

Required fields are shown with yellow backgrounds and asterisks.

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

File No. * SR 2025 - * 025

Amendment No. (req. for Amendments *)

Filing by Fixed Income Clearing Corporation

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

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

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

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

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

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

Amend and Restate the Second Amended and Restated Cross-Margining Agreement between FICC and CME and Amend Related GSD Rules

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * [Redacted] Last Name * [Redacted]

Title * [Redacted]

E-mail * RuleFilingAdmin@dtcc.com

Telephone * [Redacted] Fax [Redacted]

Signature

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

Date 12/12/2025

(Title *)

By [Redacted]

[Redacted]

(Name *)

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

[Redacted] Date: 2025.12.12 10:18:17 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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Narrative - FICC-CME Customer (End

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 Customer (En

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

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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

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

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

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit 3A (Redacted) - CME Cross-M
Exhibit 3B (Redacted) - SEC Petition -
Exhibit 3C (Redacted) - CFTC Petition

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

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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Exhibit 5A - CME Cross-Margining (En
Exhibit 5B - CME Cross-Margining (En

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,” and collectively with FICC, the “Clearing Organizations” or “Parties”). The proposed rule change consists of (i) a proposed Third Amended and Restated Cross-Margining Agreement (the “Third A&R Agreement”) between FICC and CME, which would replace the Second Amended and Restated Cross-Margining Agreement between the Parties (the “Second A&R Agreement”) in its entirety and would be incorporated into the FICC Government Securities Division (“GSD”) Rulebook (“GSD Rules”), and (ii) a number of related rule changes to the GSD Rules. Together, the proposed changes would extend the availability of the Cross-Margining Arrangement to positions cleared and carried for customers by a dually registered broker-dealer (“BD”) and futures commission merchant (“FCM”) that is a common member of FICC and CME (an “Eligible BD-FCM”).¹ The proposed rule changes, including the Third A&R Agreement, are provided in Exhibit 5.

(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 June 17, 2025.

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

(a) Purpose

Executive Summary

Currently, the Cross-Margining Arrangement allows FICC and CME to recognize for margin purposes the offsetting risk of certain positions in futures on U.S. Treasury securities and other interest rate futures and Treasury market transactions (“Eligible Positions”) maintained by a member of both Clearing Organizations (a “Joint Clearing Member”) for itself or certain eligible affiliates (an “Eligible Affiliate”), or by affiliated members of CME and FICC (each, a “Cross-Margining Affiliate,” and each Joint Clearing Member and each Cross-Margining

¹ The Commission recently approved FICC’s proposed rule change to enter into the Second Amended and Restated Cross-Margining Agreement between FICC and CME. See Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change to Amend and Restate the Cross-Margining Agreement between FICC and CME, 90 FR 22538 (May 28, 2025). The Second A&R Agreement has thus been 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.

Affiliate, a “Cross-Margining Participant”), 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 Joint Clearing Member’s or a pair of Cross-Margining Affiliates’ obligations (the “Proprietary Cross-Margining Arrangement”). In particular, the Proprietary Cross-Margining Arrangement allows the Clearing Organizations to consider the net risk of a Joint Clearing Member’s and its Eligible Affiliates’ Eligible Positions or a pair of Cross-Margining Affiliates’ Eligible Positions at FICC and CME when setting margin requirements for such positions.² Any resulting margin reductions create capital efficiencies for the Cross-Margining Participants and their Eligible Affiliates and incentivize them to maintain or carry portfolios that present lower overall risk.

FICC and CME have submitted to the Securities and Exchange Commission (the “Commission”) and the Commodity Futures Trading Commission (the “CFTC”) petitions for exemptive relief from certain provisions of the Commodity Exchange Act (“CEA”) and Securities Exchange Act (“Exchange Act”) that would enable FICC and CME to make cross-margining available to customers (other than an Eligible Affiliate) of an Eligible BD-FCM (“Cross-Margining Customers”).³ The proposed rule changes aim to set forth a customer cross-margining arrangement that is consistent with the descriptions in the Petitions and the requirements of the Proposed Orders (the “Customer Cross-Margining Arrangement”). The Customer Cross-Margining Arrangement would allow Cross-Margining Customers to benefit from the margin reductions that are currently only available to Cross-Margining Participants and their Eligible Affiliates under the Proprietary Cross-Margining Arrangement. As a result, it would facilitate access to clearing for indirect participants, promote the maintenance of more balanced portfolios that present lower risk, and enhance liquidity in, and otherwise promote the resilience and robustness of, the Treasury market.

The Third A&R Agreement would effectuate the Customer Cross-Margining Arrangement via the following features:

- Eligibility Criteria and Participation Requirements. The Third A&R Agreement would set out the eligibility criteria for a Joint Clearing Member and its Cross-Margining Customer to participate in the Customer Cross-Margining Arrangement, as

² See Section 4 of the Second A&R Agreement, supra note 1.

³ See Letter from the Fixed Income Clearing Corporation and Chicago Mercantile Exchange Inc. to Vanessa Countryman dated as of December 11, 2025 and attached hereto as Confidential Exhibit 3B (the “SEC Petition”) and Letter from the Fixed Income Clearing Corporation and Chicago Mercantile Exchange Inc. to Christopher J. Kirkpatrick dated as of May 14, 2025 and attached hereto as Confidential Exhibit 3C (the “CFTC Petition”, and collective with the SEC Petition, the “Petitions”, and the proposed Commission and CFTC orders as described in the Petitions, the “Proposed Orders”).

well as the requirements that would apply to such a Joint Clearing Member and its Cross-Margining Customer. These include the requirements that:

- A Joint Clearing Member be an Eligible BD-FCM;
- Each Cross-Margining Customer be a “futures customer” within the meaning of CFTC Regulation 1.3 and a “Sponsored Member” or “Executing Firm Customer” as defined under the GSD Rules;
- The Joint Clearing Member enter into a participant agreement with the Clearing Organizations; and
- The Joint Clearing Member enter into an agreement with each Cross-Margining Customer containing certain terms, including that the Cross-Margining Customer agrees to subordinate its claims under the Securities Investor Protection Act of 1970 (“SIPA”) and Subchapter III of Chapter 7 of the U.S. Bankruptcy Code in relation to its cross-margined positions and associated margin (the “Subordination Agreement”).

As discussed in greater detail below, these criteria and requirements for participation are designed to ensure that each participating Cross-Margining Customer and its Joint Clearing Member satisfy certain conditions set forth in the Proposed Orders.

- Customer Cross-Margining Accounts. The Third A&R Agreement would include provisions to enable Eligible BD-FCMs to establish “Customer Cross-Margining Accounts” for purposes of recording Eligible Positions at the Clearing Organizations (such Eligible Positions in a Customer Cross-Margining Account, “Customer Positions”) and set forth a definition of “Proprietary Cross-Margining Accounts” to refer to the accounts established by Eligible BD-FCMs at the Clearing Organizations for the purposes of recording positions subject to the Proprietary Cross-Margining Arrangement (“Proprietary Positions”).
- Margin Methodology. The Third A&R Agreement would include provisions describing the methodology for calculating potential reductions to the margin requirements for Customer Positions. As discussed in greater detail below, FICC is proposing to apply the same margin reduction methodology to Customer Positions as it applies to Proprietary Positions, with margin reductions calculated on a customer-by-customer basis for each Cross-Margining Customer.
- Default Management. The Third A&R Agreement would include provisions to address how the Clearing Organizations would manage a default of a Cross-Margining Participant (a “Defaulting Member”) carrying positions for Cross-Margining Customers. Under the Third A&R Agreement, the Clearing Organizations would follow substantially the same approach to handling Customer Positions carried by a Defaulting Member as applies to Proprietary Positions. However, Customer Positions and Proprietary Positions and associated margin would form part of separate “Liquidation Portfolios” and therefore would not be netted against one

another in calculating Net Gain or Net Loss (or VM Net Gain or VM Net Loss) under the Cross-Margining Agreement. By virtue of these changes, the Clearing Organizations would not be able to apply Customer Positions or associated margin to the obligations arising under a Defaulting Member's Proprietary Positions. The Third A&R Agreement would also include edits clarifying that the Clearing Organizations may "port" Customer Positions to another clearing member in a default scenario.

In addition to replacing the Second A&R Agreement with the Third A&R Agreement, FICC proposes the following changes to the GSD Rules to effectuate the Customer Cross-Margining Arrangement:

- Account Structure. FICC proposes to create a new Account type, the "Cross-Margining Customer Account," for purposes of recording FICC-cleared Customer Positions.
- Margin Methodology and Treatment. As discussed in greater detail below, under the proposed changes, FICC would collect and hold Cross-Margining Customer Margin in a substantially similar manner to how it collects and holds "Segregated Customer Margin" (as defined under the GSD Rules), with certain adjustments to ensure consistency with the requirements of the Proposed Orders and the general requirements and conventions applicable to futures. Consistent with how it treats Segregated Customer Margin, FICC would credit all Cross-Margining Customer Margin collected from an Eligible BD-FCM to a securities account on its books and records in the name of the Eligible BD-FCM for the benefit of its customers (a "Cross-Margining Customer Margin Custody Account"). FICC would also agree to treat all assets credited to the Cross-Margining Customer Margin Custody Account as "financial assets" credited to a "securities account" for which FICC is the "securities intermediary," as such terms are used in Article 8 of the Uniform Commercial Code as in effect in the State of New York ("NYUCC"). This treatment is designed to ensure that Cross-Margining Customer Margin does not form part of FICC's bankruptcy estate and is not exposed to the claims of FICC's general creditors, and is instead reserved for Eligible BD-FCMs claiming on behalf of their Cross-Margining Customers. Consistent with how it holds Segregated Customer Margin, FICC would hold Cross-Margining Customer Margin in a segregated account at a bank insured by the Federal Deposit Insurance Corporation and at the Federal Reserve Bank of New York (the "FRBNY"). In accordance with the Proposed Orders, any such account (other than one at the FRBNY) would need to be subject to a written notice consistent with the Proposed Orders.
- Conforming and Clarifying Changes. FICC proposes to make a number of clarifying and conforming edits to the GSD Rules, including (i) adding references to Cross-Margining Customer, Cross-Margining Customer Margin, Cross-Margining Customer Account, and Cross-Margining Customer Margin Requirements to relevant provisions that refer to Indirect Participants, initial margin collected by FICC, position accounts maintained by FICC, and FICC's initial margin requirements; (ii) removing the existing prohibition under Section 10(e) of Rule 3A on Sponsored Members from participating in the Cross-Margining Arrangement; (iii) expanding Rule 43, which

sets forth certain terms related to the Proprietary Cross-Margining Arrangement, to encompass the Customer Cross-Margining Arrangement; and (iv) removing references to the Market Professionals cross-margining arrangement, which is no longer offered by FICC.

The Third A&R Agreement would also include a number of clarifying and conforming edits, including to make clear that, with respect to both the Proprietary Cross-Margining Arrangement and Customer Cross-Margining Arrangement, FICC and CME would only manage a default of a Joint Clearing Member independently of one another if a joint management or buy-out by one of the Clearing Organizations were not legally permissible or possible or would result in substantially greater losses to each Clearing Organization.

In addition, the Second A&R 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 Third A&R Agreement.⁴

(i) The Proposed Third A&R Agreement

As noted above, FICC proposes to enter into the Third A&R Agreement with CME. The proposed changes to the Second A&R Agreement contained in the Third A&R Agreement are designed to make cross-margining available to Cross-Margining Customers consistently with the framework set out in the Proposed Orders. FICC believes that such amendments would promote the maintenance of more balanced portfolios that present lower risk and facilitate the access of indirect participants to central clearing in accordance with Rule 17ad-22 under the Exchange Act.

A. Eligibility Criteria and Participation Requirements

a. Eligibility Criteria for Joint Clearing Members

The Third A&R Agreement would set forth the eligibility criteria for a Cross-Margining Participant to participate in the Customer Cross-Margining Arrangement. To facilitate compliance with the conditions and limitations of the Proposed Orders, Section 2(a) of the Third A&R Agreement would provide that, to become a Cross-Margining Participant for the Customer Cross-Margining Arrangement and establish a Customer Cross-Margining Account, a Clearing Member would need to be a Joint Clearing Member that is both a BD registered with the Commission and an FCM registered with the CFTC (i.e., an Eligible BD-FCM).⁵ Section 3(a) of the Third A&R Agreement would further require that the Eligible BD-FCM hold the Cross-Margining Customer’s Customer Positions at FICC and associated money, securities and property together with such customer’s Customer Positions at CME and the associated “futures customer funds,” as defined in CFTC Regulation 1.3, held by the Eligible BD-FCM, in a “futures account,” as defined in CFTC Regulation 1.3, “in accordance with any conditions set forth in the

⁴ The SLA is provided as confidential Exhibit 3 to this proposed rule change.

⁵ See Section 2(a) of the proposed Third A&R Agreement.

regulatory approvals of [the Third A&R Agreement] issued by [the Commission] and CFTC and applicable law.”⁶

In addition, the Eligible BD-FCM would be required to enter into a participant agreement with FICC and CME in the form of Appendix C to the Third A&R Agreement (the “Customer Cross-Margining Clearing Member Agreement”), which is further described below.⁷ The definition of “Clearing Member Agreement” would correspondingly be amended to refer, with respect to the Proprietary Cross-Margining Arrangement, to the existing participant agreement currently attached as Appendix A or Appendix B to the Second A&R Agreement (the “Proprietary Clearing Member Agreement”), as applicable, and with respect to the Customer Cross-Margining Arrangement, to the Customer Cross-Margining Clearing Member Agreement.⁸

As a conforming change, Sections 2(a) and (c) and the first sentence of Section 2(a) of the Third A&R Agreement would also be amended to provide that the pre-existing language therein applies to a Cross-Margining Participant for the Proprietary Cross-Margining Arrangement.⁹

b. Definition of Customer and Non-Customer

The Customer Cross-Margining Arrangement would only be available for the positions carried by an Eligible BD-FCM for “Customers.” To ensure compliance with the limitations under the Proposed Orders of the types of persons eligible to be Cross-Margining Customers, the Third A&R Agreement would define “Customer” as an indirect clearing participant that meets the definition of futures customer set out in CFTC Regulation 1.3 and is a “Sponsored Member” or “Executing Firm Customer” as defined under the GSD Rules.¹⁰ CFTC Regulation 1.3 defines “futures customer” to mean any person who uses an FCM as an agent in connection with trading in any futures contract, but excludes persons whose futures positions are held in a “proprietary account.”¹¹ Any Customer wishing to participate in the Customer Cross-Margining Arrangement

⁶ See Section 3(a) of the proposed Third A&R Agreement.

⁷ See *infra* Part 3(a)(i)(G) “Customer Cross-Margining Clearing Member Agreement;” Section 2(d) of the proposed Third A&R Agreement; Appendix C “Fixed Income Clearing Corporation / Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member) [Customer Cross-Margining Program]” of the proposed Third A&R Agreement.

⁸ See Section 1 of the proposed Third A&R Agreement.

⁹ See Sections 2(a), (c) of the proposed Third A&R Agreement.

¹⁰ See Section 1 of the proposed Third A&R Agreement.

¹¹ See CFTC Regulation 1.3, definition of “futures customer” (defining “futures customer” as “any person who uses a futures commission merchant, introducing broker, commodity trading advisor, or commodity pool operator as an agent in connection with trading in any contract for the purchase of sale of a commodity for future delivery or any option on such contract; Provided, however, an owner or holder of a proprietary account as defined in

would need to enter into an agreement with its Eligible BD-FCM that includes certain terms described in greater detail below (the “Customer Agreement”).¹² Because affiliates of the Eligible BD-FCM would generally have their CME-cleared futures positions held in a proprietary account of the Eligible BD-FCM, such affiliates would not constitute “futures customers” under CFTC Regulation 1.3. However, Eligible Affiliates would continue to be able to access cross-margining under the Proprietary Cross-Margining Arrangement so long as they constitute “Non-Customers.”¹³ The Third A&R Agreement would revise the definition of “Non-Customer” to mean any affiliate of the Eligible BD-FCM or any person that is an officer, director, partner or other related person of the Eligible BD-FCM (i) that is not a “customer” of the Eligible BD-FCM within the meaning of SIPA, Subchapter III of Chapter VII of the U.S. Bankruptcy Code, or Exchange Act Rule 15c3-3, and (ii) whose CME-cleared positions are carried in a proprietary account of the Eligible BD-FCM.¹⁴

c. Relationship Between the Clearing Organizations and Cross-Margining Customers

Because a Cross-Margining Customer’s participation in the Customer Cross-Margining Arrangement would be intermediated through the Eligible BD-FCM, Section 2(a) of the Third A&R Agreement would specify that the Clearing Organizations would have no obligation to deal directly with a Cross-Margining Customer, and that a Cross-Margining Customer would have no right to assert a claim against a Clearing Organization with respect to, nor would a Clearing

this section shall not be deemed to be a futures customer within the meaning of sections 4d(a) and 4d(b) of the [CEA], the regulations in this chapter that implement sections 4d and 4f of the [CEA] and [CFTC Regulation] § 1.35, and such an owner or holder of such a proprietary account shall otherwise be deemed to be a futures customer within the meaning of the [CEA] and [CFTC Regulations] §§ 1.37 and 1.46 and all other sections of these rules, regulations, and orders which do not implement sections 4d and 4f of the [CEA].”); CFTC Regulation 1.3, definition of “proprietary account” (defining “proprietary account” as “futures, commodity option, or swap trading account carried on the books and records of” a person or entity for such person or entity itself or certain affiliates, as well as such account “of which ten percent or more is owned by. . . or an aggregate of ten percent or more of which is owned by more than one” such persons, entities, or affiliates).

