Organization shall then immediately notify the Liquidating CO whether it will take similar action under its Rules. If the other Clearing Organization notifies the Liquidating CO that it will take such similar action, then both Clearing Organizations shall promptly take the steps set forth in subparagraph (b) below. If the other Clearing Organization notifies the Liquidating CO that it will not take such similar action, then the other Clearing Organization (the “Non-Liquidating CO”) shall immediately require the Defaulting Member to pay the Non-Liquidating CO in immediately available funds the sum of (x) its Margin Reduction at the Liquidating CO, and (y) its Margin Reduction at the Non-Liquidating CO, within one hour of demand. If the Non-Liquidating CO receives this payment in full from the Defaulting Member or otherwise, within such timeframe, it shall, within one hour of such receipt, pay the Liquidating CO in immediately available funds the Defaulting Member’s Margin Reduction at the Liquidating CO. After the Non-Liquidating CO makes such payment in full, then, notwithstanding anything herein to the contrary, it shall have no further obligations to the Liquidating CO under this Agreement with respect to the Default Event. If the Non-Liquidating CO does not receive this payment in full from the Defaulting Member or otherwise, within one hour of such receipt or other agreed upon timeframe, then it will cease to act for the Defaulting Member; **(and, if applicable for FICC Eligible Products, an Eligible Affiliate)**, and it, along with the Liquidating CO shall promptly take the steps set forth in subparagraph (b) below.

(b) The Clearing Organizations shall take the following steps:

- (i) First, the Clearing Organizations shall attempt in good faith to jointly transfer, liquidate or close out the Eligible Positions in the Cross-Margining Accounts carried for the Defaulting Member (the “Relevant Positions”). To the extent the Default Event is resolved under this Section 7(b)(i) and not under Section 7(b)(iii), the loss sharing provisions set forth in Section 7(c) shall apply and the loss sharing provisions set forth in Sections 7(d), 7(e) and 7(f) shall not apply.
- (ii) Second, in the event a Clearing Organization determines that jointly transferring, liquidating or closing out the Relevant Positions is not feasible or advisable, any Clearing Organization (“X”) may, upon written notice to the other Clearing Organization (“Y”), offer to buy-out the Relevant Positions at the last settlement price for such positions immediately prior to the time such offer is made and any remaining collateral relating thereto from Y (which Y may accept or reject in its sole discretion). If such a buy-

out occurs, then, notwithstanding anything herein to the contrary, Y shall have no further obligations to X under this Agreement with respect to the Default Event. For the avoidance of doubt, the loss sharing provisions set forth in Sections 7(c), 7(d), 7(e) and 7(f) shall not apply if the Default Event is resolved under this Section 7(b)(ii).

- (iii) If a Clearing Organization determines that it is not advisable or feasible to resolve the Default Event pursuant to Paragraphs (b)(i) or (b)(ii) above, it shall so notify the other Clearing Organization. In such event, each Clearing Organization shall promptly transfer, liquidate or otherwise close out the Eligible Positions in the Cross-Margining Account carried for the Defaulting Member at that Clearing Organization. The loss sharing provisions set forth in Sections 7(d), 7(e) and 7(f) shall apply to the extent the Default Event is resolved under this Section 7(b)(iii).

(c) To the extent a joint liquidation occurs as described in Section 7(b)(i), the following provisions shall apply:

- (i) Each Clearing Organization shall calculate its individual Net Gain or individual Net Loss, if any, taking into account solely its individual Collateral on Hand and its individual Liquidation Cost.
- (ii) Using the individual Net Gains or individual Net Losses calculated in 7(c)(i) above, the Clearing Organizations shall jointly calculate the sum of the combined Net Gains and Net Losses, if any, of the Clearing Organizations with respect to the Cross-Margining Accounts of the Defaulting Member. Any resulting combined Net Gain or combined Net Loss shall be allocated *pro rata* between the Clearing Organizations based on each Clearing Organization's Share of the Cross-Margining Requirement (its "Allocated Net Gain" or "Allocated Net Loss", as applicable).
- (iii) If a Clearing Organization has an individual Net Gain that is less than its Allocated Net Gain, an individual Net Loss that is greater than its Allocated Net Loss or an individual Net Loss when the joint liquidation resulted in a combined Net Gain (solely for purposes of this Paragraph (c)(iii), the "worse-off party") then the other Clearing Organization shall be required to pay to the worse-off party an amount equal to the difference between the worse-off party's individual Net Gain or Net Loss and its Allocated Net Gain and Allocated Net Loss.
- (iv) For the purposes of determining any Net Gain or Net Loss under Section 7(c)(i)-(iii), neither Clearing Organization shall include any amount paid or received under Section 7(c)(v) and (vi) in the calculation of Net Gain and Net Loss.

- (v) The following shall apply:
 - (1) If, on any Business Day during the liquidation of a Defaulting Member, a Clearing Organization (“VM Payor”) has a Cross-Margin VM Gain and an Other VM Gain with respect to a Defaulting Member, and the other Clearing Organization (“VM Receiver”) has a Cross-Margin VM Loss with respect to a Defaulting Member, the VM Payor shall make a payment to the VM Receiver in the amount of the VM Receiver’s Cross-Margin VM Loss, but not to exceed the VM Payor’s Cross-Margin VM Gain; *provided that* the VM Payor shall not be required to make such payment to the extent it reasonably determines that the liquidation of the Defaulting Member will result in an individual Net Loss to it or that the VM Receiver will be limited by statute, court order or other applicable law from making the payment described in Section 7(c)(vi) below.
 - (2) If, on any Business Day during the liquidation of a Defaulting Member, a Clearing Organization (“VM Payor”) has a Cross-Margin VM Gain and an Other VM Loss and the sum of these amounts (hereinafter “Aggregate VM Gain”) is positive, and the other Clearing Organization (“VM Receiver”) has a Cross-Margin VM Loss with respect to a Defaulting Member, the VM Payor shall make a payment to the VM Receiver in the amount of the VM Receiver’s Cross-Margin VM Loss, but not to exceed the VM Payor’s Aggregate VM Gain unless the Parties otherwise agree that the VM Payor shall pay a higher amount; *provided that* the VM Payor shall not be required to make such payment to the extent it reasonably determines that the liquidation of the Defaulting Member will result in an individual Net Loss to it or that the VM Receiver will be limited by statute, court order or other applicable law from making the payment described in Section 7(c)(vi) below.
 - (3) If, on any Business Day during the liquidation of a Defaulting Member, a Clearing Organization (“VM Payor”) has a Cross-Margin VM Gain and an Other VM Loss with respect to a Defaulting Member and the sum of these two amounts is negative, and the other Clearing Organization (“VM Receiver”) has a Cross-Margin VM Loss with respect to the Defaulting Member, the VM Payor shall not be required to make a payment to the VM Receiver unless otherwise agreed to by the Parties.
- (vi) The deadline for any payments pursuant to the foregoing paragraphs shall be jointly determined by the Clearing Organizations. After the completion of the liquidation of a Defaulting Member, any VM Receiver shall be obligated to pay to the VM Payor any amounts received by the VM Receiver pursuant to Section 7(c)(v) in connection with the liquidation, *provided,*

however, that notwithstanding anything to the contrary in this Agreement, a VM Receiver shall only be required to pay such amount to the VM Payor if it is not prohibited by statute, court order or other applicable law from making such payment. The obligation of the VM Receiver to pay any such amounts shall be netted and offset against any payment obligation of the VM Payor pursuant to Section 7.

(d) If, with respect to the Cross-Margining Account of the Defaulting Member, both Clearing Organizations have a Net Gain or a Net Loss, no payment will be due to either Clearing Organization in respect of the Guaranties between FICC and CME referred to in Sections 8 and 9 below.