¹² See infra Part 3(a)(i)(H) “Customer Agreement.”

¹³ See Section 3(b) of the proposed Third A&R Agreement (allowing the transactions, positions and margin that are maintained by an “Eligible Affiliate” to be maintained in a Cross-Margining Account provided that certain conditions, which are not proposed to be modified in the Third A&R Agreement, are satisfied); Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change to Amend and Restate the Cross-Margining Agreement between FICC and CME, 90 FR 31043 (July 11, 2025).

¹⁴ See Section 1 of the proposed Third A&R Agreement.

Organization be liable to a Cross-Margining Customer for, any obligations of a Clearing Organization in connection with the Cross-Margining Customer's participation in the Customer Cross-Margining Arrangement pursuant to the Third A&R Agreement.¹⁵ These terms are consistent with those applicable to Eligible Firm Customers under the GSD Rules, as well as those applicable to customers under CME's rules.¹⁶

B. Customer Cross-Margining Account

To effectuate the Customer Cross-Margining Arrangement, the Third A&R Agreement would include changes to enable an Eligible BD-FCM to establish a "Customer Cross-Margining Account" separate from any of its "Proprietary Cross-Margining Accounts."

A Customer Cross-Margining Account would be defined as, with respect to FICC, an Indirect Participants Account (as defined in the GSD Rules) at FICC maintained for Cross-Margining Customers and identified in FICC's books and records as being subject to the Third A&R Agreement (which, as discussed below, would be the "Cross-Margining Customer Account" under the GSD Rules) and with respect to CME, an account carried on the books and records of CME for an Eligible BD-FCM, which contains only the positions, transactions, and margin of that Eligible BD-FCM's Cross-Margining Customers.¹⁷ A Proprietary Cross-Margining Account would be defined as, with respect to FICC, a Proprietary Account at FICC (as defined in the GSD Rules) or an Indirect Participants Account at FICC that is maintained for Non-Customers and identified in FICC's books and records as being subject to the Third A&R Agreement, and, with respect to CME, an account carried on the books and records of CME for an Eligible BD-FCM, which contains only the positions, transactions, and margin of the "proprietary accounts" (as defined in CFTC Regulation 1.3) of the Eligible BD-FCM.¹⁸

The Third A&R Agreement would also define "Cross-Margining Account" to mean either a Proprietary Cross-Margining Account or a Customer Cross-Margining Account.¹⁹ An Eligible BD-FCM would be required to designate each Cross-Margining Account it opens at the Clearing Organizations as either a Customer Cross-Margining Account or a Proprietary Cross-Margining Account.²⁰

¹⁵ See Section 2(a) of the proposed Third A&R Agreement.

¹⁶ See GSD Rules, Rule 2, Section 4; Rule 8, Section 6(c)-(e); CME Rulebook, Rule 803.

¹⁷ See *id.*

¹⁸ See *id.*

¹⁹ See Section 1 of the proposed Third A&R Agreement.

²⁰ See Section 2(a) of the proposed Third A&R Agreement.

C. Margin Methodology

The Third A&R Agreement would also specify how potential margin reductions would be calculated for Customer Positions carried in a Customer Cross-Margining Account. As with Proprietary Positions, each Clearing Organization would calculate the margin savings that would result from viewing the “Combined Portfolio” of CME-cleared Customer Positions and FICC-cleared Customer Positions as a single portfolio rather than as separate standalone portfolios. The Clearing Organizations would then compare the respective margin reduction percentages, and each would then reduce the margin required for the Combined Portfolio by the lower percentage (subject to a cap of 80%). For Customer Positions, this process would occur on a Cross-Margining Customer-by-Cross-Margining Customer basis. In other words, each Cross-Margining Customer’s Customer Positions would form part of a separate Combined Portfolio. This customer-by-customer approach is consistent both with how futures contracts are required to be margined under the rules of the CFTC, as well as how FICC margins Segregated Indirect Participant positions.²¹

To implement this margin reduction methodology, the Third A&R Agreement would redefine “Combined Portfolio” to mean, in the case of a Pair of Cross-Margining Accounts consisting of Proprietary Cross-Margining Accounts, all Eligible Positions in such Cross-Margining Accounts, and in the case of a Pair of Cross-Margining Accounts consisting of Customer Cross-Margining Accounts, all Eligible Positions of a single Customer in such Cross-Margining Accounts.²² The term “Pair of Cross-Margining Accounts,” in turn, would be defined to mean a Customer Cross-Margining Account at CME and a Customer Cross-Margining Account at FICC or a Proprietary Cross-Margining Account at CME and a Proprietary Cross-Margining Account at FICC.²³ The Third A&R Agreement would clarify that an Eligible BD-FCM would only be able to establish one Pair of Cross-Margining Accounts for each type of Indirect Participants Account offered at FICC under the GSD Rules and that the Customer Positions of the same Cross-Margining Customer may not be maintained in multiple Pairs of Cross-Margining Accounts of the same Eligible BD-FCM.²⁴ This limitation is aimed at ensuring that, as is the case with futures contracts, an Eligible BD-FCM would not be permitted to establish a separate account at the Clearing Organization for a particular customer or group of customers.

In addition to these changes, the Third A&R Agreement would include conforming changes in Section 4 to make clear that the margin calculations are performed on the Combined Portfolio and to provide that Sections 4(c) and 4(e), concerning the ability of the Clearing Organizations to require margin equal to or in excess of the Standalone Margin Requirement,

²¹ 17 C.F.R. § 39.13(g)(8)(i); GSD Rules, Rule 4, Section 1b(b).

²² See Section 1 of the proposed Third A&R Agreement.

²³ See id.

²⁴ See Section 2(d) of the proposed Third A&R Agreement.

would apply in relation to each Cross-Margining Account.²⁵ The Third A&R Agreement would also make conforming changes to a number of defined terms by:

- Revising the definition of “Cross-Margin Requirement” to refer to the joint amount of Margin required by FICC and CME in connection with a Combined Portfolio as provided for in Section 4(a) of the Third A&R Agreement;
- Revising definitions of “Margin Reduction” and “Variation Margin” to clarify that these terms apply separately with respect to Proprietary Cross-Margining Accounts and Customer Cross-Margining Accounts;
- Further revising the “Variation Margin” definition to reflect that amounts may be owed by or to a Cross-Margining Customer in relation to positions recorded in a Customer Cross-Margining Account;
- Revising the definition of “Stand-Alone Margin Requirement” to provide that it is determined with respect to a particular Cross-Margining Account, and that with regard to a Stand-Alone Margin Requirement of FICC, such requirement is calculated without regard to any netting across positions of multiple Executing Firm Customers in the same Agent Clearing Member Omnibus Account (as such terms are defined in the GSD Rules);
- Revising the definition of “Margin” to include Cross-Margining Customer Margin securing the obligations of a Cross-Margining Customer and to contemplate a Joint Clearing Member having multiple Cross-Margining Accounts; and
- Removing the definition of “Cross-Margin Positions,” which would no longer be used.²⁶

Section 6(b) of the Third A&R Agreement would be revised to require FICC and CME to notify each other in the event a material problem arises with respect to a Cross-Margining Customer in the same manner as they are currently required to do with respect to Cross-Margining Participants.²⁷

D. Default Management

The Third A&R Agreement would include certain adjustments to the default management provisions to describe how the Clearing Organizations would address a default of an Eligible BD-FCM that is carrying Customer Positions for Cross-Margining Customers, elaborate on the steps the Clearing Organizations may take in a joint liquidation, and clarify when the Clearing

²⁵ See Sections 4(a), (c), and (e) of the proposed Third A&R Agreement.

²⁶ See Section 1 of the proposed Third A&R Agreement.

²⁷ See Section 6(b) of the proposed Third A&R Agreement.

Organizations may manage the default of a Cross-Margining Participant independently of one another.

The Third A&R Agreement would subject Customer Positions to substantially the same default management process as Proprietary Positions. In particular, under Section 7(b) of the Third A&R Agreement, the Clearing Organizations would attempt in good faith to jointly transfer, liquidate, or close-out the Proprietary Positions or Customer Positions, which may include a joint liquidating auction so that hedged positions can be closed-out simultaneously or, in the case of a transfer of Customer Positions, so that the positions of each Cross-Margining Customer in a Combined Portfolio can, if feasible, be transferred to the same clearing firm. Section 7(b) would further provide that if one Clearing Organization determines that such joint action is not feasible or advisable for any Liquidation Portfolio, then either Clearing Organization could buy-out the Proprietary Positions or Customer Positions in such Liquidation Portfolio at the other Clearing Organization in accordance with the existing terms of the Third A&R agreement related to buy-outs. Lastly, Section 7(b) would provide that if one Clearing Organization determines that neither the joint transfer, liquidation, or close-out option nor the buy-out option is legally permissible or possible as to a particular Liquidation Portfolio, or if such methods would result in substantially greater losses to each Clearing Organization than in the case of a separate liquidation by each Clearing Organization, the Clearing Organizations could conduct separate liquidations in accordance with the existing terms related to such separate liquidations.²⁸ The Clearing Organizations do not foresee particular circumstances that could lead to separate liquidations being applicable. To the contrary, the Clearing Organizations believe it is highly unlikely that they would engage in separate liquidations. However, the Clearing Organizations believe it is prudent to have a separate liquidation option so that there is a clear methodology in the very unlikely event that some unforeseen circumstance causes it not to be possible or legally permissible to conduct a joint liquidation or buy-out or for such methods to result in substantially greater costs.

The Third A&R Agreement would also include provisions designed to ensure that Customer Positions and associated margin are not used by either Clearing Organization to satisfy obligations arising from Proprietary Positions. The principal mechanism to achieve this would be a new concept of a “Liquidation Portfolio,” which would be defined as, with respect to a Defaulting Member, all such Defaulting Member’s Proprietary Cross-Margining Account(s) or all such Defaulting Member’s Customer Cross-Margining Account(s).²⁹ The definitions of “Collateral on Hand,” “Net Gain,” “Net Loss,” “Cross-Margin VM Gain,” “Cross-Margin VM Loss,” “Other VM Gain,” “Liquidation Cost,” and “Share of the Cross-Margining Requirement,” in turn, would be revised so that they are separately determined by reference to each Liquidation Portfolio, rather than to a Defaulting Member or Cross-Margining Account.³⁰ The Third A&R Agreement would also provide for the concept of a “Related GSD Account,” which would be defined as, with respect to a Liquidation Portfolio of a Defaulting Member consisting of

²⁸ See Section 7(b) of the proposed Third A&R Agreement.

²⁹ See Section 1 of the proposed Third A&R Agreement.

³⁰ Id.

Proprietary Cross-Margining Accounts, the “Proprietary Accounts” (as defined in the GSD Rules) of the Defaulting Member at FICC, and with respect to a Liquidation Portfolio of a Defaulting Member consisting of Customer Cross-Margining Accounts, the Indirect Participant Account(s) of the Defaulting Member at FICC.³¹

In addition, the Third A&R Agreement would revise Sections 7(b) through (g) to clarify that the provisions thereof would apply separately to each Liquidation Portfolio. These changes include replacing certain references to “Cross-Margining Account” with “Liquidation Portfolio,”³² additional language specifying that provisions apply with respect to each Liquidation Portfolio,³³ and deletions of language providing for liquidation actions or calculations to be performed with respect to a Defaulting Member.³⁴ In addition, as mentioned above, the definition of “Combined Portfolio” would be revised to mean, in the case of a Pair of Cross-Margining Accounts consisting of Proprietary Cross-Margining Accounts, all Eligible Positions in such Cross-Margining Accounts, and in the case of a Pair of Cross-Margining Accounts consisting of Customer Cross-Margining Accounts, all Eligible Positions of a single Customer in such Cross-Margining Accounts.³⁵

By virtue of these changes, upon a default of a Joint Clearing Member, the Proprietary Positions and associated margin of the Joint Clearing Member would be closed-out and netted into a single Net Gain or Net Loss, and the Customer Positions and associated margin would be separately close-out and netted into a separate Net Gain or Net Loss. As a result of these separate calculations, Customer Positions and associated margin could not be used to satisfy obligations arising under any Proprietary Positions. Similarly, variation margin gains in respect of Customer Positions would not be available to address losses on Proprietary Positions. However, the definition of “Other VM Gains” would be modified to make clear that, if there were Cross-Margin VM Gains in relation to Proprietary Positions at a time when the Clearing Organization with those Cross-Margin VM Gains also had losses on account of Customer Positions, the VM Gains may first be applied to satisfy the losses on the Customer Positions before being remitted to the other Clearing Organization.³⁶

Although the Clearing Organizations would generally close-out and net the Liquidation Portfolios of a Defaulting Member separately, Section 7(a) of the Third A&R Agreement would provide that the decision as to whether to commence the liquidation process with respect to a Joint Clearing Member would be made based on the Joint Clearing Member itself, rather than a particular Liquidation Portfolio. In accordance with this framework, Section 7(a) of the Third

³¹ Id.

³² See Sections 7(c), (d), and (e) of the proposed Third A&R Agreement.

³³ See Sections 7(b), (c), (e), (f), and (g) of the proposed Third A&R Agreement.

³⁴ See Section 7(c) of the proposed Third A&R Agreement.

³⁵ See Section 1 of the proposed Third A&R Agreement.

³⁶ See id.

A&R Agreement would provide that if one Clearing Organization decides not to take default action against a Defaulting Member following a Default Event (the “Non-Liquidating CO”), 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 other Clearing Organization for all Combined Portfolios of the Defaulting Member, and (y) its Margin Reduction at the Non-Liquidating CO for all Combined Portfolios of the Defaulting Member, within one hour of demand.³⁷

E. Conforming Changes

The Third A&R Agreement would also include a number of conforming changes in light of the addition of the Customer Cross-Margining Arrangement. These would include new recitals which describe the purpose of the Third A&R Agreement as to establish the Customer Cross-Margining Arrangement, introduce defined terms for the “Proprietary Cross-Margining Arrangement” and “Customer Cross-Margining Arrangement,” and define the prior versions of the agreement as the “Original Agreement,” the “First A&R Agreement,” and the “Second A&R Agreement.” They would also include non-substantive revisions and movements of defined terms as shown in Exhibit 5 to conform to the addition of the Customer Cross-Margining Arrangement and the provisions described above.³⁸

The Third A&R Agreement would also revise Section 3(b), which sets out certain requirements applicable to positions of Eligible Affiliates, to provide that it does not apply to Proprietary Positions of a Joint Clearing Member or to Customer Positions.³⁹

In addition, the Third A&R Agreement would revise Section 7(i) to clarify that the requirement for a Defaulting Member to reimburse a Clearing Organization in the event that the Clearing Organization is obligated to make a guaranty payment to the other Clearing Organization in respect of an obligation of such Defaulting Member applies in respect of the obligations of any Cross-Margining Customer.⁴⁰

F. Clarifying Edits

The Third A&R Agreement would also include a number of clarifying edits not specifically related to the Customer Cross-Margining Arrangement. Specifically, Section 2(f) of the Third A&R Agreement would specify that FICC or CME may terminate the participation of a

³⁷ See Section 7(a) of the proposed Third A&R Agreement.

³⁸ See Section 1 of the proposed Third A&R Agreement; see, e.g., Section 3(c) of the proposed Third A&R Agreement (updating references to “Cross-Margining Account(s)” to refer to “Proprietary Cross-Margining Account(s)”); Section 7(a) of the proposed Third A&R Agreement (updating a reference to “Eligible Affiliates” to refer to “Eligible Affiliates or Customers”).

³⁹ See Section 3(b) of the proposed Third A&R Agreement.

⁴⁰ See Section 7(i) of the proposed Third A&R Agreement.

particular Cross-Margining Participant with respect to some or all Cross-Margining Accounts of the Cross-Margining Participant upon two business days' prior written notice to the other Clearing Organization, provided that no such termination would be effective with respect to any reimbursement obligation or guaranty with respect to such Cross-Margining Participant that was incurred prior to such termination, or with respect to Section 7 of the Third A&R Agreement until the Stand-Alone Margin Requirement with respect to each Cross-Margining Account subject to such termination has been fully satisfied.⁴¹

The Third A&R Agreement would also include a new Section 5 to make clear that, as is currently the case, the collateral acceptable to satisfy the Cross-Margin Requirement must meet the respective eligibility requirements of the Clearing Organization to which the collateral is posted.⁴²

In addition, the titles of the Proprietary Cross-Margining Agreements attached as Appendix A and Appendix B to the Third A&R Agreement would be amended to specify that they are for use in connection with the Proprietary Cross-Margining Arrangement.⁴³

G. Customer Cross-Margining Clearing Member Agreement

As described above, an Eligible BD-FCM would be required to enter into the Customer Cross-Margining Clearing Member Agreement in order to participate in the Customer Cross-Margining Agreement. The Customer Cross-Margining Clearing Member Agreement would be set forth in Appendix C to the Third A&R Agreement.⁴⁴

The Customer Cross-Margining Clearing Member Agreement would be modeled on the Proprietary Clearing Member Agreement attached as Appendix A to the Second A&R Agreement (the "Existing Joint Clearing Member Proprietary Clearing Member Agreement"), with changes designed to facilitate compliance with the conditions in the Proposed Orders and to

⁴¹ See Section 2(f) of the proposed Third A&R Agreement.

⁴² See Recitals, Section 1, and Section 5 of the proposed Third A&R Agreement.

⁴³ See Appendix A "Fixed Income Clearing Corporation / Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member) [Proprietary Cross-Margining Program]" of the proposed Third A&R Agreement; Appendix B "Fixed Income Clearing Corporation / Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member) [Proprietary Cross-Margining Program]" of the proposed Third A&R Agreement.

⁴⁴ See Appendix C "Fixed Income Clearing Corporation / Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member) [Customer Cross-Margining Program]" of the proposed Third A&R Agreement.

clarify the rights and obligations of the Clearing Organizations, the Eligible BD-FCM, and the Cross-Margining Customers.⁴⁵

The first three paragraphs of the Customer Cross-Margining Clearing Member Agreement would be substantially identical to those of the Existing Joint Clearing Member Proprietary Clearing Member Agreement, except that the first paragraph would note that the Eligible BD-FCM is electing to become a Cross-Margining Participant for purposes of the Customer Cross-Margining Arrangement, rather than the Cross-Margining Arrangement generally, and the third paragraph (concerning the Eligible BD-FCM's payment obligations) would reference the payment obligations arising in respect of Customer Cross-Margining Accounts.

The Customer Cross-Margining Clearing Member Agreement would provide that the Eligible BD-FCM makes application to the Clearing Organizations to establish a Customer Cross-Margining Account at CME and one or more Customer Cross-Margining Accounts at FICC in the name of the Eligible BD-FCM, and clarify that each such account would be in addition to any Proprietary Cross-Margining Account of the Eligible BD-FCM established pursuant to the Third A&R Agreement. The Customer Cross-Margining Clearing Member Agreement would provide that each Customer Cross-Margining Account shall be limited to transactions and positions carried by the Eligible BD-FCM for Cross-Margining Customers who have signed a Customer Agreement. The Eligible BD-FCM would be required to agree that it shall not commence clearing transactions through or carrying positions in a Customer Cross-Margining Account for any Cross-Margining Customer until such Cross-Margining Customer has executed a Customer Agreement.

The Eligible BD-FCM would be required under the Customer Cross-Margining Clearing Member Agreement to indemnify and hold harmless the Clearing Organizations, their respective directors, officers and employees and each person, if any, who controls either of the Clearing Organizations against any claims, losses, liabilities and expenses, including, without limitation, reasonable legal fees and expenses and amounts paid or payable in settlement of any action, proceeding or investigation arising from any claim by any party resulting from the carrying of positions in a Customer Cross-Margining Account that belong to any person other than a Cross-Margining Customer for whom a Customer Agreement is in effect.

The Customer Cross-Margining Clearing Member Agreement would provide that the Eligible BD-FCM, as agent for each of its Cross-Margining Customers, (i) unconditionally promises immediate payment of any payment or reimbursement obligations to a Clearing Organization arising under the Third A&R Agreement or the GSD Rules or rules of CME in respect of a Cross-Margining Customer's positions in a Customer Cross-Margining Account, and (ii) agrees that each Cross-Margining Customer is bound by the GSD Rules and the rules of CME as applicable to them and by the provisions of the Customer Cross-Margining Clearing Member Agreement and the Third A&R Agreement. The Eligible BD-FCM would also be

⁴⁵ See id.

required to represent and warrant to the Clearing Organizations that it has full power and authority to bind each of its Cross-Margining Customers to the terms in the foregoing sentence.

The Customer Cross-Margining Clearing Member Agreement would also provide for the Eligible BD-FCM to pledge, as security for its and its Cross-Margining Customers' present and future payment and reimbursement obligations to FICC and CME arising from its Customer Cross-Margining Accounts or otherwise under the Customer Cross-Margining Clearing Member Agreement on behalf of itself and each Cross-Margining Customer, and grant to each Clearing Organization a first priority continuing security interest in, lien on and right of set-off against all of the positions, margin deposits or other property held by or subject to the control of or owing from either Clearing Organization including any and all Net Gains in respect of the Eligible BD-FCM's Customer Cross-Margining Accounts and the proceeds in respect thereof.

The Eligible BD-FCM would also provide for the Eligible BD-FCM to agree that (i) the rights of each Clearing Organization set forth in the preceding paragraph are in addition to any other rights arising out of the NYUCC or other statute, common law, or governmental regulation, or under their respective rules, (ii) the Eligible BD-FCM 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, (iii) the Eligible BD-FCM 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 the Eligible BD-FCM, and (iv) the Eligible BD-FCM authorizes FICC to comply with CME's entitlement orders with respect to any Cross-Margining Customer Margin pursuant to the Third A&R Agreement without further consent of the Eligible BD-FCM or Cross-Margining Customer for whom such Cross-Margining Customer Margin is held. Clauses (i) through (iii) broadly align with the Existing Joint Clearing Member Proprietary Clearing Member Agreement, while clause (iv) would be designed to facilitate the perfection of CME's security interest in the Cross-Margining Customer Margin and help ensure that Cross-Margining Customer Margin is treated as "customer property" under Part 190 of the CFTC's regulations, as described in the Petitions.

The Customer Cross-Margining Clearing Member Agreement would contain the same provision regarding the disclosure of Clearing Data as in the Existing Joint Clearing Member Proprietary Clearing Member Agreement. Consistently with the Existing Joint Clearing Member Proprietary Clearing Member Agreement, it would also provide that neither FICC nor CME guarantees to the Eligible BD-FCM that the calculation of the margin reduction for a Combined Portfolio pursuant to the Third A&R Agreement will yield any, or the highest possible, margin reduction for the Combined Portfolio. The Customer Cross-Margining Clearing Member Agreement would also, as in the Existing Joint Clearing Member Proprietary Clearing Member Agreement, provide that, without limiting any provision of the GSD Rules, the rules of CME or any other agreement between the Eligible BD-FCM and FICC or CME, any transfer by the Eligible BD-FCM or any Cross-Margining Customer 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 under the Third A&R Agreement. The Customer Cross-Margining Clearing Member Agreement would contain the same

representations as the Existing Joint Clearing Member Proprietary Clearing Member Agreement, except those concerning the proprietary nature of the positions and Eligible Affiliates.

The Customer Cross-Margining Clearing Member Agreement would specify that the Eligible BD-FCM may terminate the Customer Cross-Margining Clearing Member Agreement upon two business day's written notice to FICC and CME, and that such termination shall be effective upon written acknowledgement by both FICC and CME provided that (i) all positions in the Customer Cross-Margining Accounts have been closed-out or transferred to other accounts in accordance with the GSD Rules or the rules of CME, and (ii) all Stand-alone Margin Requirement in respect of any such transferred positions and all obligations of the Eligible BD-FCM to the Clearing Organizations in respect of the Customer Cross-Margining Accounts have been fully satisfied.

The Customer Cross-Margining Clearing Member Agreement would also specify that either Clearing Organization may terminate the Eligible BD-FCM's participation with respect to any Customer Cross-Margining Account (defined as an "Affected Customer Cross-Margining Account") of the Eligible BD-FCM at any time upon written notice to the other Clearing Organization pursuant to the Third A&R Agreement and to the Eligible BD-FCM. In connection with such termination, the Clearing Organizations would be permitted to require the Eligible BD-FCM to close-out or transfer all positions in the Affected Customer Cross-Margining Accounts in accordance with the GSD Rules or the rules of CME, and the Customer Cross-Margining Clearing Member Agreement would thereupon terminate with respect to Affected Customer Cross-Margining Accounts, provided that the Stand-alone Margin Requirement in respect of the transferred positions and all obligations of the Eligible BD-FCM to the Clearing Organizations in respect of the Affected Customer Cross-Margining Accounts have been fully satisfied.

The Customer Cross-Margining Clearing Member Agreement would also include the same governing law, choice-of-jurisdiction, and execution in counterparts provisions as the Existing Joint Clearing Member Proprietary Clearing Member Agreement. The Customer Cross-Margining Clearing Member Agreement would also provide that it would become effective upon the later of execution of the Customer Cross-Margining Clearing Member Agreement, or on the receipt of all necessary regulatory approvals from the Commission and the CFTC.

H. Customer Agreement

The Customer Agreement would include the terms of the Subordination Agreement and acknowledgements corresponding to the disclosures required by the Proposed Orders.⁴⁶ In particular, the Customer Agreement would require the Cross-Margining Customer to acknowledge and agree that:

- it agrees to the terms of the Subordination Agreement, under which the Cross-Margining Customer agrees that all of its Customer Positions and Customer Property (including any margin at FICC) (i) will not receive customer treatment under the

⁴⁶ See Appendix C, Exhibit I "Customer Required Terms Annex or Agreement" of the proposed Third A&R Agreement.

Exchange Act or SIPA or be treated as “customer property” as defined in 11 U.S.C. § 741 in a liquidation of Clearing Member, and (ii) will be subject to any applicable protections under Subchapter IV of Chapter 7 of the U.S. Bankruptcy Code and rules and regulations thereunder including Part 190 of the CFTC’s Regulations (“Part 190”), and that the Cross-Margining Customer’s claims to “customer property” as defined in SIPA or 11 U.S.C. § 741 against the Eligible BD-FCM with respect to its Customer Positions and Customer Property (including any margin held at FICC) will be subordinated to the claims of all other customers, as the term “customer” is defined in 11 U.S.C. § 741 or SIPA;⁴⁷

- all money, securities and property deposited with the Eligible BD-FCM by the Cross-Margining Customer to margin, guarantee or secure Customer Positions (the “Customer Property”) will be held in a “futures account” as defined in CFTC Regulation 1.3 and subject to CEA Section 4d(a) and (b);⁴⁸
- its Customer Positions and associated margin may be commingled with the positions and property of other customers of the Eligible BD-FCM and may be used by the Eligible BD-FCM to purchase, margin, secure, settle, or otherwise carry positions on behalf of the Cross-Margining Customer or other futures customers of the Eligible BD-FCM;⁴⁹
- property held in connection with Customer Positions will be treated in a manner consistent with the CFTC Order and that such property held on the Cross-Margining Customer’s behalf by the Eligible BD-FCM will be customer property received by an FCM to be accounted for, treated and dealt with by such FCM in a manner consistent with Section 4d of the CEA;⁵⁰
- in the event a Clearing Organization suspends or ceases to act for Clearing Member, it shall be within the sole discretion of the Clearing Organizations to determine whether to transfer, liquidate, or settle Customer Positions in the relevant Customer Cross-Margining Account;⁵¹

⁴⁷ See id., Section 2(b).

⁴⁸ See id., Section 2(a).

⁴⁹ See id., Section 2(c).

⁵⁰ See id.

⁵¹ See id., Section 2(d).

- its participation in the Customer Cross-Margining Arrangement is subject to the terms of (i) the Third A&R Agreement, (ii) the Customer Cross-Margining Clearing Member Agreement, and (iii) the GSD Rules and the rules of CME;⁵² and
- if CME determines at any time that any Eligible Positions of the Cross-Margining Customer cleared through the Customer Cross-Margining Account at CME are non-risk reducing, CME may either restrict the Cross-Margining Customer from adding positions or require the Cross-Margining Customer to move or liquidate Eligible Positions in the Customer Cross-Margining Account at CME;⁵³

The Customer Agreement would also require the Cross-Margining Customer to pledge, as security for the Cross-Margining Customer's present and future payment and delivery obligations in respect of its Customer Positions (including, without limitation, any obligation of the Cross-Margining Customer to reimburse the Eligible BD-FCM as a result of the Eligible BD-FCM's performance of such obligations), and grant to the Eligible BD-FCM a continuing security interest in, lien on and right of set-off against its right, entitlement, and interest in all of positions in each Customer Cross-Margining Account, all margin posted by the Cross-Margining Customer in connection with such positions, and the proceeds in respect thereof.⁵⁴ The Customer Agreement would also require the Cross-Margining Customer to agree that the Eligible BD-FCM may enter into agreements with the Clearing Organizations on the Cross-Margining Customer's behalf as set forth in the Customer Cross-Margining Clearing Member Agreement.⁵⁵

(ii) Other Proposed Changes to the GSD Rules

A. Overview

FICC is proposing to make a number of changes to the GSD Rules to effectuate the Customer Cross-Margining Arrangement.

First, FICC proposes to create a new position Account type, the "Cross-Margining Customer Account," in which Customer Positions would be recorded. The Cross-Margining Customer Account would constitute an "Indirect Participants Account." A Netting Member that is an Eligible BD-FCM and approved participant in the Customer Cross-Margining Arrangement would be permitted to designate an Indirect Participants Account (other than a Segregated Indirect Participants Account) as a Cross-Margining Customer Account.⁵⁶ Any such designation

⁵² See id., Section 3.

⁵³ See id.

⁵⁴ See id., Section 4.

⁵⁵ See id., Section 5.

⁵⁶ As mentioned above, the Third A&R Agreement would provide that a Netting Member may only designate one Sponsoring Member Omnibus Account and one Agent Clearing

would constitute a representation to FICC by the Netting Member that the Netting Member has complied with all regulatory requirements applicable to it in connection with its participation in the Customer Cross-Margining Arrangement, including the conditions in the Proposed Orders, and this representation would be deemed repeated each time the Netting Member deposits Cross-Margining Customer Margin.

Second, FICC proposes to adopt rule changes to set forth how FICC would calculate, collect, and hold margin for positions recorded in a Cross-Margining Customer Account. As noted above, FICC proposes to collect and hold Cross-Margining Customer Margin pursuant to substantially similar provisions as apply to Segregated Customer Margin, with certain modifications to satisfy the requirements of the Proposed Orders and align with the treatment of futures margin. Specifically:

- Consistent with Segregated Customer Margin and in accordance with the Proposed Orders, FICC would credit all Cross-Margining Customer Margin deposited by a Netting Member to a “securities account,” as defined in the NYUCC,⁵⁷ on its books and records maintained for that Netting Member for the benefit of its Cross-Margining Customers (i.e., a Cross-Margining Customer Margin Custody Account). The GSD Rules would further provide that all cash and securities credited to the Cross-Margining Customer Margin Custody Account shall be treated as “financial assets” within the meaning of Article 8 of the NYUCC, New York shall be the “securities intermediary’s jurisdiction” for purposes of the NYUCC and New York law shall govern all issues specified in Article 2(1) of the Hague Securities Convention.⁵⁸ Such provisions are designed to ensure the Cross-Margining Customer Margin would not form part of FICC’s estate in the event FICC became subject to insolvency proceedings. They would also facilitate the ability of CME to perfect its security interest in the Cross-Margining Customer Margin. Such perfection would serve to protect CME, and in turn both the Cross-Margining Customers and the non-participating futures customers in the event of a Cross-Margining Participant default. It would also aim to ensure that the Cross-Margining Customer Margin is treated as “customer property” under Part 190 in the event of an Eligible BD-FCM’s insolvency, by helping to establish that the Cross-Margining Customer Margin is held to secure the futures positions of customers.
- In accordance with the Proposed Orders, FICC would hold Cross-Margining Customer Margin in (i) an account of FICC at a bank insured by the Federal Deposit Insurance Corporation (“FDIC”) that is segregated from any other account of FICC

Member Omnibus Account as a Cross-Margining Customer Account. See Section 2(d) of the proposed Third A&R Agreement.

⁵⁷ NYUCC § 8-501(a).

⁵⁸ NYUCC § 8-102(9); NYUCC § 8-110(e); The Convention on the Law Applicable to Certain Rights in Respect of Securities Held with an Intermediary, July 5, 2006, 17 U.S.T. 401, 46 I.L.M. 649 (entered into force Apr. 1, 2017).

and used exclusively to hold Cross-Margining Customer Margin, and (ii) an account at the FRBNY that is segregated from any other account of FICC and used exclusively to hold Segregated Customer Margin and Cross-Margining Customer Margin. The GSD Rules would provide that any such account (other than one at the FRBNY) would need to be subject to a written notice consistent with the Proposed Orders.

- The same requirements applicable to Segregated Customer Margin with respect to the form and composition of eligible collateral, the minimum amounts of cash and Eligible Clearing Fund Treasury Securities, substitution and withdrawal, and treatment of excess margin would be applicable to Cross-Margining Customer Margin, except that (i) a Netting Member's rights or FICC's obligation with respect to any excess Cross-Margining Customer Margin would be subject to the Third A&R Agreement and the Customer Cross-Margining Clearing Member Agreement, and (ii) FICC would be permitted to retain the excess Cross-Margining Customer Margin deposited by a Netting Member with respect to a Cross-Margining Customer when the Netting Member has any outstanding payment or margin obligation arising from any Customer Positions, including those of another Cross-Margining Customer.