(e) If, with respect to the Cross-Margining Account of the Defaulting Member, either Clearing Organization has a Net Loss (solely for purposes of this Paragraph (e), the “worse-off party”) and the other has a Net Gain (solely for purposes of this Paragraph (e), the “better-off party”) that is equal to or exceeds the absolute value of the worse-off party’s Net Loss, then the better-off party shall be required to pay to the worse-off party an amount equal to the absolute value of such Net Loss; *provided, however*, that notwithstanding anything to the contrary in this Agreement, the better-off party shall only be required to pay the amount of such Net Loss to the worse-off party if it is not prohibited by statute, court order or other applicable law from making such payment.

(f) If either Clearing Organization has a Net Loss (solely for the purposes of this Paragraph (f), the “worse-off party”) and the other Clearing Organization has a Net Gain (solely for the purposes of this Paragraph (f), the “better-off party”) that is less than or equal to the absolute value of the worse-off party’s Net Loss, then the better-off party shall be required to pay to the worse-off party an amount equal to such Net Gain; *provided, however*, that notwithstanding anything to the contrary in this Agreement, the better-off party shall only be required to pay the amount of such Net Gain to the worse-off party if it is not prohibited by statute, court order or other applicable law from making such payment.

(g) FICC and CME shall each determine as soon as practicable the Net Gain or Net Loss of that Clearing Organization. FICC shall notify CME, and CME shall notify FICC, of the amount of its own Net Gain or Net Loss and, in such detail as may reasonably be requested, the means by which such calculations were made. If FICC is obligated to make a payment of the Payment Obligation to CME, or CME is obligated to make a payment of the Payment Obligation to FICC, in respect of a Guaranty, the Clearing Organization obligated to make such payment shall do so promptly and in no event later than the third Business Day following the calculation by both Clearing Organizations of their Net Gain or Net Loss, as applicable. All payments required to be made under this Paragraph (g) shall be made in immediately available funds.

(h) If at any time within 90 calendar days following the date on which a payment is made under Paragraph (g), either Clearing Organization determines that any amount paid to or received from the other Clearing Organization pursuant to this Section 7 in respect of a Guaranty was incorrect either because of errors in calculation at the time or because new information relevant to the determination of such amount was discovered after the

determination of such amount, the Clearing Organization that discovered the error or new information shall notify the other Clearing Organization. In such event, the Clearing Organizations shall: (i) cooperate with one another to recalculate the appropriate amount of any Guaranty payments to be made promptly and in no event later than fifteen (15) calendar days from the date on which the Clearing Organization that discovered the error or new information notified the other Clearing Organization, and (ii) make any necessary payments to one another to correct the error within three (3) Business Days following agreement on such recalculation by both Clearing Organizations. Such payments shall be made in immediately available funds.

(i) In the event that either Clearing Organization (the “Guarantor”) becomes obligated to make a Guaranty payment to the other Clearing Organization (the “Beneficiary”) in respect of the obligation of a Defaulting Member (including, in the case of a pair of Cross-Margining Affiliates, the obligation of a Cross-Margining Affiliate that is a Cross-Margining Participant at the Beneficiary), to the Beneficiary, the Defaulting Member (including, in the case of a pair of Cross-Margining Affiliates, both Cross-Margining Affiliates jointly and severally) shall thereupon immediately be obligated, whether or not the Guarantor has then made the Guaranty payment to the Beneficiary, to reimburse the Guarantor for the amount of the Guaranty payment as determined by the Guarantor, and the Guarantor shall be subrogated to all of the rights of the Beneficiary against the Defaulting Member (including both Cross-Margining Affiliates, if applicable). The Guarantor shall notify the Defaulting Member (including both Cross-Margining Affiliates, if applicable) of the amount of such obligation (the “Reimbursement Obligation”), but such notification shall not be a condition to the rights of the Clearing Organizations hereunder, and the Reimbursement Obligation shall be due immediately upon the determination of the amount thereof. In the event that the final amount of the Guaranty payment is greater or less than the amount originally determined, the Reimbursement Obligation shall be adjusted accordingly, and payment of the difference shall be made between the Guarantor and the Defaulting Member (or the relevant Cross-Margining Affiliate, as appropriate). It is understood and agreed that any payment or obligation to make a payment between the Guarantor and the Beneficiary with respect to the Guaranty, and any payment or obligation to make payment between the Defaulting Member (including a Cross-Margining Affiliate, as applicable) and the Guarantor, is (i) a “margin payment” or “settlement payment” or an obligation to make a “margin payment” or “settlement payment,” and (ii) a transfer in connection with a “swap agreement,” “commodity contract,” “forward contract,” “securities contract” or “master netting agreement,” as such terms are defined in the Bankruptcy Code, as the case may be.

(j) The Clearing Organizations will include in the SLA examples of the liquidation scenarios and associated payment obligations described in this Section 7.

8. Guaranty of FICC to CME.

(a) FICC hereby unconditionally guarantees the prompt payment when due (whether at maturity, by declaration, by demand or otherwise), and at any and all times thereafter, of all indebtedness and other obligations of every kind and nature of each Cross-Margining Participant or its Cross-Margining Affiliate (hereafter referred to, in either case, as “CME’s Debtor”) to CME, direct or indirect, absolute or contingent, due or to become

due, whether now or hereafter existing, arising from or related to Eligible Positions or the liquidation, transfer or management thereof (all such indebtedness and other obligations, the "Indebtedness to CME"), but limited to, the amounts determined in accordance with Section 7 of this Agreement. FICC further agrees to pay any and all reasonable costs and expenses (including counsel fees and expenses) incurred by CME in enforcing its rights against FICC under this Section 8.

(b) The creation or existence from time to time of Indebtedness to CME (whether or not such Indebtedness may be in excess of the amounts determined in accordance with Section 7 of this Agreement to which the right of recovery under this Guaranty is limited) is hereby authorized without notice to FICC and shall in no way affect or impair this Guaranty.

(c) The liability of FICC under this Guaranty shall be unconditional and irrespective of (i) any lack of enforceability of any Indebtedness to CME or any guaranty thereof, (ii) any change of the time, manner or place of payment, or any other term, of any Indebtedness to CME or any guaranty thereof, (iii) any taking, exchange, subordination, release or non-perfection of any collateral securing payment of any Indebtedness to CME; (iv) the acceptance of additional parties or the release of anyone primarily or secondarily liable on the Indebtedness to CME; (v) any law, rule, regulation or order of any jurisdiction or any governmental, regulatory or administrative authority of any kind, whether now or hereafter in effect, affecting any term of any Indebtedness to CME or any guaranty or security therefor or CME's rights with respect thereto; and (vi) any other circumstance which might otherwise constitute a defense available to, or a discharge of, CME's Debtor or a guarantor. FICC waives promptness, diligence, and notices with respect to any Indebtedness to CME and this Guaranty and any requirement that CME exhaust any right or take any action against CME's Debtor or any other person or entity or with respect to any guaranty or collateral security therefor and any duty on CME's part to disclose to FICC any matter, fact or thing related to the business, operations or conditions (financial or otherwise) of CME's Debtor or its affiliates or its property, whether now or hereafter known by CME. FICC acknowledges that this Guaranty is a guaranty of payment, not collection, and that FICC has made and will continue to make its own investigations with respect to all matters regarding CME's Debtor.

(d) In the event that FICC makes any payment to CME under this Guaranty, and to the extent such payment is not reimbursed to FICC in whole or in part pursuant to Section 7(i) of this Agreement, FICC shall be subrogated to the rights of CME against the Cross-Margining Participant or its Cross-Margining Affiliate in respect of whose Indebtedness to CME such payment was made and to the rights of CME against any other guarantor or other third party with respect to such Indebtedness to CME.

(e) All of CME's rights and remedies provided for herein or otherwise available to CME at law or otherwise shall be cumulative to the extent permitted by law.