With regard to calculation, FICC proposes that, as with Segregated Customer Margin and in accordance with the requirements of the Proposed Orders, FICC would calculate the margin requirement in respect of each Cross-Margining Customer Account (the "Cross-Margining Customer Margin Requirement") on a gross (i.e., Cross-Margining Customer-by-Cross-Margining Customer) basis, as though each Cross-Margining Customer were a separate Netting Member. However, such margin requirement would be subject to any margin reduction pursuant to the Third A&R Agreement (which, as discussed above, would be determined using the same margin reduction methodology under Proprietary Cross-Margining Arrangement).

Third, FICC proposes to provide that Cross-Margining Customer Margin would be pledged to FICC to secure all obligations of the Netting Member and its Cross-Margining Customers arising under Customer Positions.⁵⁹

Fourth, FICC proposes to remove the existing Section 10(e) of Rule 3A, which currently prohibits Sponsored Members from participating in the Cross-Margining Arrangement.

Fifth, FICC proposes to make conforming changes to Rule 43, which sets out the terms related to Cross-Margining Arrangements, so that the Rule encompasses the Customer Cross-Margining Arrangement. In particular, FICC proposes to specify in Rule 43 that a Netting

⁵⁹ We note that in this regard, unlike Segregated Customer Margin, FICC would be able to use all Cross-Margining Customer Margin to satisfy the obligations arising from all Customer Positions recorded in the same Cross-margining Customer Account, even if such Customer Positions are not the particular ones of the individual Cross-Margining Customer that posted such margin. This treatment would be consistent with how futures customer margin is generally treated.

Member that is an Eligible BD-FCM may become a Cross-Margining Participant in connection with the Customer Cross-Margining Arrangement with the consent of FICC and CME. An Eligible BD-FCM would become such a Cross-Margining Participant and be permitted to establish a Cross-Margining Customer Account upon acceptance by FICC and CME of an executed Customer Cross-Margining Clearing Member Agreement. FICC further proposes to make clear that if FICC becomes obligated to make a payment to CME pursuant to the cross-guaranty under the Third A&R Agreement in relation to the obligations of a Cross-Margining Customer, both the Cross-Margining Customer and the relevant Eligible BD-FCM would be responsible for the reimbursement obligation that is owed to FICC as a result. If FICC receives a payment from CME pursuant to the Third A&R Agreement in connection with the Customer Cross-Margining Arrangement, FICC would not be permitted to apply such payment to any obligation other than the obligations of Cross-Margining Customers (whether or not arising in connection with any Eligible Positions).

Lastly, FICC proposes to remove provisions relating to “Market Professional” and “Market Professional Agreement for Cross-Margining” from the GSD Rules. Those provisions were adopted in connection with a “market professional” cross-margining program between FICC and New York Portfolio Clearing, LLC.⁶⁰ That program—which permitted certain “market professional” customers of Netting Members to participate in cross-margining—is no longer active as New York Portfolio Clearing, LLC has since become defunct.

B. Summary of Proposed Rule Changes

To effectuate the proposed changes described above, FICC proposes to make the following amendments to its Rules.

New Defined Terms. FICC would revise Rule 1 to add the following new defined terms: (1) “Cross-Margining Customer,” (2) “Cross-Margining Customer Account,” (3) “Cross-Margining Customer Margin Custody Account,” (4) “Cross-Margining Customer Margin,” (5) “Cross-Margining Customer Margin Requirement,” and (6) “Customer Cross-Margining Arrangement.”

The term “Cross-Margining Customer” would mean a Sponsored Member or Executing Firm Customer whose Transactions are recorded in a Cross-Margining Customer Account.

The term “Cross-Margining Customer Account” would mean an Indirect Participants Account maintained by FICC for a Sponsoring Member or an Agent Clearing Member that has been designated pursuant to Rule 2B for purposes of recording Transactions of Cross-Margining Customers.

The term “Cross-Margining Customer Margin Custody Account” would mean a securities account within the meaning of the NYUCC maintained by FICC, in its capacity as

⁶⁰ See Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Expand the One-Pot Cross-Margining Program With New York Portfolio Clearing, LLC to Certain “Market Professionals,” 77 FR 30032 (May 21, 2012).

securities intermediary as such term is used in the NYUCC, for an Agent Clearing Member or Sponsoring Member for the benefit of such Member's Cross-Margining Customers.

The term "Cross-Margining Customer Margin" would mean all securities and funds deposited by a Sponsoring Member or an Agent Clearing Member with FICC to satisfy its Cross-Margining Customer Margin Requirement.

The term "Cross-Margining Customer Margin Requirement" would mean the amount of cash or Eligible Clearing Fund Securities that an Agent Clearing Member or Sponsoring Member is required to deposit with FICC to support the obligations arising from Transactions recorded in its Cross-Margining Customer Accounts. Specifically, a Netting Member's Cross-Margining Customer Margin Requirement would be the amount of the item listed in Section 2(a)(vii) of Rule 4 (as described below). This definition would specify that references to the Cross-Margining Customer Margin Requirement "for" or "with respect to" a particular Cross-Margining Customer Account or Cross-Margining Customer (or similar language) would mean the portion of a Netting Member's Cross-Margining Customer Margin Requirement arising from such Account or Cross-Margining Customer.

The term "Customer Cross-Margining Arrangement" would mean a Cross-Margining Arrangement pursuant to which a Cross-Margining Participant, at the discretion of FICC and in accordance with the provisions of Rule 43, may elect to have any of its Cross-Margining Customers' margin requirement in respect of Eligible Positions at FICC and such Cross-Margining Customer's margin requirements in respect of Eligible Positions at a clearing organization for a board of trade designated as a contract market under Section 5 of the CEA that has entered into a Cross-Margining Agreement with FICC (an "FCO") calculated by taking into consideration the net risk of such Eligible Positions at each of the clearing organizations.

Revisions to Defined Terms. In addition, FICC would make conforming revisions to the following defined terms in Rule 1: (1) "Cross-Margining Affiliate," (2) "Cross-Margining Agreement" (3) "Current Net Settlement Positions," (4) "Indirect Participants Account," and (5) "Type of Account" and "Type."

FICC proposes to amend the definition to "Cross-Margining Affiliate" to remove existing prong (ii), which relates to the "market professional" cross-margining program.

FICC proposes to amend the definition to "Cross-Margining Agreement" to encompass the Customer Cross-Margining Arrangement by specifying that the applicable Cross-Margining Participant may have any of its Cross-Margining Customers' margin requirement in respect of Eligible Positions at FICC and such Cross-Margining Customer's margin requirements in respect of Eligible Positions at a relevant FCO calculated by taking into consideration the net risk of such Eligible Positions at each of the clearing organizations. FICC also proposes to remove the last sentence of this definition, which relates to the "market professional" cross-margining program.

FICC proposes to make conforming edits to the definition of "Current Net Settlement Positions" to add references to "Cross-Margining Customer," "Cross-Margining Customer Account," and "Cross-Margining Customer Margin Requirement" after each reference to

“Segregated Indirect Participant,” “Segregated Indirect Participants Account,” and “Segregated Customer Margin Requirement,” respectively.

FICC proposes to amend the definitions of “Indirect Participants Account,” “Type of Account” and “Type” to include a Cross-Margining Customer Account.

Removal of defined terms. FICC proposes to remove the following defined terms from Rule 1: (1) “Market Professional” and (2) “Market Professional Agreement for Cross-Margining.”

Establishment of Cross-Margining Customer Accounts. FICC proposes to amend Section 3 of Rule 2B to provide that a Cross-Margining Customer Account may not be designated as a Segregated Indirect Participants Account.

In addition, FICC proposes to add a new Section 3a of Rule 2B to provide that (i) a Netting Member that is an Eligible BD-FCM and has been approved to become a Cross-Margining Participant in a Customer Cross-Margining Arrangement pursuant to a Cross-Margining Agreement may designate any of its Indirect Participants Accounts (other than a Segregated Indirect Participants Account) as a Cross-Margining Customer Account; (ii) any such designation of an Account shall constitute a representation to FICC by the Netting Member that the Netting Member has complied with all regulatory requirements applicable to it in connection with its participation in the Customer Cross-Margining Arrangement, including the conditions in the Proposed Orders; and (iii) the Netting Member shall be deemed to repeat this representation each time it deposits Cross-Margining Customer Margin.

Treatment of Cross-Margining Customer Margin. FICC proposes to make the following changes in relation to FICC’s calculation, collection, and holding of Cross-Margining Customer Margin:

FICC proposes to amend Section 1a of Rule 4 to make clear that FICC’s account at the FRBNY that is currently used to hold Segregated Customer Margin would also hold Cross-Margining Customer Margin.

FICC proposes to renumber current Section 1b of Rule 4 to Section 1c and add a new Section 1b. The new Section 1b would provide that:

- Each Netting Member shall deposit Cross-Margining Customer Margin with FICC in an amount equal to its Cross-Margining Customer Margin Requirement, which requirement shall be determined in accordance with Rule 4 and the Margin Component Schedule. The timing of the satisfaction of the Cross-Margining Customer Margin Requirement shall be determined in accordance with the provisions of Section 9 of Rule 4.
- FICC shall establish and maintain on its books and records a Cross-Margining Customer Margin Custody Account to which all Cross-Margining Customer Margin deposited with FICC shall be credited. The Cross-Margining Customer Margin credited to a Cross-Margining Customer Margin Custody Account shall be used exclusively to secure the present and future payment and reimbursement obligations of the Netting Member and its

Cross-Margining Customers in relation to Eligible Positions of the Netting Member's Cross-Margining Customers at FICC and CME.

- All assets credited to each Cross-Margining Customer Margin Custody Account shall be treated as “financial assets” within the meaning of Article 8 of the NYUCC. New York is the “securities intermediary’s jurisdiction” for purposes of the NYUCC and New York law shall govern all issues specified in Article 2(1) of the Hague Securities Convention.
- FICC shall hold all Cross-Margining Customer Margin in an account of FICC at an FDIC-insured bank within the meaning of the Exchange Act that is a qualified custodian under the Investment Company Act of 1940, as amended, or at the FRBNY. Any account at an FDIC-insured bank shall be segregated from any other account of FICC and shall be used exclusively to hold Cross-Margining Customer Margin, and shall be subject to a written notice of the bank provided to and retained by FICC consistent with the Proposed Orders. The account at the FRBNY shall be segregated from any other account of FICC and shall be used exclusively to hold Cross-Margining Customer Margin and Segregated Customer Margin (the account at the FRBNY would not be subject to a written notice).

FICC proposes to amend current Section 1b (to be renumbered as Section 1c) of Rule 4 to (i) add references to “Cross-Margining Customer Accounts” after references to “Segregated Indirect Participants Accounts” in current Section 1b(a), and (ii) add a new sentence at the end of current Section 1b(b) to provide that FICC would calculate the Cross-Margining Customer Margin Requirement for a Cross-Margining Customer Account as the sum of the requirements applicable to each Cross-Margining Customer whose Transactions are recorded in such Account, as though each such Cross-Margining Customer were a separate Netting Member with a single Margin Portfolio consisting of such Transactions, in accordance with the Margin Component Schedule.

FICC proposes to amend Section 2 of Rule 4 by (i) adding references to “Cross-Margining Customer Margin Requirement” after references to “Segregated Customer Margin Requirement” in the title of Section 2 and Section 2(a), and (ii) adding a new clause (vii) of Section 2(a) to specify that the Cross-Margining Customer Margin Requirement would be an amount calculated with respect to the Netting Member’s Cross-Margining Customer Accounts.

FICC proposes to add a new Section 2c of Rule 4 entitled “Cross-Margining Customer Margin Requirement” to provide that (i) each Netting Member shall deposit any Cross-Margining Customer Margin with FICC by the Required Fund Deposit Deadline through a separate Deposit ID established by the Netting Member for each Cross-Margining Customer Account, and (ii) FICC shall report the Cross-Margining Customer Margin Requirements to each Netting Member twice daily in a Report which shall specify the Cross-Margining Customer Margin Requirement for each Cross-Margining Customer Account.

FICC proposes to add a new Section 3(d) of Rule 4 and insert it before the last sentence of Section 3. The new Section 3(d) would provide that each Cross-Margining Customer Margin Requirement for a particular Cross-Margining Customer Account would be subject to the requirements that (i) a minimum of 40 percent of the Cross-Margining Customer Margin Requirement for such Account shall be satisfied with cash and/or Eligible Clearing Fund

Treasury Securities, and (ii) a minimum of the product of \$1 million and the number of Cross-Margining Customers whose Transactions are recorded in such Cross-Margining Account must be made and maintained in cash. In addition, FICC proposes to amend the last sentence of Section 3 by adding a reference to “Cross-Margining Customer Margin Requirement” after the reference to “Segregated Indirect Participants Requirement.”

FICC proposes to amend Section 3a of Rule 4 to add a reference to “Cross-Margining Customers” after the reference to “Segregated Indirect Participants.” FICC also proposes to amend Section 3b of Rule 4 to add a reference to “Cross-Margining Customer Margin Custody Account” after the reference to “Segregated Customer Margin Custody Account.”

FICC proposes to amend Sections 3a, 3b, and 9 of Rule 4 to add references to “Cross-Margining Customer Margin,” after each reference to “Segregated Customer Margin.” FICC also proposes to amend Sections 3b and 9 of Rule 4 to add references to “Cross-Margining Customer Margin Requirement,” after each reference to “Segregated Customer Margin Requirement.”

FICC proposes to add a new Section 4(c) of Rule 4 to provide that (i) as security for any and all obligations and liabilities of a Netting Member and any of its Cross-Margining Customers to FICC arising out of or in connection with any Cross-Margining Customer Accounts of such Netting Member or Transactions recorded therein, each such Netting Member on behalf of itself and its Cross-Margining Customers grants to FICC a first priority perfected security interest in its right, title and interest in and to all Cross-Margining Customer Margin, each Cross-Margining Customer Margin Custody Account, and all distributions thereon and proceeds thereof, and (ii) FICC shall be entitled to exercise the rights of a pledgee under common law and a secured party under Articles 8 and 9 of the NYUCC with respect to such assets.

FICC proposes to amend Section 5 of Rule 4 by (i) adding a reference to “Cross-Margining Customer Margin” after the reference to “Segregated Customer Margin” in the title of Section 5, and (ii) adding a new paragraph at the end of Section 5 to provide that FICC shall only use Cross-Margining Customer Margin deposited by a Netting Member to (A) secure the Transactions of Cross-Margining Customers of such Netting Member recorded in any Cross-Margining Customer Account and satisfy payment and delivery obligations owing to FICC (including liquidating or otherwise using such Cross-Margining Customer Margin to obtain relevant cash or securities) in connection with a default in respect of such Transactions; and (B) for investment in U.S. Treasury securities with a maturity of one year or less.

FICC proposes to amend Section 10 of Rule 4 by (i) adding a reference to “Cross-Margining Customer Margin” after the reference to “Segregated Customer Margin” in the title of Section 10, (ii) amending the first paragraph of Section 10 to require FICC to separately determine whether the amount of Cross-Margining Customer Margin supporting a Cross-Margining Customer’s Transactions is in excess of the Cross-Margining Customer Margin Requirement for such Cross-Margining Customer (“Excess Cross-Margining Customer Margin”), and (iii) adding a new Section 10(c) to provide that upon a Member’s request, and in accordance with such procedures as FICC may set forth from time to time, the Corporation shall return to the Member its Excess Cross-Margining Customer Margin, subject to the minimum amount of cash or Eligible Clearing Fund Securities required to be maintained pursuant to the GSD Rules (valued at their collateral value on the day of such withdrawal) and the terms of the

Third A&R Agreement and Customer Cross-Margining Clearing Member Agreement, as the Member requests, provided that, subject to the Third A&R Agreement and the Customer Cross-Margining Clearing Member Agreement, and except to the extent required by applicable law or authorized by the Commission, FICC shall not retain Excess Cross-Margining Customer Margin due to any obligations of the Member unrelated to a Cross-Margining Customer Account of such Member. Section 10(c) of Rule 4 would further provide that FICC may, at its discretion, retain some or all of the Excess Cross-Margining Customer Margin if the Member has an outstanding payment or margin obligation to the Corporation with respect to the Transactions of any Cross-Margining Customer.

FICC proposes to amend the Margin Component Schedule to set out how Cross-Margining Customer Margin Requirements would be determined. Specifically, FICC proposes to insert a new paragraph at the end of Section 1 to provide that (i) on each Business Day, each Netting Member for which FICC maintains a Cross-Margining Customer Account shall be required to deposit with FICC Cross-Margining Customer Margin equal to the sum of all Cross-Margining Customer Margin Requirements for all such Accounts, (ii) each Cross-Margining Customer Margin Requirement shall equal the sum of the amounts calculated pursuant to Section 3a of the Margin Component Schedule for each Cross-Margining Customer whose Transactions are recorded in the relevant Cross-Margining Customer Account, and (iii) each such calculation shall be performed twice daily pursuant to the Margin Component Schedule and subject to the provisions of Rule 4. Further, FICC proposes to add a new Section 3a to the Margin Component Schedule titled “Cross-Margining Customer Margin Requirement Calculations” to set out how specifically such requirement would be calculated, which would be substantially identical to how Segregated Customer Margin Requirement is calculated as set out in Section 3 of the Margin Component Schedule. Finally, FICC proposes to amend Section 5 to add references to “Cross-Margining Customer,” “Cross-Margining Customer Account,” and “Cross-Margining Customer Margin Requirement” after each reference to “Segregated Indirect Participant,” “Segregated Indirect Participants Account,” and “Segregated Customer Margin Requirement,” respectively.

Description of the Customer Cross-Margining Arrangement. FICC proposes to amend Rule 43 to explicitly describe the Customer Cross-Margining Arrangement as follows:

FICC proposes to add a new Section 2(c) of Rule 43 to provide that (i) a Netting Member that is an Eligible BD-FCM may become a Cross-Margining Participant in connection with the Customer Cross-Margining Arrangement with the consent of FICC and CME, and (ii) an Eligible BD-FCM that would become such a Cross-Margining Participant shall be permitted to establish a Cross-Margining Customer Account upon acceptance by FICC and CME of an executed Customer Cross-Margining Clearing Member Agreement.

FICC proposes to amend Section 3 of Rule 43 to provide that, if FICC becomes obligated to make a payment to CME pursuant to the cross-guaranty under the Third A&R Agreement in relation to the obligations of a Cross-Margining Participant, its Cross-Margining Affiliate, or its Cross-Margining Customer, the Cross-Margining Participant (and, if FICC becomes obligated to make such a payment in respect of the obligations of a Cross-Margining Customer, the Cross-Margining Customer) shall thereupon immediately be obligated, whether or not FICC has then made payment to CME, to pay to FICC the amount of the reimbursement obligation that is owed to FICC as a result.

FICC proposes to add a new sentence at the end of Section 5 of Rule 43 to provide that, if FICC receives a payment from CME pursuant to the Third A&R Agreement in connection with the Customer Cross-Margining Arrangement, FICC would not be permitted to apply such payment to any obligation other than the obligations of Cross-Margining Customers (whether or not arising in connection with any Eligible Positions).

Conforming and clarifying Changes. FICC proposes to make the following conforming or clarifying changes:

FICC proposes to amend Section 4(b)(i) of Rule 2A to make clear that an applicant to become a Netting Member must have sufficient financial ability to make anticipated required deposits to not only Clearing Fund and Segregated Customer Margin, but also any Cross-Margining Customer Margin.

FICC proposes to remove Section 10(e) of Rule 3A to remove the current prohibition of Sponsored Members from participating in any Cross-Margining Arrangements, and accordingly renumber current Section 10(f) of Rule 3A to Section 10(e).

FICC proposes to remove (i) the language in parentheses in the first sentence of Section 1 of Rule 13, (ii) the second sentence in Section 2(b) of Rule 22A, and (iii) the portions of Sections 2(a) and 2(b) of Rule 43 that are crossed out in Exhibit 5, because those provisions relate to the “market professional” cross-margining program, which is no longer active and would not be used if the Customer Cross-Margining Arrangement becomes available.

(iii) Implementation of the Proposal

The proposed Third A&R Agreement would not become effective and replace the Second A&R Agreement until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed by FICC and CME.⁶¹ Not later than two (2) business days following the date of the Commission’s approval of the proposed rule changes, FICC would add a legend to the proposed Third 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 Third A&R Agreement. FICC would issue a 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 Exchange Act⁶² and the rules thereunder applicable to FICC.

⁶¹ See Section 18(j) of the proposed Third A&R Agreement.

⁶² 15 U.S.C. 78q-1.

Section 17A(b)(3)(F) of the Exchange 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.⁶³ 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 Third A&R Agreement and the proposed changes to the GSD Rules would provide for funds and securities posted by Cross-Margining Participants in respect of Customer Positions, i.e., Cross-Margining Customer Margin, to be credited to the Cross-Margining Customer Margin Custody Account and treated as financial assets within the meaning of the NYUCC. These changes would have the effect of making FICC the “securities intermediary” in respect of such Cross-Margining Customer Margin and the Eligible BD-FCM, on behalf of its Cross-Margining Customers, the “entitlement holder” under the NYUCC.⁶⁴ By virtue of these designations, the Cross-Margining Customer Margin held by FICC would be unavailable to satisfy the claims of FICC’s general creditors and would be reserved for the Eligible BD-FCM (on behalf of its Cross-Margining Customers), including in an FICC insolvency.⁶⁵ Furthermore, the proposed changes would prohibit FICC from using Cross-Margining Customer Margin, except to satisfy the obligations arising from Customer Positions of the Cross-Margining Participant that posted such margin. Accordingly, it would reduce the possibility of such margin being exposed to loss on account of not only FICC’s insolvency, but also the default of the Cross-Margining Participant or another Netting Member. The proposed changes would thus assure the safeguarding of the Cross-Margining Customer Margin.

Second, the proposed changes adopting and implementing the Customer Cross-Margining Arrangement would reduce the likelihood of FICC, each Netting Member, and indirect participants incurring a loss on account of a default by aligning each Cross-Margining Customer’s margin requirements with the risk of such Cross-Margining Customer’s Eligible Positions. Such alignment would serve to incentivize a Cross-Margining Customer to maintain portfolios that present lower risk because such lower risk would generally lead to lower margin requirements. Lower risk portfolios, in turn, would serve to reduce the risk of such Cross-

⁶³ 15 U.S.C. 78q-1(b)(3)(F).

⁶⁴ NYUCC § 8-102(7) (“‘Entitlement holder’ means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary...”).

⁶⁵ See UCC § 8-503(a) (“To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, are not property of the securities intermediary, and are not subject to claims of creditors of the securities intermediary, except as otherwise provided in Section 8-511”). The exceptions to the foregoing rule in Section 8-511 only apply in the event that the securities intermediary has pledged the financial assets underlying the security entitlements to creditors, which would not be relevant here. See UCC § 8-511(b)-(c).

Margining Customer's default and the Cross-Margining Participant's and FICC's exposure thereto. Accordingly, by allowing a Cross-Margining Customer to engage in cross-margining activity, the proposed changes would serve to promote the risk-reducing effects of cross-margining that are currently only available to Cross-Margining Participants and their Eligible Affiliates. They would thus serve to enhance FICC's ability to safeguard the securities and funds in its control or for which it is responsible.

The lower margin requirements which would result from these changes would also incentivize Cross-Margining Customers to post initial margin in respect of their Eligible Positions, rather than rely on their Eligible BD-FCM to do so. Currently, FICC understands that it is common practice for Sponsoring Members and Agent Clearing Members to use their own assets to satisfy the FICC initial margin requirements associated with FICC-cleared positions that Eligible BD-FCMs carry for their customers.⁶⁶ This increases the costs to Sponsoring Members and Agent Clearing Members of offering customer clearing services and limits their capacity to do so. As a result of the proposed changes adopting and implementing the Customer Cross-Margining Arrangement, a Cross-Margining Customer's Eligible Positions at FICC would be eligible for a margin reduction if the Cross-Margining Customer posts the initial margin instead of requiring its Eligible BD-FCM to do so. It would thus incentivize Cross-Margining Customers to post such margin, which would likely result in an associated cost reduction from their Eligible BD-FCMs. Such posting would, in turn, serve to reduce Eligible BD-FCMs' risk to their Cross-Margining Customers and thereby promote the safeguarding of securities and funds in FICC's control or for which it is responsible.

The proposed changes adopting and implementing the Customer Cross-Margining Arrangement would also promote the safeguarding of funds and securities for which FICC is responsible by ensuring that Customer Positions and Cross-Margining Customer Margin benefit from the customer protection regime applicable to futures contracts and associated margin. They would do this by requiring that Customer Positions and Cross-Margining Customer Margin be carried by the Cross-Margining Participant in a futures account and by satisfying the conditions necessary under the Proposed Orders to allow the Cross-Margining Participant to do that. Because the Customer Positions and Cross-Margining Customer Margin would be carried in a futures account, an Eligible BD-FCM would generally be required to safeguard Customer Positions and Cross-Margining Customer Positions to a substantially similar extent as is required for futures and associated margin. Furthermore, by requiring that Customer Positions and Cross-Margining Customer Margin be carried in a futures account and satisfying the other conditions of the Proposed Orders, the proposed changes would help to ensure that Customer Positions and Cross-Margining Customer Margin constitute "customer property" for purposes of Part 190 and that Cross-Margining Customer claims therefor constitute the claims of "customers" on account of their "net equity" within the meaning of Part 190.⁶⁷ Part 190 provides that, in the insolvency of an FCM, "customer property" shall be distributed to "customers" ratably on the basis of their

⁶⁶ See Treasury Market Practices Group, Consultative White Paper: Non-Centrally Cleared Bilateral Repo and Indirect Clearing in the U.S. Treasury Market: Focus on Margining Practices (Feb. 26, 2025).

⁶⁷ See 17 C.F.R. §§ 190.01; 190.08; 190.09(a)(1)(i)(A).

“net equity” claims, in priority to all other claims (except administrative claims related to the administration of customer property).⁶⁸ Accordingly, by ensuring that Customer Positions and Cross-Margining Customer Margin constitute “customer property” and that Cross-Margining Customer claims therefore constitute “customer” “net equity” claims, the proposed changes would aim to provide Cross-Margining Customers with the same priority right to receive distributions on their allowed claims with respect to the Customer Positions and Cross-Margining Customer Margin as other public customers of the insolvent Eligible BD-FCM have in respect of their futures positions and associated margin. Accordingly, it would promote the safeguarding of Cross-Margining Customer Margin and the cash and securities distributed in respect of Customer Positions from the insolvency of the Cross-Margining Participant.

In addition, the proposed changes would promote the safeguarding of funds and securities for which FICC is responsible by ensuring that customers of an Eligible BD-FCM that do not participate in cross-margining under the Customer Cross-Margining Arrangement (as well as Cross-Margining Customers in relation to positions and margin not subject to the arrangement) remain entitled to the full suite of protections under Section 15(c)(3) of the Exchange Act, Rule 15c3-3 under the Exchange Act, and SIPA. The proposed changes are designed to ensure this protection by requiring that Cross-Margining Customers enter into a Customer Agreement that includes the terms of the Subordination Agreement. Pursuant to such terms, each Cross-Margining Customer would agree that its claims to “customer property” as defined in SIPA or 11 U.S.C. § 741 against the Cross-Margining Participant with respect to its Customer Positions at FICC and associated Cross-Margining Customer Margin will be subordinated to the claims of all other customers.⁶⁹ Such subordination is designed to ensure that the claims of Cross-Margining Customers in relation to Customer Positions or Cross-Margining Customer Margin do not dilute the claims of non-participating customers of Eligible BD-FCMs in relation to Segregated Customer Margin (as well as any claims Cross-Margining Customers in relation to Segregated Customer Margin) in a SIPA proceeding. Accordingly, the Cross-Margining Arrangement would help to ensure that such Segregated Customer Margin remains safeguarded to the same extent as would be the case in the absence of the Customer Cross-Margining Arrangement.

Section 17A(b)(3)(F) of the Exchange 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.⁷⁰ 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.

The proposed changes would extend the existing cross-margining arrangement to Customer Positions, which is currently only available for clearing members (and certain Eligible

⁶⁸ See 17 C.F.R. § 190.09.

⁶⁹ See Appendix C, Exhibit I “[Customer Required Terms Annex or Agreement]” of the proposed Third A&R Agreement.

⁷⁰ 15 U.S.C. 78q-1(b)(3)(F).

Affiliates) at FICC and CME with respect to proprietary positions. By doing so, the proposed changes would serve to eliminate impediments to Cross-Margining Customers submitting transactions for central clearing. Specifically, the proposed rule change would serve to align the margin requirements for Customer Positions with the risk the positions present. As a result, they would eliminate impediments to clearing that can arise from unduly high margin requirements. Furthermore, by aligning margin requirements with risk, the proposed changes would incentivize market participants to submit more Treasury securities transactions eligible to be cross-margined 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. Therefore, the proposed rule change would also serve to promote prompt and accurate clearance and settlement of securities transactions.⁷¹ Accordingly, 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.⁷²

Rule 17ad-22(e)(6)(i) under the Exchange 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.⁷³ FICC believes that the proposed changes would ensure the satisfaction of these requirements.

First, the Customer Cross-Margining Arrangement would produce margin levels commensurate with the risks and particular attributes of the Eligible Positions. This is because FICC would calculate initial margin requirements for Customer Positions using the same methodology as under the Proprietary Cross-Margining Arrangement, with each Cross-Margining Customer treated effectively as an independent Netting Member. The Commission recently approved this methodology, finding in particular that it satisfied the requirements of Rule 17ad-22(e)(6).⁷⁴

Second, the proposed changes would provide that FICC-cleared Customer Positions of a Cross-Margining Customer would be recorded in a Cross-Margining Customer Account, which

⁷¹ Id.

⁷² 15 U.S.C. 78q-1(b)(3)(F).

⁷³ 17 CFR 240.17ad-22(e)(6)(i).

⁷⁴ See Order Granting Approval of Proposed Rule Change To Amend and Restate the Cross-Margining Agreement Between FICC and CME, Securities Exchange Act Release No. 98327 (Sept. 8, 2023), 88 FR 63185 (Sept. 14, 2023).

account would be a separate Type of Account for purposes of the GSD Rules.⁷⁵ By virtue of these changes, the margin applicable to Customer Positions would be calculated separately and independently of the margin for any positions recorded in a different Type of Account, including any Proprietary Account of the Cross-Margining Participant. In addition, the proposed rule changes would provide for Customer Cross-Margining Margin to be collected and held in substantially a similar manner to Segregated Customer Margin. The Commission recently approved FICC's arrangements for Segregated Customer Margin, finding in particular that they "should ensure that a Netting Member's proprietary transactions are not netted with indirect participant transactions for margin calculations and that margin for indirect participant transactions is collected and held separately and independently from margin for a Netting Member's proprietary transactions." Accordingly, the proposed rule change would ensure compliance with Rule 17ad-22(e)(6)(i).

Rule 17ad-22(e)(4)(i) under the Exchange 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.⁷⁶ FICC believes that the proposed changes 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, under the Customer Cross-Margining Arrangement, FICC would calculate the margin requirement applicable to Customer Positions on a gross (i.e., Cross-Margining Customer-by-Cross-Margining Customer) basis, with margin reductions for offsetting positions calculated using a methodology that the Commission recently approved.⁷⁷ Examining the similar customer-by-customer gross margining arrangements adopted by FICC for Segregated Indirect Participants, the Commission found that they would "better isolate the risk profiles of individual indirect participants from Netting Members, which should help FICC better understand and monitor each individual participant's risk exposures."⁷⁸ In addition, the proposed rule change would require each Eligible BD-FCM for whom FICC maintains one or more Cross-Margining Customer Account(s) to deposit to FICC cash or eligible securities to meet the Cross-Margining Customer Margin Requirement that is calibrated to the risks of each Cross-Margining

⁷⁵ See Section 1, "Definitions." of the proposed Third A&R Agreement.

⁷⁶ 17 CFR 240.17ad-22(e)(4)(i).

⁷⁷ See Self-Regulatory Organizations; the Fixed Income Clearing Corporation; Order Granting Approval of Proposed Rule Change To Amend and Restate the Cross-Margining Agreement Between FICC and CME, 88 FR 63185 (Sept. 15, 2023).

⁷⁸ See Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change, as Modified by Partial Amendment No. 1, To Modify the GSD Rules (i) Regarding the Separate Calculation, Collection and Holding of Margin for Proprietary Transactions and That for Indirect Participant Transactions, and (ii) To Address the Conditions of Note H to Rule 15c3-3a, 89 FR 93763, 93776 (Nov. 27, 2024).

Customer's portfolio. Such Eligible BD-FCM would also be required to enter into a Customer Cross-Margining Clearing Member Agreement with FICC and CME, pursuant to which the Eligible BD-FCM would pledge to FICC, on behalf of itself and each Cross-Margining Customer, the positions and margin subject to the Customer Cross-Margining Arrangement at both FICC and CME. This pledge, coupled with the cross-guarantee set forth in the Third A&R Agreement, would ensure that FICC and CME are able to look to the full portfolio of Customer Positions and associated margin at FICC and CME in order to satisfy any obligations arising under Customer Positions. Accordingly, the proposed changes would ensure that FICC will have sufficient resources to rely on to cover cross-margining exposures under the Customer Cross-Margining Arrangement.