9. Guaranty of CME to FICC.

(a) CME hereby unconditionally guarantees the prompt payment when due (whether at maturity, by declaration, by demand or otherwise), and at any and all times thereafter, of all indebtedness and other obligations of every kind and nature of each Cross-

Margining Participant or its Cross-Margining Affiliate (hereafter referred to, in either case, as “FICC’s Debtor”) to FICC, direct or indirect, absolute or contingent, due or to become due, whether now or hereafter existing, arising from or related to Eligible Positions or the liquidation, transfer or management thereof (all such indebtedness and other obligations, the “Indebtedness to FICC”), but limited to the amounts determined in accordance with Section 7 of this Agreement. CME further agrees to pay any and all reasonable costs and expenses (including counsel fees and expenses) incurred by FICC in enforcing its rights against CME under this Section 9.

(b) The creation or existence from time to time of Indebtedness to FICC (whether or not such Indebtedness may be in excess of the amounts determined in accordance with Section 7 of this Agreement to which the right of recovery under this Guaranty is limited) is hereby authorized without notice to CME and shall in no way affect or impair this Guaranty.

(c) The liability of CME under this Guaranty shall be unconditional and irrespective of (i) any lack of enforceability of any Indebtedness to FICC or any guaranty thereof, (ii) any change of the time, manner or place of payment, or any other term, of any Indebtedness to FICC or any guaranty thereof, (iii) any taking, exchange, subordination, release or non-perfection of any collateral securing payment of any Indebtedness to FICC; (iv) the acceptance of additional parties or the release of anyone primarily or secondarily liable on the Indebtedness to FICC; (v) any law, rule, regulation or order of any jurisdiction or any governmental, regulatory or administrative authority of any kind, whether now or hereafter in effect, affecting any term of any Indebtedness to FICC or any guaranty or security therefor or FICC’s rights with respect thereto; and (vi) any other circumstance which might otherwise constitute a defense available to, or a discharge of, FICC’s Debtor or a guarantor. CME waives promptness, diligence, and notices with respect to any Indebtedness to FICC and this Guaranty and any requirement that FICC exhaust any right or take any action against FICC’s Debtor or any other person or entity or with respect to any guaranty or collateral security therefor and any duty on FICC’s part to disclose to CME any matter, fact or thing related to the business, operations or conditions (financial or otherwise) of FICC’s Debtor or its affiliates or its property, whether now or hereafter known by CME. CME acknowledges that this Guaranty is a guaranty of payment, not collection, and that CME has made and will continue to make its own investigations with respect to all matters regarding FICC’s Debtor.

(d) In the event that CME makes any payment to FICC under this Guaranty, and to the extent such payment is not reimbursed to CME in whole or in part pursuant to Section 7(i) of this Agreement, CME shall be subrogated to the rights of FICC against the Cross-Margining Participant or its Cross-Margining Affiliate in respect of whose Indebtedness to FICC such payment was made and to the rights of FICC against any other guarantor or other third party with respect to such Indebtedness to FICC.

(e) All of FICC’s rights and remedies provided for herein or otherwise available to FICC at law or otherwise shall be cumulative to the extent permitted by law.

10. Confidentiality.

(a) Except as expressly authorized in this Agreement, each Clearing Organization shall maintain in confidence, and shall not disclose to any third party, any and all information obtained by it in connection with this Agreement, the transactions or activities contemplated herein with respect to the other Clearing Organization, and the positions, transactions and financial condition of any Clearing Member of such other Clearing Organization (“Confidential Information”). The foregoing shall not apply to the disclosure of information (i) which is or becomes generally known to the public other than through an action or failure to act by such Clearing Organization in violation of this Section 10; (ii) to a third party to whom such information was previously known; (iii) to the CFTC, the SEC or any other regulator or supervisory authority with oversight authority over a Clearing Organization or any of its Clearing Members; (iv) to a “registered entity” within the meaning of the CEA or to a “self-regulatory organization” within the meaning of CFTC regulations or the Exchange Act, in either case pursuant to a surveillance agreement or similar arrangement to which such Clearing Organization is a party; or (v) as may be required by the CEA, the Exchange Act, or CFTC or SEC regulations. Each Clearing Organization may disclose Confidential Information to a Representative of such Clearing Organization who has a need to know the Confidential Information and who has been instructed to maintain the confidentiality of such Confidential Information and who has agreed to do so. The term “Representative” shall mean, with respect to a Clearing Organization, such Clearing Organization and/or its directors, offices, employees, agents, and professional consultants and advisors.

(b) In the event that either Clearing Organization is legally required by subpoena by other valid legal process, or by law or regulation, to disclose any Confidential Information in the possession of such Clearing Organization, it is agreed that the Clearing Organization which is subject to such requirement shall provide the other Clearing Organization with prompt written notice of such requirement so that the other Clearing Organization may seek an appropriate protective order and/or waive compliance with the provisions of this Section 10 with respect to such required disclosure. In the event that the other Clearing Organization determines to seek a protective order, the Clearing Organization subject to the requirement shall cooperate to the extent reasonably requested by the other Clearing Organization. It is further agreed that if in the absence of a protective order or the receipt of a waiver hereunder, the Clearing Organization subject to the requirement is nonetheless, in the opinion of its counsel, compelled to disclose such Confidential Information to any tribunal or regulatory agency or else stand liable for contempt or suffer other censure or penalty, such Clearing Organization may produce such Confidential Information without liability under this Section 10.

(c) The provisions of this Section 10 shall survive three (3) years after the termination of this Agreement.

(d) Each Clearing Organization acknowledges and agrees that the violation of its obligations under this Section 10 would cause irreparable harm to the other Clearing Organization, which harm may not be compensable solely by monetary damages, and that, therefore, in the event of an actual or threatened breach by a Clearing Organization of this Section 10, the other Clearing Organization shall be entitled to immediate injunctive and other

equitable relief, without the necessity of proving monetary damages or posting bond or other security. Any such equitable relief granted shall be without prejudice to any other rights and remedies a Clearing Organization may have under this Agreement.

11. FDICIA. This Agreement, together with GSD Rules, CME Rules, the Clearing Member Agreement and any other agreements between FICC, CME and a Cross-Margining Participant or any Affiliate thereof is, for purposes of Title IV, Subtitle A of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. §§ 4401-4407), a “netting contract” and all payments made or to be made hereunder, including payments made in accordance with this Agreement in connection with the liquidation of a Cross-Margining Participant are “covered contractual payment obligations” or “covered contractual payment entitlements,” as the case may be, as well as “covered clearing obligations;” and for purposes of the Bankruptcy Code and the Federal Deposit Insurance Act is a “master netting agreement” with respect to some or all of “swap agreements,” “commodity contracts,” “forward contracts,” and “securities contracts.”

12. Indemnification.

(a) Each of FICC and CME (the “Indemnitor”) shall indemnify, defend and hold harmless the other, its directors, officers, employees, agents and each person, if any, who controls the indemnified Clearing Organization (each an “Indemnified Party”) against any Claims and Losses (as defined below) incurred by an Indemnified Party as the result, or arising from allegations, of any act or failure to act by the Indemnitor in connection with this Agreement or the cross-margining procedures contemplated under this Agreement if such act or failure to act constitutes either (i) gross negligence or willful misconduct on the part of the Indemnitor; or (ii) a material breach of this Agreement, or any obligation undertaken in connection with this Agreement, any Rule of the Indemnitor (except to the extent that such Rule is inconsistent with the provisions of this Agreement), or any law or governmental regulation applicable to the Indemnitor.

(b) As used in this Section 12, the term “Claims and Losses” means any and all losses, damages and expenses whatsoever arising from claims of third parties including, without limitation, liabilities, judgments, damages, costs of investigation, reasonable attorneys’ fees and other expenses and amounts paid in settlement (with the consent of the Indemnitor, which consent shall not be unreasonably withheld) in connection with any action, suit, litigation, claim or proceeding to which an Indemnified Party is made a party defendant, or is threatened to be made such a party.