Rule 17ad-22(e)(18)(iv)(C) under the Exchange 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 changes would expand the Cross-Margining Arrangement, which currently is only available for proprietary positions of Cross-Margining Participants and those of their Eligible Affiliates, to Customer Positions. This expansion would serve to facilitate access for indirect participants to FICC's clearance and settlement services for Treasury transactions by aligning the margin requirements applicable to such participants' positions with the risk those positions present. Such alignment would serve to eliminate impediments to access that can arise when there is a mismatch between margin and risk. Furthermore, by creating an incentive for Cross-Margining Customers to cover the margin requirements for their own positions, the proposed rule change would serve to reduce the need for Netting Members to use their own resources to cover such margin obligations. As a result, it would reduce the costs and increase the capacity of Netting Members to provide clearing services, which would in turn allow Netting Members to increase the volume of transactions they clear and reduce the prices at which they provide such clearing services. Moreover, by creating significant cost savings and efficiencies for Cross-Margining Customers that consolidate offsetting positions into a single clearing member regardless of execution counterparty, the proposed changes would create a natural incentive for Netting Members to offer done-away clearing services. For such Netting Members, carrying Treasury securities positions entered into by a customer with other parties would provide a potential opportunity to reduce the risk of the customer's futures positions and earn clearing revenue without the cost of funding the customer's margin obligations, and such clearing services could create opportunities to increase the Netting Member's scope of customers. Therefore, the proposed changes would facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.⁷⁹

⁷⁹ 17 CFR 240.17ad-22(e)(18)(iv)(C).

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

FICC believes that the proposed changes to the GSD Rules and the Third A&R Agreement would promote competition by enabling customers of Eligible BD-FCMs to benefit from cross-margining.

As described above, under the Existing Agreement, cross-margining is currently only available for a Cross-Margining Participant's proprietary positions and those of an Eligible Affiliate. Accordingly, customers of Cross-Margining Participants are not able to benefit from cross-margining; they must continue to have their Eligible Securities Positions margined without regard to potential risk offsets involving other Eligible Futures Positions. By extending availability of cross-margining to Customer Positions, the proposed rule change would serve to place customers of Eligible BD-FCMs on a more level playing field with Cross-Margining Participants and Eligible Affiliates. It would ensure that such customers have the ability to achieve similar margin efficiencies and pursue similar trading strategies on similar terms as Cross-Margining Participants and Eligible Affiliates. As a result, the proposed changes would improve competitive parity in the U.S. Treasury market between direct participants and indirect participants at FICC.

The proposed rule change would also promote competition by allowing all customers of Eligible BD-FCMs, rather than only market professionals or a similar subset, to access central clearing. As a result, the proposed rule change would ensure that introducing cross-margining maintains competitive parity among customers of Eligible BD-FCMs.

FICC believes that the proposed rule change would introduce a burden of competition as between Eligible BD-FCMs and other Netting Members because the Customer Cross-Margining Arrangement would only be available for Customer Positions carried by Eligible BD-FCMs. However, FICC believes that this burden on competition is necessary in order to ensure that Customer Positions and associated Cross-Margining Customer Margin are safeguarded pursuant to robust customer protections. In particular, the dual registration of an Eligible BD-FCM as a broker-dealer and FCM is necessary to ensure that the Customer Positions and associated margin can be carried in a futures account under the CEA and applicable CFTC regulations and that they benefit from the Part 190 distributional rules in the event of the clearing member's failure. FICC has concluded that it would not be feasible to achieve similar customer protections if Customer Positions were carried at a Netting Member not registered as a BD and FCM. Indeed, FICC has observed that other U.S. cross-margining arrangements involving customers similarly require such dual registration as a condition to participation in the arrangement.⁸⁰

⁸⁰ See Order Granting Conditional Exemptions Under the Securities Exchange Act of 1934 in Connection With the Portfolio Margining of Cleared Swaps and Security-Based Swaps That Are Credit Default Swaps, Securities Exchange Act Release No. 93501 (Nov. 1, 2021), 86 FR 61357 (Nov. 5, 2021); Order Granting Conditional Exemptions Under the Securities Exchange Act of 1934 in Connection With Portfolio Margining of Swaps and Security-Based Swaps, Securities Exchange Act Release No. 68433 (Dec. 14, 2012), 77 FR 75211 (Dec. 19, 2012); Order, Treatment of Funds Held in Connection with Clearing by LCH SA of Single-Name Credit Default Swaps, Including Spun-Out Component

In addition, the proposed rule change would promote competition by providing market participants with greater flexibility in the methods through which transactions in U.S. Treasury securities can be cleared. With the introduction of the Customer Cross-Margining Arrangement, clearing members will be able to offer a wider variety of clearing methods to their indirect participant customers. Such indirect participants will accordingly be able to participate in a wider variety of clearing methods, and will be able to choose whether to clear transactions under the Customer Cross-Margining Arrangement or whether to clear transactions at FICC without engaging in cross-margining.

Accordingly, the proposed rule change would promote competition by allowing Cross-Margining Customers to obtain the benefits associated with cross-margining, ensuring that Cross-Margining Customers are not at an undue competitive disadvantage relative to clearing members and certain Eligible Affiliates who are currently able to access such benefits under the Proprietary Cross-Margining Arrangement, and providing market participants with greater flexibility in the access models available for the clearing of transactions in U.S. treasury securities.

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

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

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

All prospective commenters should follow the Commission's instructions on how to submit comments, available at www.sec.gov/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 Exchange Act⁸¹ 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 Exchange Act

Not applicable.

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

Not applicable.

11. Exhibits

Exhibit 1 – Not applicable.

Exhibit 1A – Notice of proposed rule change for publication in the Federal Register.

Exhibit 2 – Not applicable.

Exhibit 3A – Service Level Agreement between the Clearing Organizations in accordance with Section 6(a) of the proposed Third A&R Agreement. ***Omitted and filed separately with the Commission. Confidential treatment of this Exhibit 3A requested pursuant to 17 CFR 240.24b-2.***

Exhibit 3B – Letter from the Fixed Income Clearing Corporation and Chicago Mercantile Exchange Inc. to Vanessa Countryman dated as of December 11, 2025 (the “SEC”

⁸¹ 15 U.S.C. 78s(b)(2).

Petition”). *Omitted and filed separately with the Commission. Confidential treatment of this Exhibit 3B requested pursuant to 17 CFR 240.24b-2.*

Exhibit 3C – Letter from the Fixed Income Clearing Corporation and Chicago Mercantile Exchange Inc. to Christopher J. Kirkpatrick dated as of May 14, 2025 (the “CFTC Petition”). *Omitted and filed separately with the Commission. Confidential treatment of this Exhibit 3C requested pursuant to 17 CFR 240.24b-2.*

Exhibit 4 – Not applicable.

Exhibit 5A – Proposed changes to the GSD Rules.

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

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-[_____]; File No. SR-FICC-2025-025)

[DATE]

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on December __, 2025, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency.³ 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

FICC is proposing a rule change related to its cross-margining arrangement (the “Cross-Margining Arrangement”) with the Chicago Mercantile Exchange Inc. (“CME,” and collectively with FICC, the “Clearing Organizations” or “Parties”). The proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On December __, 2025, FICC filed this proposed rule change as an advance notice (SR-FICC-2025-801) with the Commission pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010, 12 U.S.C. 5465(e)(1), and Rule 19b-4(n)(1)(i) under the Exchange Act, 17 CFR 240.19b-4(n)(1)(i). A copy of the advance notice is available at www.dtcc.com/legal/sec-rule-filings.

rule change consists of (i) a proposed Third Amended and Restated Cross-Margining Agreement (the “Third A&R Agreement”) between FICC and CME, which would replace the Second Amended and Restated Cross-Margining Agreement between the Parties (the “Second A&R Agreement”) in its entirety and would be incorporated into the FICC Government Securities Division (“GSD”) Rulebook (“GSD Rules”), and (ii) a number of related rule changes to the GSD Rules. Together, the proposed changes would extend the availability of the Cross-Margining Arrangement to positions cleared and carried for customers by a dually registered broker-dealer (“BD”) and futures commission merchant (“FCM”) that is a common member of FICC and CME (an “Eligible BD-FCM”).⁴

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

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

⁴ The Commission recently approved FICC’s proposed rule change to enter into the Second Amended and Restated Cross-Margining Agreement between FICC and CME. See Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change to Amend and Restate the Cross-Margining Agreement between FICC and CME, 90 FR 22538 (May 28, 2025). The Second A&R Agreement has thus been 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.

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

1. Purpose

Currently, the Cross-Margining Arrangement allows FICC and CME to recognize for margin purposes the offsetting risk of certain positions in futures on U.S. Treasury securities and other interest rate futures and Treasury market transactions (“Eligible Positions”) maintained by a member of both Clearing Organizations (a “Joint Clearing Member”) for itself or certain eligible affiliates (an “Eligible Affiliate”), or by affiliated members of CME and FICC (each, a “Cross-Margining Affiliate,” and each Joint Clearing Member and each Cross-Margining Affiliate, a “Cross-Margining Participant”), 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 Joint Clearing Member’s or a pair of Cross-Margining Affiliates’ obligations (the “Proprietary Cross-Margining Arrangement”). In particular, the Proprietary Cross-Margining Arrangement allows the Clearing Organizations to consider the net risk of a Joint Clearing Member’s and its Eligible Affiliates’ Eligible Positions or a pair of Cross-Margining Affiliates’ Eligible Positions at FICC and CME when setting margin requirements for such positions.⁵ Any resulting margin reductions create capital efficiencies for the Cross-Margining Participants and their Eligible Affiliates and incentivize them to maintain or carry portfolios that present lower overall risk.

FICC and CME have submitted to the Commission and the Commodity Futures Trading Commission (the “CFTC”) petitions for exemptive relief from certain provisions

⁵ See Section 4 of the Second A&R Agreement, supra note 4.

of the Commodity Exchange Act (“CEA”) and Exchange Act that would enable FICC and CME to make cross-margining available to customers (other than an Eligible Affiliate) of an Eligible BD-FCM (“Cross-Margining Customers”).⁶ The proposed rule changes aim to set forth a customer cross-margining arrangement that is consistent with the descriptions in the Petitions and the requirements of the Proposed Orders (the “Customer Cross-Margining Arrangement”). The Customer Cross-Margining Arrangement would allow Cross-Margining Customers to benefit from the margin reductions that are currently only available to Cross-Margining Participants and their Eligible Affiliates under the Proprietary Cross-Margining Arrangement. As a result, it would facilitate access to clearing for indirect participants, promote the maintenance of more balanced portfolios that present lower risk, and enhance liquidity in, and otherwise promote the resilience and robustness of, the Treasury market.

The Third A&R Agreement would effectuate the Customer Cross-Margining Arrangement via the following features:

- Eligibility Criteria and Participation Requirements. The Third A&R Agreement would set out the eligibility criteria for a Joint Clearing Member and its Cross-Margining Customer to participate in the Customer Cross-Margining Arrangement, as well as the requirements that would apply to such a Joint Clearing Member and its Cross-Margining Customer. These include the requirements that:
 - A Joint Clearing Member be an Eligible BD-FCM;

⁶ See Letter from the Fixed Income Clearing Corporation and Chicago Mercantile Exchange Inc. to Vanessa Countryman dated as of December 11, 2025 and attached hereto as Confidential Exhibit 3B (the “SEC Petition”) and Letter from the Fixed Income Clearing Corporation and Chicago Mercantile Exchange Inc. to Christopher J. Kirkpatrick dated as of May 14, 2025 and attached hereto as Confidential Exhibit 3C (the “CFTC Petition”, and collective with the SEC Petition, the “Petitions”, and the proposed Commission and CFTC orders as described in the Petitions, the “Proposed Orders”).

- Each Cross-Margining Customer be a “futures customer” within the meaning of CFTC Regulation 1.3 and a “Sponsored Member” or “Executing Firm Customer” as defined under the GSD Rules;
- The Joint Clearing Member enter into a participant agreement with the Clearing Organizations; and
- The Joint Clearing Member enter into an agreement with each Cross-Margining Customer containing certain terms, including that the Cross-Margining Customer agrees to subordinate its claims under the Securities Investor Protection Act of 1970 (“SIPA”) and Subchapter III of Chapter 7 of the U.S. Bankruptcy Code in relation to its cross-margined positions and associated margin (the “Subordination Agreement”).

As discussed in greater detail below, these criteria and requirements for participation are designed to ensure that each participating Cross-Margining Customer and its Joint Clearing Member satisfy certain conditions set forth in the Proposed Orders.

- Customer Cross-Margining Accounts. The Third A&R Agreement would include provisions to enable Eligible BD-FCMs to establish “Customer Cross-Margining Accounts” for purposes of recording Eligible Positions at the Clearing Organizations (such Eligible Positions in a Customer Cross-Margining Account, “Customer Positions”) and set forth a definition of “Proprietary Cross-Margining Accounts” to refer to the accounts established by Eligible BD-FCMs at the Clearing Organizations for the purposes of recording positions subject to the Proprietary Cross-Margining Arrangement (“Proprietary Positions”).
- Margin Methodology. The Third A&R Agreement would include provisions describing the methodology for calculating potential reductions to the margin requirements for Customer Positions. As discussed in greater detail below, FICC is proposing to apply the same margin reduction methodology to Customer Positions as it applies to Proprietary Positions, with margin reductions calculated on a customer-by-customer basis for each Cross-Margining Customer.
- Default Management. The Third A&R Agreement would include provisions to address how the Clearing Organizations would manage a default of a Cross-Margining Participant (a “Defaulting Member”) carrying positions for Cross-Margining Customers. Under the Third A&R Agreement, the Clearing Organizations would follow substantially the same approach to handling Customer Positions carried by a Defaulting Member as applies to Proprietary Positions. However, Customer Positions and Proprietary Positions and associated margin would form part of separate “Liquidation Portfolios” and therefore would not be netted against one another in calculating Net Gain or

Net Loss (or VM Net Gain or VM Net Loss) under the Cross-Margining Agreement. By virtue of these changes, the Clearing Organizations would not be able to apply Customer Positions or associated margin to the obligations arising under a Defaulting Member's Proprietary Positions. The Third A&R Agreement would also include edits clarifying that the Clearing Organizations may "port" Customer Positions to another clearing member in a default scenario.

In addition to replacing the Second A&R Agreement with the Third A&R Agreement, FICC proposes the following changes to the GSD Rules to effectuate the Customer Cross-Margining Arrangement:

- Account Structure. FICC proposes to create a new Account type, the "Cross-Margining Customer Account," for purposes of recording FICC-cleared Customer Positions.
- Margin Methodology and Treatment. As discussed in greater detail below, under the proposed changes, FICC would collect and hold Cross-Margining Customer Margin in a substantially similar manner to how it collects and holds "Segregated Customer Margin" (as defined under the GSD Rules), with certain adjustments to ensure consistency with the requirements of the Proposed Orders and the general requirements and conventions applicable to futures. Consistent with how it treats Segregated Customer Margin, FICC would credit all Cross-Margining Customer Margin collected from an Eligible BD-FCM to a securities account on its books and records in the name of the Eligible BD-FCM for the benefit of its customers (a "Cross-Margining Customer Margin Custody Account"). FICC would also agree to treat all assets credited to the Cross-Margining Customer Margin Custody Account as "financial assets" credited to a "securities account" for which FICC is the "securities intermediary," as such terms are used in Article 8 of the Uniform Commercial Code as in effect in the State of New York ("NYUCC"). This treatment is designed to ensure that Cross-Margining Customer Margin does not form part of FICC's bankruptcy estate and is not exposed to the claims of FICC's general creditors, and is instead reserved for Eligible BD-FCMs claiming on behalf of their Cross-Margining Customers. Consistent with how it holds Segregated Customer Margin, FICC would hold Cross-Margining Customer Margin in a segregated account at a bank insured by the Federal Deposit Insurance Corporation and at the Federal Reserve Bank of New York (the "FRBNY"). In accordance with the Proposed Orders, any such account (other than one at the FRBNY) would need to be subject to a written notice consistent with the Proposed Orders.
- Conforming and Clarifying Changes. FICC proposes to make a number of clarifying and conforming edits to the GSD Rules, including (i) adding references to Cross-Margining Customer, Cross-Margining Customer Margin,

Cross-Margining Customer Account, and Cross-Margining Customer Margin Requirements to relevant provisions that refer to Indirect Participants, initial margin collected by FICC, position accounts maintained by FICC, and FICC's initial margin requirements; (ii) removing the existing prohibition under Section 10(e) of Rule 3A on Sponsored Members from participating in the Cross-Margining Arrangement; (iii) expanding Rule 43, which sets forth certain terms related to the Proprietary Cross-Margining Arrangement, to encompass the Customer Cross-Margining Arrangement; and (iv) removing references to the Market Professionals cross-margining arrangement, which is no longer offered by FICC.

The Third A&R Agreement would also include a number of clarifying and conforming edits, including to make clear that, with respect to both the Proprietary Cross-Margining Arrangement and Customer Cross-Margining Arrangement, FICC and CME would only manage a default of a Joint Clearing Member independently of one another if a joint management or buy-out by one of the Clearing Organizations were not legally permissible or possible or would result in substantially greater losses to each Clearing Organization.

In addition, the Second A&R 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 Third A&R Agreement.⁷

(i) The Proposed Third A&R Agreement

As noted above, FICC proposes to enter into the Third A&R Agreement with CME. The proposed changes to the Second A&R Agreement contained in the Third A&R Agreement are designed to make cross-margining available to Cross-Margining Customers consistently with the framework set out in the Proposed Orders. FICC believes that such amendments would promote the maintenance of more balanced

⁷ The SLA is provided as confidential Exhibit 3 to this proposed rule change.

portfolios that present lower risk and facilitate the access of indirect participants to central clearing in accordance with Rule 17ad-22 under the Exchange Act.