(c) Promptly after receipt by an Indemnified Party of notice of the commencement of any action or the assertion of any claim against such Indemnified Party, such Indemnified Party shall, if an indemnification claim in respect thereof is to be made against the Indemnitor, notify the Indemnitor in writing of the commencement of such action or assertion of such claims, but the omission so to notify the Indemnitor will not relieve the Indemnitor from any liability which it may have to any Indemnified Party except to the extent that the Indemnitor has been materially and adversely affected by the lack of prompt notice and shall in any event not relieve the Indemnitor of any liability which it may have to an Indemnified Party otherwise than under this

Section 12. The Indemnitor will be entitled to participate in the defense of the action or claim. For the avoidance of doubt, the Indemnified Party shall control its own defense of the action or claim.

13. Rules of the Clearing Organizations.

(a) FICC and CME each shall propose and use all reasonable efforts to obtain any regulatory approvals necessary to adopt and maintain in effect such provisions in its Rules as are reasonably necessary to implement the provisions of this Agreement. Without limiting the generality of the foregoing, such Rules shall provide that Cross-Margining Participants of the Clearing Organization shall be bound by the provisions of this Agreement and that the Clearing Organization may use its clearing fund, including any rights of assessments against its Clearing Members, to make payment under any Guaranty given by such Clearing Organization pursuant to Section 8 and Section 9 of this Agreement.

(b) FICC and CME shall, to the extent permitted by law, give each other reasonable prior notice of the intended effectiveness of any Rule or Rule amendment (other than an emergency Rule or Rule amendment, as to which notice shall be given promptly) adopted by such Clearing Organization if such Rule or Rule amendment relates in any way to such Clearing Organization's Margin requirements, the CME Guaranty Fund or FICC Clearing Fund (as applicable), rights of assessment against its Clearing Members, or similar matters.

14. Representations and Warranties. Each Clearing Organization represents and warrants to the other as of the date hereof and as of the Effective Date as follows:

(a) Good Standing. It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has the power and authority to own its assets and to transact the business in which it is now engaged or proposed to be engaged and is duly qualified and authorized to do business as a foreign corporation or company and is in good standing under the laws of each jurisdiction in which failure to so qualify could have a material adverse effect on its financial condition, business or operations.

(b) Corporate Power and Authority. It has all requisite corporate power and authority to enter into this Agreement and the agreements referenced herein, as applicable, and full power and authority to take all actions required of it pursuant to such agreements. This Agreement and the applicable agreements referenced in this Agreement will constitute, when executed and delivered, valid and binding obligations of such Clearing Organization, and the execution, delivery and performance of all of its obligations under this Agreement and the applicable agreements referenced in this Agreement have been duly authorized by all necessary corporate action on the part of such Clearing Organization.

(c) No Violation. Except for provisions as to which waivers have been obtained, the execution and delivery of this Agreement and the applicable agreements referenced in this Agreement by the Clearing Organization and the performance of its obligations under this Agreement and the applicable agreements referenced in this Agreement: (i) do not result in a violation or breach of, do not conflict with or constitute a default under, and will not accelerate or permit the acceleration of performance required by any of the terms and provisions of its organizational documents, rules or other governing documents, any note, debt instrument, or

any other agreement to which it is a party or to which any of its assets or properties is subject, and will not be an event which after notice or lapse of time or both will result in any such violation, breach, conflict, default or acceleration; and (ii) do not result in a violation or breach of any law, judgment, decree, order, rule or regulation of any governmental authority or court, whether federal, state or local, at law or in equity, applicable to it or any of its assets or properties.

(d) Operational Capability. It has adequate personnel, physical facilities, systems, and internal procedures to enable it to satisfactorily communicate with the other Clearing Organization and fulfill all anticipated obligations arising under this Agreement with the necessary promptness and accuracy.

(e) Authorizations and Consents. All authorizations, permits, approvals or consents required to be obtained from, and all notifications and filings required to be made with, all governmental authorities and regulatory bodies and third parties to permit such Clearing Organization to place into effect this Agreement and the applicable agreements referenced in this Agreement and to perform its obligations under this Agreement and under the applicable agreements referenced in this Agreement have been obtained.

(f) These representations and warranties shall be deemed to be repeated each day during the term of the Agreement.

15. Termination.

(a) FICC may terminate this Agreement without cause by delivering written notice of termination to CME specifying a termination date not less than ~~30~~180 days following the date on which such notice is sent.

(b) CME may terminate this Agreement without cause by delivering written notice of termination to FICC specifying a termination date not less than ~~30~~180 days following the date on which such notice is sent.

(c) In the event that either FICC or CME fails to perform any material obligation under this Agreement and such failure is not promptly cured after written notice thereof is sent to such Clearing Organization, the non-defaulting Clearing Organization may terminate this Agreement by delivering written notice of such termination to the other party.

(d) CME may terminate this Agreement immediately upon notice to FICC in the event that FICC fails to maintain in effect its registration with the SEC as a securities clearing agency. FICC may terminate this Agreement immediately upon notice to CME in the event CME fails to maintain in effect its registration with the CFTC as a derivatives clearing organization.

(e) At any time during the term of this Agreement, either Party may terminate this Agreement immediately upon written notice to the other Party if: (i) the other Party (A) voluntarily commences any proceeding or files any petition under the bankruptcy laws of the United States, (B) becomes subject to any involuntary bankruptcy or insolvency proceedings under the laws of the United States, which proceedings are not dismissed within thirty (30)

days, (C) makes an assignment of all or substantially all of its assets for the benefit of its creditors, or (D) appoints a receiver, trustee, custodian or liquidator for a substantial portion of its property, assets or business; or (ii) the other Party passes a resolution for its winding up or dissolution or a court of competent jurisdiction makes an order for such other Party's winding up or dissolution.

(f) In the event that a termination date is established under paragraphs (a), (b) or (c) above, each Clearing Organization shall promptly notify all of its Cross-Margining Participants. Each Clearing Organization shall cooperate fully in exchanging all necessary data, records, computer files and other information, and in executing documents and taking other action necessary or appropriate to effect transfers, releases, etc. in order to effect termination of the Cross-Margining Arrangement as to the terminating parties. In the event that a liquidation of a Cross-Margining Participant is pending on, or was completed prior to, the termination date, the provisions of this Agreement pertaining to such liquidation shall survive the termination until such liquidation has been completed and any payment due under the Guaranty due from one Clearing Organization to the other in respect of such liquidation has been paid.

(g) **Survival of Obligations.** The obligations of the Clearing Organizations arising under Sections 8, 9 and 10, 12 and 17 of this Agreement shall survive the termination of this Agreement.

16. **Information Sharing.**

(a) The Clearing Organizations hereby agree to provide one another with the following information regarding their respective Cross-Margining Participants:

- (i) If either Clearing Organization applies any special surveillance procedures to a Cross-Margining Participant or places such Cross-Margin Participant on remedial actions status or higher, as provided in such Clearing Organization's Rules, such Clearing Organization shall promptly notify the other Clearing Organization of that fact.
- (ii) If either Clearing Organization requires more frequent reporting of financial information by a Cross-Margining Participant, that Clearing Organization shall notify the other Clearing Organization of that fact and the period of reporting.
- (iii) If either Clearing Organization increases the capital requirement for any Cross-Margining Participant, that Clearing Organization shall notify the other Clearing Organization of that fact, the amount of the additional capital required and the deadline for meeting the requirement.
- (iv) If either Clearing Organization imposes additional margin requirements with respect to a particular Cross-Margining Participant, or issues a special intra-day call for Margin in respect of any account of a Cross-Margining Participant, that Clearing Organization shall notify the other

Clearing Organization of that fact and the amount of the additional margin required.