A. Eligibility Criteria and Participation Requirements

a. Eligibility Criteria for Joint Clearing Members

The Third A&R Agreement would set forth the eligibility criteria for a Cross-Margining Participant to participate in the Customer Cross-Margining Arrangement. To facilitate compliance with the conditions and limitations of the Proposed Orders, Section 2(a) of the Third A&R Agreement would provide that, to become a Cross-Margining Participant for the Customer Cross-Margining Arrangement and establish a Customer Cross-Margining Account, a Clearing Member would need to be a Joint Clearing Member that is both a BD registered with the Commission and an FCM registered with the CFTC (i.e., an Eligible BD-FCM).⁸ Section 3(a) of the Third A&R Agreement would further require that the Eligible BD-FCM hold the Cross-Margining Customer's Customer Positions at FICC and associated money, securities and property together with such customer's Customer Positions at CME and the associated "futures customer funds," as defined in CFTC Regulation 1.3, held by the Eligible BD-FCM, in a "futures account," as defined in CFTC Regulation 1.3, "in accordance with any conditions set forth in the regulatory approvals of [the Third A&R Agreement] issued by [the Commission] and CFTC and applicable law."⁹

In addition, the Eligible BD-FCM would be required to enter into a participant agreement with FICC and CME in the form of Appendix C to the Third A&R Agreement

⁸ See Section 2(a) of the proposed Third A&R Agreement.

⁹ See Section 3(a) of the proposed Third A&R Agreement.

(the “Customer Cross-Margining Clearing Member Agreement”), which is further described below.¹⁰ The definition of “Clearing Member Agreement” would correspondingly be amended to refer, with respect to the Proprietary Cross-Margining Arrangement, to the existing participant agreement currently attached as Appendix A or Appendix B to the Second A&R Agreement (the “Proprietary Clearing Member Agreement”), as applicable, and with respect to the Customer Cross-Margining Arrangement, to the Customer Cross-Margining Clearing Member Agreement.¹¹

As a conforming change, Sections 2(a) and (c) and the first sentence of Section 2(a) of the Third A&R Agreement would also be amended to provide that the pre-existing language therein applies to a Cross-Margining Participant for the Proprietary Cross-Margining Arrangement.¹²

b. Definition of Customer and Non-Customer

The Customer Cross-Margining Arrangement would only be available for the positions carried by an Eligible BD-FCM for “Customers.” To ensure compliance with the limitations under the Proposed Orders of the types of persons eligible to be Cross-Margining Customers, the Third A&R Agreement would define “Customer” as an indirect clearing participant that meets the definition of futures customer set out in CFTC Regulation 1.3 and is a “Sponsored Member” or “Executing Firm Customer” as defined

¹⁰ See infra Part 3(a)(i)(G) “Customer Cross-Margining Clearing Member Agreement;” Section 2(d) of the proposed Third A&R Agreement; Appendix C “Fixed Income Clearing Corporation / Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member) [Customer Cross-Margining Program]” of the proposed Third A&R Agreement.

¹¹ See Section 1 of the proposed Third A&R Agreement.

¹² See Sections 2(a), (c) of the proposed Third A&R Agreement.

under the GSD Rules.¹³ CFTC Regulation 1.3 defines “futures customer” to mean any person who uses an FCM as an agent in connection with trading in any futures contract, but excludes persons whose futures positions are held in a “proprietary account.”¹⁴ Any Customer wishing to participate in the Customer Cross-Margining Arrangement would need to enter into an agreement with its Eligible BD-FCM that includes certain terms described in greater detail below (the “Customer Agreement”).¹⁵ Because affiliates of the Eligible BD-FCM would generally have their CME-cleared futures positions held in a proprietary account of the Eligible BD-FCM, such affiliates would not constitute “futures customers” under CFTC Regulation 1.3. However, Eligible Affiliates would continue to be able to access cross-margining under the Proprietary Cross-Margining Arrangement so

¹³ See Section 1 of the proposed Third A&R Agreement.

¹⁴ See CFTC Regulation 1.3, definition of “futures customer” (defining “futures customer” as “any person who uses a futures commission merchant, introducing broker, commodity trading advisor, or commodity pool operator as an agent in connection with trading in any contract for the purchase or sale of a commodity for future delivery or any option on such contract; Provided, however, an owner or holder of a proprietary account as defined in this section shall not be deemed to be a futures customer within the meaning of sections 4d(a) and 4d(b) of the [CEA], the regulations in this chapter that implement sections 4d and 4f of the [CEA] and [CFTC Regulation] § 1.35, and such an owner or holder of such a proprietary account shall otherwise be deemed to be a futures customer within the meaning of the [CEA] and [CFTC Regulations] §§ 1.37 and 1.46 and all other sections of these rules, regulations, and orders which do not implement sections 4d and 4f of the [CEA].”); CFTC Regulation 1.3, definition of “proprietary account” (defining “proprietary account” as “futures, commodity option, or swap trading account carried on the books and records of” a person or entity for such person or entity itself or certain affiliates, as well as such account “of which ten percent or more is owned by. . . or an aggregate of ten percent or more of which is owned by more than one” such persons, entities, or affiliates).

¹⁵ See infra Part 3(a)(i)(H) “Customer Agreement.”

long as they constitute “Non-Customers.”¹⁶ The Third A&R Agreement would revise the definition of “Non-Customer” to mean any affiliate of the Eligible BD-FCM or any person that is an officer, director, partner or other related person of the Eligible BD-FCM (i) that is not a “customer” of the Eligible BD-FCM within the meaning of SIPA, Subchapter III of Chapter VII of the U.S. Bankruptcy Code, or Exchange Act Rule 15c3-3, and (ii) whose CME-cleared positions are carried in a proprietary account of the Eligible BD-FCM.¹⁷

c. Relationship Between the Clearing Organizations and Cross-Margining Customers

Because a Cross-Margining Customer’s participation in the Customer Cross-Margining Arrangement would be intermediated through the Eligible BD-FCM, Section 2(a) of the Third A&R Agreement would specify that the Clearing Organizations would have no obligation to deal directly with a Cross-Margining Customer, and that a Cross-Margining Customer would have no right to assert a claim against a Clearing Organization with respect to, nor would a Clearing Organization be liable to a Cross-Margining Customer for, any obligations of a Clearing Organization in connection with the Cross-Margining Customer’s participation in the Customer Cross-Margining

¹⁶ See Section 3(b) of the proposed Third A&R Agreement (allowing the transactions, positions and margin that are maintained by an “Eligible Affiliate” to be maintained in a Cross-Margining Account provided that certain conditions, which are not proposed to be modified in the Third A&R Agreement, are satisfied); Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change to Amend and Restate the Cross-Margining Agreement between FICC and CME, 90 FR 31043 (July 11, 2025).

¹⁷ See Section 1 of the proposed Third A&R Agreement.

Arrangement pursuant to the Third A&R Agreement.¹⁸ These terms are consistent with those applicable to Eligible Firm Customers under the GSD Rules, as well as those applicable to customers under CME's rules.¹⁹

B. Customer Cross-Margining Account

To effectuate the Customer Cross-Margining Arrangement, the Third A&R Agreement would include changes to enable an Eligible BD-FCM to establish a "Customer Cross-Margining Account" separate from any of its "Proprietary Cross-Margining Accounts."

A Customer Cross-Margining Account would be defined as, with respect to FICC, an Indirect Participants Account (as defined in the GSD Rules) at FICC maintained for Cross-Margining Customers and identified in FICC's books and records as being subject to the Third A&R Agreement (which, as discussed below, would be the "Cross-Margining Customer Account" under the GSD Rules) and with respect to CME, an account carried on the books and records of CME for an Eligible BD-FCM, which contains only the positions, transactions, and margin of that Eligible BD-FCM's Cross-Margining Customers.²⁰ A Proprietary Cross-Margining Account would be defined as, with respect to FICC, a Proprietary Account at FICC (as defined in the GSD Rules) or an Indirect Participants Account at FICC that is maintained for Non-Customers and identified in FICC's books and records as being subject to the Third A&R Agreement,

¹⁸ See Section 2(a) of the proposed Third A&R Agreement.

¹⁹ See GSD Rules, Rule 2, Section 4; Rule 8, Section 6(c)-(e); CME Rulebook, Rule 803.

²⁰ See id.

and, with respect to CME, an account carried on the books and records of CME for an Eligible BD-FCM, which contains only the positions, transactions, and margin of the “proprietary accounts” (as defined in CFTC Regulation 1.3) of the Eligible BD-FCM.²¹

The Third A&R Agreement would also define “Cross-Margining Account” to mean either a Proprietary Cross-Margining Account or a Customer Cross-Margining Account.²² An Eligible BD-FCM would be required to designate each Cross-Margining Account it opens at the Clearing Organizations as either a Customer Cross-Margining Account or a Proprietary Cross-Margining Account.²³

C. Margin Methodology

The Third A&R Agreement would also specify how potential margin reductions would be calculated for Customer Positions carried in a Customer Cross-Margining Account. As with Proprietary Positions, each Clearing Organization would calculate the margin savings that would result from viewing the “Combined Portfolio” of CME-cleared Customer Positions and FICC-cleared Customer Positions as a single portfolio rather than as separate standalone portfolios. The Clearing Organizations would then compare the respective margin reduction percentages, and each would then reduce the margin required for the Combined Portfolio by the lower percentage (subject to a cap of 80%). For Customer Positions, this process would occur on a Cross-Margining Customer-by-Cross-Margining Customer basis. In other words, each Cross-Margining Customer’s Customer Positions would form part of a separate Combined Portfolio. This

²¹ See id.

²² See Section 1 of the proposed Third A&R Agreement.

²³ See Section 2(a) of the proposed Third A&R Agreement.

customer-by-customer approach is consistent both with how futures contracts are required to be margined under the rules of the CFTC, as well as how FICC margins Segregated Indirect Participant positions.²⁴

To implement this margin reduction methodology, the Third A&R Agreement would redefine “Combined Portfolio” to mean, in the case of a Pair of Cross-Margining Accounts consisting of Proprietary Cross-Margining Accounts, all Eligible Positions in such Cross-Margining Accounts, and in the case of a Pair of Cross-Margining Accounts consisting of Customer Cross-Margining Accounts, all Eligible Positions of a single Customer in such Cross-Margining Accounts.²⁵ The term “Pair of Cross-Margining Accounts,” in turn, would be defined to mean a Customer Cross-Margining Account at CME and a Customer Cross-Margining Account at FICC or a Proprietary Cross-Margining Account at CME and a Proprietary Cross-Margining Account at FICC.²⁶ The Third A&R Agreement would clarify that an Eligible BD-FCM would only be able to establish one Pair of Cross-Margining Accounts for each type of Indirect Participants Account offered at FICC under the GSD Rules and that the Customer Positions of the same Cross-Margining Customer may not be maintained in multiple Pairs of Cross-Margining Accounts of the same Eligible BD-FCM.²⁷ This limitation is aimed at ensuring that, as is the case with futures contracts, an Eligible BD-FCM would not be

²⁴ 17 C.F.R. § 39.13(g)(8)(i); GSD Rules, Rule 4, Section 1b(b).

²⁵ See Section 1 of the proposed Third A&R Agreement.

²⁶ See id.

²⁷ See Section 2(d) of the proposed Third A&R Agreement.

permitted to establish a separate account at the Clearing Organization for a particular customer or group of customers.

In addition to these changes, the Third A&R Agreement would include conforming changes in Section 4 to make clear that the margin calculations are performed on the Combined Portfolio and to provide that Sections 4(c) and 4(e), concerning the ability of the Clearing Organizations to require margin equal to or in excess of the Standalone Margin Requirement, would apply in relation to each Cross-Margining Account.²⁸ The Third A&R Agreement would also make conforming changes to a number of defined terms by:

- Revising the definition of “Cross-Margin Requirement” to refer to the joint amount of Margin required by FICC and CME in connection with a Combined Portfolio as provided for in Section 4(a) of the Third A&R Agreement;
- Revising definitions of “Margin Reduction” and “Variation Margin” to clarify that these terms apply separately with respect to Proprietary Cross-Margining Accounts and Customer Cross-Margining Accounts;
- Further revising the “Variation Margin” definition to reflect that amounts may be owed by or to a Cross-Margining Customer in relation to positions recorded in a Customer Cross-Margining Account;
- Revising the definition of “Stand-Alone Margin Requirement” to provide that it is determined with respect to a particular Cross-Margining Account, and that with regard to a Stand-Alone Margin Requirement of FICC, such requirement is calculated without regard to any netting across positions of multiple Executing Firm Customers in the same Agent Clearing Member Omnibus Account (as such terms are defined in the GSD Rules);
- Revising the definition of “Margin” to include Cross-Margining Customer Margin securing the obligations of a Cross-Margining Customer and to contemplate a Joint Clearing Member having multiple Cross-Margining Accounts; and

²⁸ See Sections 4(a), (c), and (e) of the proposed Third A&R Agreement.

- Removing the definition of “Cross-Margin Positions,” which would no longer be used.²⁹

Section 6(b) of the Third A&R Agreement would be revised to require FICC and CME to notify each other in the event a material problem arises with respect to a Cross-Margining Customer in the same manner as they are currently required to do with respect to Cross-Margining Participants.³⁰

D. Default Management

The Third A&R Agreement would include certain adjustments to the default management provisions to describe how the Clearing Organizations would address a default of an Eligible BD-FCM that is carrying Customer Positions for Cross-Margining Customers, elaborate on the steps the Clearing Organizations may take in a joint liquidation, and clarify when the Clearing Organizations may manage the default of a Cross-Margining Participant independently of one another.

The Third A&R Agreement would subject Customer Positions to substantially the same default management process as Proprietary Positions. In particular, under Section 7(b) of the Third A&R Agreement, the Clearing Organizations would attempt in good faith to jointly transfer, liquidate, or close-out the Proprietary Positions or Customer Positions, which may include a joint liquidating auction so that hedged positions can be closed-out simultaneously or, in the case of a transfer of Customer Positions, so that the positions of each Cross-Margining Customer in a Combined Portfolio can, if feasible, be transferred to the same clearing firm. Section 7(b) would further provide that if one

²⁹ See Section 1 of the proposed Third A&R Agreement.

³⁰ See Section 6(b) of the proposed Third A&R Agreement.

Clearing Organization determines that such joint action is not feasible or advisable for any Liquidation Portfolio, then either Clearing Organization could buy-out the Proprietary Positions or Customer Positions in such Liquidation Portfolio at the other Clearing Organization in accordance with the existing terms of the Third A&R agreement related to buy-outs. Lastly, Section 7(b) would provide that if one Clearing Organization determines that neither the joint transfer, liquidation, or close-out option nor the buy-out option is legally permissible or possible as to a particular Liquidation Portfolio, or if such methods would result in substantially greater losses to each Clearing Organization than in the case of a separate liquidation by each Clearing Organization, the Clearing Organizations could conduct separate liquidations in accordance with the existing terms related to such separate liquidations.³¹ The Clearing Organizations do not foresee particular circumstances that could lead to separate liquidations being applicable. To the contrary, the Clearing Organizations believe it is highly unlikely that they would engage in separate liquidations. However, the Clearing Organizations believe it is prudent to have a separate liquidation option so that there is a clear methodology in the very unlikely event that some unforeseen circumstance causes it not to be possible or legally permissible to conduct a joint liquidation or buy-out or for such methods to result in substantially greater costs.

The Third A&R Agreement would also include provisions designed to ensure that Customer Positions and associated margin are not used by either Clearing Organization to satisfy obligations arising from Proprietary Positions. The principal mechanism to achieve this would be a new concept of a “Liquidation Portfolio,” which would be

³¹ See Section 7(b) of the proposed Third A&R Agreement.

defined as, with respect to a Defaulting Member, all such Defaulting Member's Proprietary Cross-Margining Account(s) or all such Defaulting Member's Customer Cross-Margining Account(s).³² The definitions of "Collateral on Hand," "Net Gain," "Net Loss," "Cross-Margin VM Gain," "Cross-Margin VM Loss," "Other VM Gain," "Liquidation Cost," and "Share of the Cross-Margining Requirement," in turn, would be revised so that they are separately determined by reference to each Liquidation Portfolio, rather than to a Defaulting Member or Cross-Margining Account.³³ The Third A&R Agreement would also provide for the concept of a "Related GSD Account," which would be defined as, with respect to a Liquidation Portfolio of a Defaulting Member consisting of Proprietary Cross-Margining Accounts, the "Proprietary Accounts" (as defined in the GSD Rules) of the Defaulting Member at FICC, and with respect to a Liquidation Portfolio of a Defaulting Member consisting of Customer Cross-Margining Accounts, the Indirect Participant Account(s) of the Defaulting Member at FICC.³⁴

In addition, the Third A&R Agreement would revise Sections 7(b) through (g) to clarify that the provisions thereof would apply separately to each Liquidation Portfolio. These changes include replacing certain references to "Cross-Margining Account" with "Liquidation Portfolio,"³⁵ additional language specifying that provisions apply with respect to each Liquidation Portfolio,³⁶ and deletions of language providing for

³² See Section 1 of the proposed Third A&R Agreement.