- (v) Each Clearing Organization shall, upon request by the other Clearing Organization, furnish to such other Clearing Organization the following information with respect to each account carried by the Cross-Margining Participant with the Clearing Organization from whom the information is requested: (A) Margin required and on deposit in respect of such account, and (B) the dollar amount of any current settlement obligations owed to or by the Cross-Margining Participant that have been determined for such account in respect of Variation Margin, premiums, option exercises and any other settlements.
- (vi) Each Clearing Organization shall notify the other Clearing Organization of any disciplinary action (other than an appeal from an administrative fine) taken by its governing board, or committee or subcommittee thereof, against a Cross-Margining Participant involving non-compliance with financial or financial reporting requirements, or violation of the Rules.
- (vii) Each Clearing Organization shall notify the other Clearing Organization in the event that the notifying Clearing Organization learns of any major processing difficulties (including, but not limited to, back-office computer problems) or operational errors of a Cross-Margining Participant.
- (viii) Each Clearing Organization shall notify the other Clearing Organization in the event that a Cross-Margining Participant defaults in any settlement obligation.

In the case of any notice given pursuant to Clauses (i), (ii), (iii), (iv), (vii), or (viii) above, the Clearing Organization giving such notice shall also notify the other Clearing Organization when the condition giving rise to such notice is terminated. The Clearing Organizations hereby agree to inform one another, upon request, of the total size of, and aggregate amount of required contributions to, such Clearing Organization's Clearing Fund or Guaranty Fund, as applicable.

(b) Any notice required to be given pursuant to this Section 16 shall be given by telephone or electronic mail promptly upon the occurrence of the event giving rise to the requirement of notification, and any such notice given by telephone shall be promptly confirmed in writing. Each such notice shall be directed as follows:

to FICC:

Fixed Income Clearing Corporation
570 Washington Blvd.
Jersey City, New Jersey 07310
Attention: Group Chief Risk Officer
Telephone: 212-855-3450
E-mail: FICCPProductRisk@DTCC.com

and to:

Fixed Income Clearing Corporation
570 Washington Blvd.
Jersey City, New Jersey 07310
Attention: General Counsel, General Counsel's Office
E-mail: gcocontractnotices@dtcc.com

to CME:

Chicago Mercantile Exchange Inc.
20 S. Wacker Drive Chicago, IL 60606
Attention: President, CME Clearing
Chief Risk Officer, CME Clearing
Telephone: 312-648-3888
Fax No.: 312-930-3187
E-mail: ClearingHouseRiskTeam@cmegroup.com

and to:

Chicago Mercantile Exchange Inc.
20 S. Wacker Drive Chicago, IL 60606
Attention: General Counsel, Legal Department
E-mail: legalnotices@cmegroup.com

In case of the absence or unavailability of any officer named above, telephone calls shall be directed to another individual who has been designated in writing by the Clearing Organizations as authorized to receive such telephone calls. Prior to the Effective Date of this Agreement, each Clearing Organization shall provide the other with the name and telephone number of any other individual designated by such Clearing Organization pursuant to the preceding sentence.

(c) In the event that notice is given by either Clearing Organization pursuant to this Section 16, such Clearing Organization shall furnish to the other Clearing Organization upon request such additional information or documents relating to the circumstances leading to the notice as may reasonably be requested by the Clearing Organization receiving the notice.

17. Liability.

(a) TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, EXCEPT AS EXPRESSLY PROVIDED IN PARAGRAPH (b), NEITHER PARTY

HERETO SHALL BE LIABLE TO ANY OTHER HEREUNDER FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, OR FOR LOSS OF PROFITS, GOODWILL OR CONTRACTS, OR FOR THE PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER ARISING FROM NEGLIGENCE, BREACH OF CONTRACT OR OTHERWISE, AND WHETHER OR NOT ANY PARTY HERETO SHALL HAVE BEEN ADVISED OF OR OTHERWISE MIGHT HAVE ANTICIPATED THE POSSIBILITY OF SUCH DAMAGES.

(b) Notwithstanding the foregoing, the limitations set forth in this Section 17 will not apply to a Clearing Organization's breach of its obligations under Section 10.

18. General Provisions.

(a) Further Assurances. Each Party agrees, without additional consideration, to execute and deliver such instruments and take such other actions as shall be reasonably required or as shall be reasonably requested by the other party in order to carry out the transactions, agreements and covenants contemplated by this Agreement.

(b) Amendment, Modification and Waiver. Except as expressly provided for herein, this Agreement, including the main body of this Agreement and all exhibits hereto, may be modified, supplemented or otherwise amended only by an instrument in writing signed on behalf of a duly authorized representative of each Party and in compliance with all applicable laws. A Party may temporarily waive or modify any condition intended to be for its benefit provided such waiver shall be in writing signed by the Party to be charged. The failure of a Party to exercise or enforce any right conferred upon it by this Agreement shall not be deemed to be a waiver of any such right or operate so as to bar the exercise or enforcement thereof at any time or times thereafter. No waiver by either Party hereunder shall be effective unless agreed to pursuant to a writing signed by an authorized representative of each Party.

(c) Governing Law. The validity and effectiveness of this Agreement shall be governed by, and construed and enforced in accordance with, the internal laws of the State of New York, without giving effect to the provisions, policies or principles of any state law relating to choice or conflict of laws. Subject to Paragraph (n), any legal action or proceeding with respect to this Agreement may be brought exclusively in the federal or state courts located in New York, New York, including the United States District Court for the Southern District of New York, and the Parties hereby (i) irrevocably submit to the exclusive jurisdiction of such courts, and (ii) irrevocably waive, and agree not to assert by way of motion, defense or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the action is brought in an inconvenient forum, that the venue of the action is improper, or that this Agreement or the transactions contemplated by this Agreement may not be enforced in or by any of the above-named courts. Service of process shall be in any manner allowed by applicable law.

(d) Notices. Unless otherwise expressly provided herein, all notices and other communications pertaining to the Agreement: (i) will be in writing; (ii) shall be delivered by

certified or registered mail via the United States Postal Service, postage prepaid, by hand, by any nationally recognized private courier (e.g., Federal Express, UPS, DHL) or via electronic mail; (iii) shall be effective (A) if mailed via certified or registered mail, on the date five (5) calendar days after the date of mailing, or (B) if sent via electronic mail, hand delivered or delivered by private courier, on the date of delivery; and (iv) shall be addressed as follows:

If to FICC:

Fixed Income Clearing Corporation
570 Washington Blvd.
Jersey City, New Jersey 07310
Attention: Group Chief Risk Officer
Telephone: 212-855-3450
E-mail: FICCPProductRisk@DTCC.com

With a copy (which shall not constitute notice) to:

Fixed Income Clearing Corporation
570 Washington Blvd.
Jersey City, New Jersey 07310
Attention: General Counsel, General Counsel's Office
E-mail: gcocontractnotices@dtcc.com

If to CME:

Chicago Mercantile Exchange Inc.
20 S. Wacker Drive Chicago, IL 60606
Attention: President, CME Clearing
Chief Risk Officer, CME Clearing
Telephone: 312-648-3888
Fax No.: 312-930-3187
E-mail: ClearingHouseRiskTeam@cmegroup.com

With a copy (which shall not constitute notice) to:

Chicago Mercantile Exchange Inc.
20 S. Wacker Drive Chicago, IL 60606
Attention: General Counsel, Legal Department
E-mail: legalnotices@cmegroup.com

or to such other address or addresses as may hereafter be specified by written notice given by one Party to the other.

(e) Assignment. Except as otherwise expressly provided herein, neither Party shall assign or otherwise transfer this Agreement, or any of its rights or obligations under this Agreement, without the prior written approval of the other Party, which approval shall not be unreasonably withheld, delayed or conditioned. Any purported assignment or transfer in violation of this Paragraph (e) shall be void.

(f) Counterparts. This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which together shall constitute one and the same instrument. A complete set of counterparts shall be lodged with each Party.

(g) Headings. References to sections, paragraphs and exhibits are to sections, paragraphs and exhibits of and to this Agreement, unless otherwise indicated. Section headings are inserted for convenience of reference only and shall not affect the construction of this Agreement. The singular number shall include the plural, and vice versa. Any use of the word “including” will be interpreted to mean “including, but not limited to,” unless otherwise indicated. References to any Person (including the Parties and any other entities referred to) shall be construed to mean such Person and its successors in interest and permitted assigns, as applicable.

(h) Entire Agreement. This Agreement, together with all exhibits hereto, constitutes the entire understanding between the Parties with respect to the subject matter hereof and supersedes all prior representations, agreements, negotiations and discussions between the Parties with respect to the subject matter hereof. This Agreement may be accepted in electronic form (e.g., by an electronic or digital signature).

(i) Invalid Provision. Each provision of this Agreement shall be considered separable; and if, for any reason, any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such determination shall not affect the enforceability of the remainder of this Agreement or the validity, lawfulness, or enforceability of such provision in any other jurisdiction.

(j) Effective Date. This Agreement shall become effective on the later of (i) the date agreed by the parties and (ii) the date on which all necessary regulatory approvals of this Agreement have been received by FICC and CME (the “Effective Date”).

(k) Force Majeure. If the performance of this Agreement by either Party (other than the payment of any amounts due hereunder) is prevented, hindered, delayed or otherwise made impracticable by reason of any cause beyond a Party’s reasonable control, including any flood, epidemic, pandemic, riot, fire, judicial or governmental action, labor dispute, failure or degradation of any third party system or service, or act of war or terrorism (each, a “Force Majeure Event”), that party shall be excused from such performance to the extent, including for the duration of time, that it is prevented, hindered or delayed by such Force Majeure Event. In the event a Party becomes aware of a Force Majeure Event that will affect its performance under this Agreement, it shall so notify the other Party as soon as reasonably practicable. The Parties shall thereafter work together to take reasonable steps to mitigate the effects of any inability to perform or any delay in performance, if practicable.

(l) Remedies Not Exclusive. No remedy conferred by any provision of this Agreement is intended to be exclusive of any other remedy, except as expressly provided in this Agreement, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise.

(m) No Third-Party Beneficiaries. This Agreement is binding upon, and shall inure to the benefit of, the Parties and their respective administrators, legal representatives, successors, and permitted assigns. The Parties agree that no provision of this Agreement is intended, expressly or by implication, to purport to confer a benefit or right of action upon a third party (whether or not in existence, and whether or not named, as of the date hereof), other than Persons entitled to indemnification pursuant to Section 12, who are third party beneficiaries of Section 12 (and no other provisions) of this Agreement.

(n) Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered as of the date first above written.

FIXED INCOME CLEARING CORPORATION

By: _____

CHICAGO MERCANTILE EXCHANGE INC.

By: _____

EXHIBIT A

CME ELIGIBLE PRODUCTS

CBT	26	2-year T-Note Futures
CBT	3YR	3-year T-Note Futures
CBT	25	5-Year T-Note Futures
CBT	21	10-Year T-Note Futures
CBT	17	U.S. Treasury Bond Futures
CBT	TN	Ultra Ten-Year T-Note Futures
CBT	UBE	Ultra U.S. Treasury Bond Futures
CBT	TWE	20-Year U.S. Treasury Bond Futures
CBT	41	30-Day Federal Funds Futures
CME	ED	Eurodollar Futures
CME	EM	1-Month Eurodollar Futures
CME	SR1	One-Month SOFR Futures
CME	SR3	Three-Month SOFR Futures

EXHIBIT B

FICC ELIGIBLE PRODUCTS

“U.S. Treasury securities” which for purposes of this Exhibit B refers to Treasury notes and bonds.

APPENDIX A

FIXED INCOME CLEARING CORPORATION / CHICAGO MERCANTILE EXCHANGE INC. CROSS-MARGINING PARTICIPANT AGREEMENT (COMMON MEMBER) (referred to as the “agreement”)

The undersigned (“Member”) is a Government Securities Division (“GSD”) Netting Member of Fixed Income Clearing Corporation (“FICC”) and a clearing member of Chicago Mercantile Exchange Inc. (“CME”). The term “Clearing Organization” means either FICC or CME. Member hereby elects to become a Cross-Margining Participant for purposes of the Cross-Margining Arrangement between FICC and CME and the Rules. Capitalized terms used in this agreement that are undefined shall have the meanings given to them in the Cross-Margining Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Member agrees to be bound by the GSD Rules and the CME Rules applicable to Netting Members, Clearing Members and Cross-Margining Participants and by the provisions of the Cross-Margining Agreement between FICC and CME (the “Cross-Margining Agreement”), as any of the foregoing may be in effect from time to time.

Without limiting the generality of the foregoing, Member unconditionally promises immediate payment of any payment or reimbursement obligations (including the Reimbursement Obligation) to a Clearing Organization arising under the Cross-Margining Agreement or the Rules in respect of the Cross-Margining Accounts, **(including any such Cross-Margining Account established for one or more Eligible Affiliate(s) (each such Eligible Affiliate, a “Participating Affiliate,” and such Cross-Margining Account, an “Affiliate Account”).** Member further agrees that, if a Clearing Organization has declared a Default Event with respect to Member, then the other Clearing Organization may exercise any rights under its Rules to terminate, suspend or otherwise cease to act for or limit the activities of Member (such actions also shall be considered a “Default Event”).

Member as agent for each of its Participating Affiliates (i) unconditionally promises immediate payment of any payment or reimbursement obligations (including the Reimbursement Obligation) to a Clearing Organization arising under the Cross-Margining Agreement or the Rules in respect of the Affiliate Account, (ii) agrees that all Participating Affiliate(s) shall be jointly and severally liable for any payment or reimbursement obligations to each Clearing Organization arising under this Agreement, the Cross-Margining Agreement or the Rules in respect any Cross-Margining Account, in an amount up to the liquidation value of the positions maintained for the Participating Affiliate in any Affiliate Account and, without duplication, the value or value realized on the Collateral held in an Affiliate Account in which it does participate, and (iii) agrees that each Participating Affiliate is bound by the GSD Rules and the CME Rules as applicable to them and by the provisions of this Agreement and the Cross-Margining Agreement, as any of the foregoing may be in effect from time to time. Member represents and warrants to and for the benefit of the Clearing Organizations that it has full power and authority to bind each of its Participating Affiliates to the terms in the foregoing sentence and that before permitting an Eligible Affiliate to be a Participating Affiliate it will have obtained such Participating

Affiliate's written consent to such terms. Such written consent shall be provided to the Clearing Organizations upon their request.

Member further agrees and acknowledges on behalf of each Participating Affiliate that (a) any Affiliate Account carried at CME in which the Participating Affiliate participates is a house account (as that term is used in the CME Rules) of the Member for all purposes of the CME Rules, (b) positions and any value realized upon liquidation of positions, Collateral and any value realized upon the Collateral and any other amounts received by CME in respect of the Affiliate Account are and will be treated as assets of the Member under the CME Rules and are available to CME to apply to amounts the Member may owe to CME under CME Rules as a clearing member, (c) to support and ensure treatment of assets in an Affiliate Account of the Member as assets of the Member, in addition to CME's rights and remedies under CME Rules, each Participating Affiliate is jointly and severally liable to CME for payment of amounts owed by the Member to CME in respect of its house accounts, payable following a Default Event of the Member, up to the value of the assets in the Affiliate Account after exercise of the rights, remedies and obligations of the Clearing Organizations under the Cross-Margining Agreement, this agreement and the Rules to manage the Default Event, and (d) positions, Collateral and any other assets in the Affiliate Account at CME are "member property" as that term is defined in and for purposes of the CFTC Part 190 Regulations. Member represents and warrants to and for the benefit of CME that it has full power and authority to bind each of its Participating Affiliates to the terms in the foregoing sentence and that before permitting an Eligible Affiliate to be a Participating Affiliate it will have obtained such Participating Affiliate's written consent to such terms. Such written consent shall be provided to CME upon its request.

Member hereby pledges, as security for its or its Participating Affiliates' present and future payment and reimbursement obligations to FICC and CME arising from Member's Cross-Margining Accounts (including, without limitation, the Reimbursement Obligations), ~~and~~ or otherwise under this Agreement, and on behalf of itself and each Participating Affiliate, grants to each Clearing Organization a first priority continuing security interest in, lien on and right of set-off against all of ~~its~~ positions, margin deposits or other property held by or subject to the control of either Clearing Organization including any and all Net Gains (and, in the case of FICC, all Actual Deposits) in respect of the Member's Cross-Margining Accounts (including, without limitation, any Affiliate Account) and the proceeds in respect thereof (such positions, margin deposits, property and proceeds, the "Collateral"). Without limiting the generality of the foregoing, Member agrees that (i) the rights of each Clearing Organization set forth in the preceding sentence are in addition to any other rights arising out of the New York Uniform Commercial Code or other statute, common law, or governmental regulation, or under their respective Rules, (ii) Member will execute, deliver, file and record any financing statement, specific assignment or other document and take any other action necessary or desirable and reasonably requested by FICC or CME to create, preserve, perfect or validate the security interest or lien granted in this paragraph, to enable such Clearing Organization to exercise or enforce its rights under this agreement, and (iii) Member will promptly give notice to the Clearing Organizations of, and defend against, any suit, action, proceeding or lien that involves or could adversely affect the security interest and lien granted by Member in this agreement.

Member agrees that Clearing Data (as hereinafter defined) regarding Member may be disclosed by FICC to CME and by CME to FICC. "Clearing Data" means transactions and other data that is received by FICC or CME in its clearance and/or settlement processes, and such data, reports or summaries thereof which may be produced as a result of processing such data, including data regarding Member's positions, margin requirements and deposits.

Neither FICC nor CME guarantees to Member that the calculation of the Margin Reduction pursuant to the Cross-Margining Agreement will yield any, or the highest possible, Margin Reduction.

Member represents and warrants to and for the benefit of the Clearing Organizations that: (i) it has full power and authority to execute and deliver this agreement and to perform its obligations hereunder; (ii) its execution and delivery of this agreement and the performance of its obligations hereunder have been duly authorized by all requisite action; (iii) all authorizations of and exemptions, actions, approvals and consents by, and all notices to or filings with, any governmental or other authority or other persons that are necessary to enable it to execute and deliver this agreement and to perform its obligations hereunder have been obtained or made and are in full force and effect, and it has complied with all of the conditions thereof; (iv) this agreement has been duly executed and delivered by it; (v) this agreement is a legal, valid, and binding obligation on its part, enforceable against it in accordance with its terms; (vi) its execution, delivery and performance of this agreement do not violate or conflict with any law, regulation, rule of self-regulatory organization or judicial or governmental order or decree to which it is subject, any provision of its constitutional or governing documents, or any term of any agreement or instrument to which it is a party, or by which its property or assets is bound or affected; (vii) it has the power to grant, and has granted, to each Clearing Organization a first priority continuing security interest in and lien on the Collateral and has taken all necessary actions to authorize the granting of such security interest and lien; (viii) it is the sole owner of or otherwise has the right to transfer all Collateral transferred to each Clearing Organization pursuant to this agreement, the Cross-Margining Agreement and the Rules, free and clear of any security interest, lien, encumbrance or other restrictions (other than any security interest or lien granted or created pursuant to this agreement or any other agreement entered into in connection with the Cross-Margining Agreement and the Rules); ~~and~~ (ix) all transactions and positions in ~~Member's each~~ Account of Member will be solely (A) for Member's own account and/or (B) for the account of ~~Non-Customers. The term "Non-Customer" means any person that is an officer, director, partner or other related person of the Member (x) that is not a "customer" within the meaning~~ more Eligible Affiliate(s) of Rules 8c-1 or 15c2-1 promulgated by the SEC under the Exchange Act and (y) whose account on the records Member; and (x) in the event any of the Member is a "proprietary account" within transactions and positions in FICC Eligible Products in the Cross-Margining Account of Member are for the account of one or more Eligible Affiliate(s) of Member, (A) the Account (as defined in the GSD Rules) in which the meaning of Rule 1.3 promulgated by transactions and positions in FICC Eligible Products are recorded is an Agent Clearing Member Omnibus Account (as defined in the CFTC under GSD Rules) that contains exclusively the CEA positions of such Eligible Affiliate(s), and (B) the margin posted to FICC to support those positions is not subject to segregation under the GSD Rules. The representations and warranties in this paragraph shall be effective as of the date of this agreement and the date of each transaction or transfer relating to this agreement or the Cross-Margining Agreement.

Without limiting any provision of the GSD Rules, the CME Rules or any other agreement between Member and FICC or CME, any transfer by the Member of any rights it may have in the Net Gain (or any component thereof) shall be null and void and, in any event, subject to the prior payment in full of all payment and reimbursement obligations (including the Reimbursement Obligation) under the Cross-Margining Agreement.

This agreement shall be effective, when accepted by both FICC and CME. Member shall be bound by the current terms of this agreement as well as any amended terms of which it has received notice. This agreement may be terminated by the Member upon two Business Days' written notice to FICC and CME and such termination shall be effective upon written acknowledgement by both FICC and CME; *provided*, however, notwithstanding any such termination, this agreement shall remain effective unless and until Member satisfies its Stand-alone Margin Requirement at each Clearing Organization. Either FICC or CME may amend or terminate this agreement immediately upon notice to the Member. Notwithstanding the previous two sentences, the Member's obligations under this agreement and the Cross-Margining Agreement shall survive the termination of this agreement.

This agreement may be executed in counterparts, each of which shall be deemed to be an original, and all which taken together shall be deemed one and the same agreement. This agreement shall be governed by and construed in accordance with the laws of the State of New York.

Member

Name of Member:

By: _____

Print Name: _____

Title: _____

Accepted By:

Fixed Income Clearing Corporation

By: _____

Print Name: _____

Title: _____

Date: _____

Chicago Mercantile Exchange Inc.

By: _____

Print Name: _____

Title: _____

Date: _____

This agreement is dated as of _____.

[To be filled in upon acceptance of CME and FICC]

APPENDIX B

FIXED INCOME CLEARING CORPORATION / CHICAGO MERCANTILE EXCHANGE INC. CROSS-MARGINING PARTICIPANT AGREEMENT (AFFILIATED MEMBERS) (referred to as the “agreement”)

The undersigned “FICC Member” is a Government Securities Division (“GSD”) Netting Member of Fixed Income Clearing Corporation (“FICC”). The undersigned “CME Member” is a clearing member of Chicago Mercantile Exchange Inc. (“CME”). The FICC Member and CME Member are each referred to herein as a “Member” and together as the “Members.” The term “Clearing Organization” means either FICC or CME. FICC Member hereby elects to become a Cross-Margining Participant of FICC, and CME Member hereby elects to become a Cross-Margining Participant of CME, for purposes of the Cross-Margining Arrangement between FICC and CME and the Rules. Capitalized terms used in this agreement that are undefined shall have the meanings given to them in the Cross-Margining Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, FICC Member agrees to be bound by the GSD Rules applicable to Netting Members, Clearing Members and Cross-Margining Participants; CME Member agrees to be bound by the CME Rules applicable to Clearing Members and Cross-Margining Participants; and FICC Member and CME Member both agree to be bound by the provisions of the Cross-Margining Agreement between FICC and CME (the “Cross-Margining Agreement”), as any of the foregoing may be in effect from time to time.

Without limiting the generality of the foregoing, each Member unconditionally promises immediate payment of any of its and its Affiliate’s payment or reimbursement obligations (including the Reimbursement Obligation) to a Clearing Organization arising under the Cross-Margining Agreement or the Rules in respect of the Cross-Margining Accounts. Each Member further agrees to be jointly and severally liable to the Clearing Organizations for any margin, settlement or other obligation arising from transactions or positions in the Members’ Cross-Margining Accounts. The Members further agree that, if a Clearing Organization has declared a Default Event with respect to one Member, then the other Clearing Organization may exercise any rights under its Rules to terminate, suspend or otherwise cease to act for or limit the activities of the other Member (such actions also shall be considered a “Default Event”).

FICC Member hereby pledges, on behalf of itself and its Affiliate, as security for the present and future payment and reimbursement obligations of either Member to FICC and CME arising from the Members’ Cross-Margining Accounts (including, without limitation, the Reimbursement Obligation), and grants to FICC a first priority continuing security interest in, lien on and right of set-off against all of its positions, margin deposits or other property held by or subject to the control of FICC including any and all Net Gains and all Actual Deposits in respect of the Members’ Cross-Margining Accounts and the proceeds in respect thereof (such positions, margin deposits, property and proceeds, the “Collateral”). CME Member hereby pledges, on behalf of itself and its Affiliate, as security for the present and future payment and reimbursement obligations of either Member to CME and FICC arising from the Members’ Cross-Margining Accounts (including, without limitation, the Reimbursement Obligation), and grants to CME a first priority continuing security interest in, lien on and right of set-off against all of its positions, margin

deposits or other property held by or subject to the control of CME including any and all Net Gains in respect of the Members' Cross-Margining Accounts and the proceeds in respect thereof (such positions, margin deposits, property and proceeds, also referred to as the "Collateral"). Without limiting the generality of the foregoing, each Member agrees that (i) the rights of each Clearing Organization set forth in the preceding sentences are in addition to any other rights arising out of the New York Uniform Commercial Code or other statute, common law, or governmental regulation, or under their respective Rules, (ii) Member will execute, deliver, file and record any financing statement, specific assignment or other document and take any other action necessary or desirable and reasonably requested by FICC or CME to create, preserve, perfect or validate the security interest or lien granted in this paragraph, to enable such Clearing Organization to exercise or enforce its rights under this agreement, and (iii) Member will promptly give notice to the Clearing Organizations of, and defend against, any suit, action, proceeding or lien that involves or could adversely affect the security interest and lien granted by Member in this agreement.

FICC Member and CME Member agree that Clearing Data (as hereinafter defined) regarding Member may be disclosed by FICC to CME and by CME to FICC. "Clearing Data" means transactions and other data that is received by FICC or CME in its clearance and/or settlement processes, and such data, reports or summaries thereof, which may be produced as a result of processing such data, including data regarding a Member's positions, margin requirements and deposits.

Neither FICC nor CME guarantees to FICC Member or CME Member that the calculation of the methodology used to determine the Margin Reduction pursuant to the Cross-Margining Agreement will yield any, or the highest possible, Margin Reduction for either FICC Member or CME Member.

Each of FICC Member and CME Member represents and warrants to and for the benefit of the Clearing Organizations that: (i) it has full power and authority to execute and deliver this agreement and to perform its obligations hereunder; (ii) its execution and delivery of this agreement and the performance of its obligations hereunder have been duly authorized by all requisite action; (iii) all authorizations of and exemptions, actions, approvals and consents by, and all notices to or filings with, any governmental or other authority or other persons that are necessary to enable it to execute and deliver this agreement and to perform its obligations hereunder have been obtained or made and are in full force and effect, and it has complied with all of the conditions thereof; (iv) this agreement has been duly executed and delivered by it; (v) this agreement is a legal, valid, and binding obligation on its part, enforceable against it in accordance with its terms; (vi) its execution, delivery and performance of this agreement do not violate or conflict with any law, regulation, rule of self-regulatory organization or judicial or governmental order or decree to which it is subject, any provision of its constitutional or governing documents, or any term of any agreement or instrument to which it is a party, or by which its property or assets is bound or affected; (vii) it has the power to grant, and has granted, to the Clearing Organization of which it is a Clearing Member a first priority continuing security interest in and lien on the Collateral and has taken all necessary actions to authorize the granting of such security interest and lien; (viii) it is the sole owner of or otherwise has the right to transfer all Collateral transferred to the Clearing Organization of which it is a Clearing Member pursuant to this agreement, the Cross-Margining Agreement and the Rules, free and clear of any security interest, lien, encumbrance or other restrictions (other than any security interest or lien granted or created

pursuant to this agreement or any other agreement entered into in connection with the Cross-Margining Agreement and the Rules); and (ix) all transactions and positions in the Member's Cross-Margining Account at the Clearing Organization of which it is a member will be solely for its own account, the account of its Affiliate or the account of a Non-Customer. The term "Non-Customer" means any person that is (x) an officer, director, partner or other related person of the FICC Member that is not a "customer" of the FICC Member within the meaning of Rules 8c-1 or 15c2-1 promulgated by the SEC under the Exchange Act *and* (y) an officer, director, partner or other related person of the CME Member whose account on the records of the CME Member is a "proprietary account" within the meaning of Rule 1.3 promulgated by the CFTC under the CEA. The representations and warranties in this paragraph shall be effective as of the date of this agreement and the date of each transaction or transfer relating to this agreement or the Cross-Margining Agreement.

Each of FICC Member and CME Member further represents and warrants to FICC and CME that they are Affiliates of one another as defined in the Cross-Margining Agreement. FICC Member and CME Member acknowledge and agree that they will be treated as Cross-Margining Affiliates for purposes of the Cross-Margining Arrangement and that, as a result, a default by FICC Member to FICC may result in a loss to CME Member, and a default by CME Member to CME may result in a loss to FICC Member.

Without limiting any provision of GSD's Rules, the CME Rules or any other agreement between FICC Member and/or CME Member and FICC or CME, any transfer by the FICC Member or the CME Member of any rights it may have in the Net Gain (or any component thereof) shall be null and void and, in any event, subject to the prior payment in full of all payment and reimbursement obligations (including the Reimbursement Obligation) under the Cross-Margining Agreement.

This agreement shall be effective, when accepted by both FICC and CME. Each Member shall be bound by the current terms of this agreement as well as any amended terms of which it has received notice. This agreement may be terminated by FICC Member or CME Member upon two Business Days' written notice to FICC and CME and such termination shall be effective upon written acknowledgement by both FICC and CME; *provided*, however, notwithstanding any such termination, this agreement shall remain effective unless and until Member satisfies its Stand-alone Margin Requirement at each Clearing Organization. Either FICC or CME may amend or terminate this agreement immediately upon notice to FICC Member and CME Member. Notwithstanding the previous two sentences, the FICC Member's and the CME Member's obligations under this agreement and the Cross-Margining Agreement shall survive the termination of this agreement.

This agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which taken together shall be deemed one and the same agreement. This agreement shall be governed by and construed in accordance with the laws of the State of New York.

FICC Member

Name of Member:

By: _____

Print Name: _____

Title: _____

Accepted By:

Fixed Income Clearing Corporation

By: _____

Print Name: _____

Title: _____

Date: _____

CME Member

Name of Member:

By: _____

Print Name: _____

Title: _____

Chicago Mercantile Exchange Inc.

By: _____

Print Name: _____

Title: _____

Date: _____

This agreement is dated as of _____.

[To be filled in upon acceptance of CME and FICC]