³³ Id.

³⁴ Id.

³⁵ See Sections 7(c), (d), and (e) of the proposed Third A&R Agreement.

³⁶ See Sections 7(b), (c), (e), (f), and (g) of the proposed Third A&R Agreement.

liquidation actions or calculations to be performed with respect to a Defaulting Member.³⁷ In addition, as mentioned above, the definition of “Combined Portfolio” would be revised to mean, in the case of a Pair of Cross-Margining Accounts consisting of Proprietary Cross-Margining Accounts, all Eligible Positions in such Cross-Margining Accounts, and in the case of a Pair of Cross-Margining Accounts consisting of Customer Cross-Margining Accounts, all Eligible Positions of a single Customer in such Cross-Margining Accounts.³⁸

By virtue of these changes, upon a default of a Joint Clearing Member, the Proprietary Positions and associated margin of the Joint Clearing Member would be closed-out and netted into a single Net Gain or Net Loss, and the Customer Positions and associated margin would be separately close-out and netted into a separate Net Gain or Net Loss. As a result of these separate calculations, Customer Positions and associated margin could not be used to satisfy obligations arising under any Proprietary Positions. Similarly, variation margin gains in respect of Customer Positions would not be available to address losses on Proprietary Positions. However, the definition of “Other VM Gains” would be modified to make clear that, if there were Cross-Margin VM Gains in relation to Proprietary Positions at a time when the Clearing Organization with those Cross-Margin VM Gains also had losses on account of Customer Positions, the VM Gains may first be applied to satisfy the losses on the Customer Positions before being remitted to the other Clearing Organization.³⁹

³⁷ See Section 7(c) of the proposed Third A&R Agreement.

³⁸ See Section 1 of the proposed Third A&R Agreement.

³⁹ See id.

Although the Clearing Organizations would generally close-out and net the Liquidation Portfolios of a Defaulting Member separately, Section 7(a) of the Third A&R Agreement would provide that the decision as to whether to commence the liquidation process with respect to a Joint Clearing Member would be made based on the Joint Clearing Member itself, rather than a particular Liquidation Portfolio. In accordance with this framework, Section 7(a) of the Third A&R Agreement would provide that if one Clearing Organization decides not to take default action against a Defaulting Member following a Default Event (the “Non-Liquidating CO”), 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 other Clearing Organization for all Combined Portfolios of the Defaulting Member, and (y) its Margin Reduction at the Non-Liquidating CO for all Combined Portfolios of the Defaulting Member, within one hour of demand.⁴⁰

E. Conforming Changes

The Third A&R Agreement would also include a number of conforming changes in light of the addition of the Customer Cross-Margining Arrangement. These would include new recitals which describe the purpose of the Third A&R Agreement as to establish the Customer Cross-Margining Arrangement, introduce defined terms for the “Proprietary Cross-Margining Arrangement” and “Customer Cross-Margining Arrangement,” and define the prior versions of the agreement as the “Original Agreement,” the “First A&R Agreement,” and the “Second A&R Agreement.” They would also include non-substantive revisions and movements of defined terms as shown

⁴⁰ See Section 7(a) of the proposed Third A&R Agreement.

in Exhibit 5 to conform to the addition of the Customer Cross-Margining Arrangement and the provisions described above.⁴¹

The Third A&R Agreement would also revise Section 3(b), which sets out certain requirements applicable to positions of Eligible Affiliates, to provide that it does not apply to Proprietary Positions of a Joint Clearing Member or to Customer Positions.⁴²

In addition, the Third A&R Agreement would revise Section 7(i) to clarify that the requirement for a Defaulting Member to reimburse a Clearing Organization in the event that the Clearing Organization is obligated to make a guaranty payment to the other Clearing Organization in respect of an obligation of such Defaulting Member applies in respect of the obligations of any Cross-Margining Customer.⁴³

F. Clarifying Edits

The Third A&R Agreement would also include a number of clarifying edits not specifically related to the Customer Cross-Margining Arrangement. Specifically, Section 2(f) of the Third A&R Agreement would specify that FICC or CME may terminate the participation of a particular Cross-Margining Participant with respect to some or all Cross-Margining Accounts of the Cross-Margining Participant upon two business days' prior written notice to the other Clearing Organization, provided that no such termination would be effective with respect to any reimbursement obligation or guaranty with respect

⁴¹ See Section 1 of the proposed Third A&R Agreement; see, e.g., Section 3(c) of the proposed Third A&R Agreement (updating references to “Cross-Margining Account(s)” to refer to “Proprietary Cross-Margining Account(s)”; Section 7(a) of the proposed Third A&R Agreement (updating a reference to “Eligible Affiliates” to refer to “Eligible Affiliates or Customers”).

⁴² See Section 3(b) of the proposed Third A&R Agreement.

⁴³ See Section 7(i) of the proposed Third A&R Agreement.

to such Cross-Margining Participant that was incurred prior to such termination, or with respect to Section 7 of the Third A&R Agreement until the Stand-Alone Margin Requirement with respect to each Cross-Margining Account subject to such termination has been fully satisfied.⁴⁴

The Third A&R Agreement would also include a new Section 5 to make clear that, as is currently the case, the collateral acceptable to satisfy the Cross-Margin Requirement must meet the respective eligibility requirements of the Clearing Organization to which the collateral is posted.⁴⁵

In addition, the titles of the Proprietary Cross-Margining Agreements attached as Appendix A and Appendix B to the Third A&R Agreement would be amended to specify that they are for use in connection with the Proprietary Cross-Margining Arrangement.⁴⁶

G. Customer Cross-Margining Clearing Member Agreement

As described above, an Eligible BD-FCM would be required to enter into the Customer Cross-Margining Clearing Member Agreement in order to participate in the

⁴⁴ See Section 2(f) of the proposed Third A&R Agreement.

⁴⁵ See Recitals, Section 1, and Section 5 of the proposed Third A&R Agreement.

⁴⁶ See Appendix A “Fixed Income Clearing Corporation / Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member) [Proprietary Cross-Margining Program]” of the proposed Third A&R Agreement; Appendix B “Fixed Income Clearing Corporation / Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member) [Proprietary Cross-Margining Program]” of the proposed Third A&R Agreement.

Customer Cross-Margining Agreement. The Customer Cross-Margining Clearing Member Agreement would be set forth in Appendix C to the Third A&R Agreement.⁴⁷

The Customer Cross-Margining Clearing Member Agreement would be modeled on the Proprietary Clearing Member Agreement attached as Appendix A to the Second A&R Agreement (the “Existing Joint Clearing Member Proprietary Clearing Member Agreement”), with changes designed to facilitate compliance with the conditions in the Proposed Orders and to clarify the rights and obligations of the Clearing Organizations, the Eligible BD-FCM, and the Cross-Margining Customers.⁴⁸

The first three paragraphs of the Customer Cross-Margining Clearing Member Agreement would be substantially identical to those of the Existing Joint Clearing Member Proprietary Clearing Member Agreement, except that the first paragraph would note that the Eligible BD-FCM is electing to become a Cross-Margining Participant for purposes of the Customer Cross-Margining Arrangement, rather than the Cross-Margining Arrangement generally, and the third paragraph (concerning the Eligible BD-FCM’s payment obligations) would reference the payment obligations arising in respect of Customer Cross-Margining Accounts.

The Customer Cross-Margining Clearing Member Agreement would provide that the Eligible BD-FCM makes application to the Clearing Organizations to establish a Customer Cross-Margining Account at CME and one or more Customer Cross-Margining Accounts at FICC in the name of the Eligible BD-FCM, and clarify that each such

⁴⁷ See Appendix C “Fixed Income Clearing Corporation / Chicago Mercantile Exchange Inc. Cross-Margining Participant Agreement (Common Member) [Customer Cross-Margining Program]” of the proposed Third A&R Agreement.

⁴⁸ See id.

account would be in addition to any Proprietary Cross-Margining Account of the Eligible BD-FCM established pursuant to the Third A&R Agreement. The Customer Cross-Margining Clearing Member Agreement would provide that each Customer Cross-Margining Account shall be limited to transactions and positions carried by the Eligible BD-FCM for Cross-Margining Customers who have signed a Customer Agreement. The Eligible BD-FCM would be required to agree that it shall not commence clearing transactions through or carrying positions in a Customer Cross-Margining Account for any Cross-Margining Customer until such Cross-Margining Customer has executed a Customer Agreement.

The Eligible BD-FCM would be required under the Customer Cross-Margining Clearing Member Agreement to indemnify and hold harmless the Clearing Organizations, their respective directors, officers and employees and each person, if any, who controls either of the Clearing Organizations against any claims, losses, liabilities and expenses, including, without limitation, reasonable legal fees and expenses and amounts paid or payable in settlement of any action, proceeding or investigation arising from any claim by any party resulting from the carrying of positions in a Customer Cross-Margining Account that belong to any person other than a Cross-Margining Customer for whom a Customer Agreement is in effect.

The Customer Cross-Margining Clearing Member Agreement would provide that the Eligible BD-FCM, as agent for each of its Cross-Margining Customers, (i) unconditionally promises immediate payment of any payment or reimbursement obligations to a Clearing Organization arising under the Third A&R Agreement or the GSD Rules or rules of CME in respect of a Cross-Margining Customer's positions in a

Customer Cross-Margining Account, and (ii) agrees that each Cross-Margining Customer is bound by the GSD Rules and the rules of CME as applicable to them and by the provisions of the Customer Cross-Margining Clearing Member Agreement and the Third A&R Agreement. The Eligible BD-FCM would also be required to represent and warrant to the Clearing Organizations that it has full power and authority to bind each of its Cross-Margining Customers to the terms in the foregoing sentence.

The Customer Cross-Margining Clearing Member Agreement would also provide for the Eligible BD-FCM to pledge, as security for its and its Cross-Margining Customers' present and future payment and reimbursement obligations to FICC and CME arising from its Customer Cross-Margining Accounts or otherwise under the Customer Cross-Margining Clearing Member Agreement on behalf of itself and each Cross-Margining Customer, and grant to each Clearing Organization a first priority continuing security interest in, lien on and right of set-off against all of the positions, margin deposits or other property held by or subject to the control of or owing from either Clearing Organization including any and all Net Gains in respect of the Eligible BD-FCM's Customer Cross-Margining Accounts and the proceeds in respect thereof.

The Eligible BD-FCM would also provide for the Eligible BD-FCM to agree that (i) the rights of each Clearing Organization set forth in the preceding paragraph are in addition to any other rights arising out of the NYUCC or other statute, common law, or governmental regulation, or under their respective rules, (ii) the Eligible BD-FCM 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, (iii) the Eligible BD-FCM 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 the Eligible BD-FCM, and (iv) the Eligible BD-FCM authorizes FICC to comply with CME's entitlement orders with respect to any Cross-Margining Customer Margin pursuant to the Third A&R Agreement without further consent of the Eligible BD-FCM or Cross-Margining Customer for whom such Cross-Margining Customer Margin is held. Clauses (i) through (iii) broadly align with the Existing Joint Clearing Member Proprietary Clearing Member Agreement, while clause (iv) would be designed to facilitate the perfection of CME's security interest in the Cross-Margining Customer Margin and help ensure that Cross-Margining Customer Margin is treated as "customer property" under Part 190 of the CFTC's regulations, as described in the Petitions.

The Customer Cross-Margining Clearing Member Agreement would contain the same provision regarding the disclosure of Clearing Data as in the Existing Joint Clearing Member Proprietary Clearing Member Agreement. Consistently with the Existing Joint Clearing Member Proprietary Clearing Member Agreement, it would also provide that neither FICC nor CME guarantees to the Eligible BD-FCM that the calculation of the margin reduction for a Combined Portfolio pursuant to the Third A&R Agreement will yield any, or the highest possible, margin reduction for the Combined Portfolio. The Customer Cross-Margining Clearing Member Agreement would also, as in the Existing Joint Clearing Member Proprietary Clearing Member Agreement, provide that, without limiting any provision of the GSD Rules, the rules of CME or any other agreement

between the Eligible BD-FCM and FICC or CME, any transfer by the Eligible BD-FCM or any Cross-Margining Customer 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 under the Third A&R Agreement. The Customer Cross-Margining Clearing Member Agreement would contain the same representations as the Existing Joint Clearing Member Proprietary Clearing Member Agreement, except those concerning the proprietary nature of the positions and Eligible Affiliates.

The Customer Cross-Margining Clearing Member Agreement would specify that the Eligible BD-FCM may terminate the Customer Cross-Margining Clearing Member Agreement upon two business day's written notice to FICC and CME, and that such termination shall be effective upon written acknowledgement by both FICC and CME provided that (i) all positions in the Customer Cross-Margining Accounts have been closed-out or transferred to other accounts in accordance with the GSD Rules or the rules of CME, and (ii) all Stand-alone Margin Requirement in respect of any such transferred positions and all obligations of the Eligible BD-FCM to the Clearing Organizations in respect of the Customer Cross-Margining Accounts have been fully satisfied.

The Customer Cross-Margining Clearing Member Agreement would also specify that either Clearing Organization may terminate the Eligible BD-FCM's participation with respect to any Customer Cross-Margining Account (defined as an "Affected Customer Cross-Margining Account") of the Eligible BD-FCM at any time upon written notice to the other Clearing Organization pursuant to the Third A&R Agreement and to the Eligible BD-FCM. In connection with such termination, the Clearing Organizations

would be permitted to require the Eligible BD-FCM to close-out or transfer all positions in the Affected Customer Cross-Margining Accounts in accordance with the GSD Rules or the rules of CME, and the Customer Cross-Margining Clearing Member Agreement would thereupon terminate with respect to Affected Customer Cross-Margining Accounts, provided that the Stand-alone Margin Requirement in respect of the transferred positions and all obligations of the Eligible BD-FCM to the Clearing Organizations in respect of the Affected Customer Cross-Margining Accounts have been fully satisfied.

The Customer Cross-Margining Clearing Member Agreement would also include the same governing law, choice-of-jurisdiction, and execution in counterparts provisions as the Existing Joint Clearing Member Proprietary Clearing Member Agreement. The Customer Cross-Margining Clearing Member Agreement would also provide that it would become effective upon the later of execution of the Customer Cross-Margining Clearing Member Agreement, or on the receipt of all necessary regulatory approvals from the Commission and the CFTC.

H. Customer Agreement

The Customer Agreement would include the terms of the Subordination Agreement and acknowledgements corresponding to the disclosures required by the Proposed Orders.⁴⁹ In particular, the Customer Agreement would require the Cross-Margining Customer to acknowledge and agree that:

- it agrees to the terms of the Subordination Agreement, under which the Cross-Margining Customer agrees that all of its Customer Positions and Customer Property (including any margin at FICC) (i) 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 Clearing Member,

⁴⁹ See Appendix C, Exhibit I “Customer Required Terms Annex or Agreement” of the proposed Third A&R Agreement.

and (ii) will be subject to any applicable protections under Subchapter IV of Chapter 7 of the U.S. Bankruptcy Code and rules and regulations thereunder including Part 190 of the CFTC’s Regulations (“Part 190”), and that the Cross-Margining Customer’s claims to “customer property” as defined in SIPA or 11 U.S.C. § 741 against the Eligible BD-FCM with respect to its Customer Positions and Customer Property (including any margin held at FICC) will be subordinated to the claims of all other customers, as the term “customer” is defined in 11 U.S.C. § 741 or SIPA;⁵⁰

- all money, securities and property deposited with the Eligible BD-FCM by the Cross-Margining Customer to margin, guarantee or secure Customer Positions (the “Customer Property”) will be held in a “futures account” as defined in CFTC Regulation 1.3 and subject to CEA Section 4d(a) and (b);⁵¹
- its Customer Positions and associated margin may be commingled with the positions and property of other customers of the Eligible BD-FCM and may be used by the Eligible BD-FCM to purchase, margin, secure, settle, or otherwise carry positions on behalf of the Cross-Margining Customer or other futures customers of the Eligible BD-FCM;⁵²
- property held in connection with Customer Positions will be treated in a manner consistent with the CFTC Order and that such property held on the Cross-Margining Customer’s behalf by the Eligible BD-FCM will be customer property received by an FCM to be accounted for, treated and dealt with by such FCM in a manner consistent with Section 4d of the CEA;⁵³
- in the event a Clearing Organization suspends or ceases to act for Clearing Member, it shall be within the sole discretion of the Clearing Organizations to determine whether to transfer, liquidate, or settle Customer Positions in the relevant Customer Cross-Margining Account;⁵⁴
- its participation in the Customer Cross-Margining Arrangement is subject to the terms of (i) the Third A&R Agreement, (ii) the Customer Cross-Margining

⁵⁰ See id., Section 2(b).

⁵¹ See id., Section 2(a).

⁵² See id., Section 2(c).

⁵³ See id.

⁵⁴ See id., Section 2(d).

Clearing Member Agreement, and (iii) the GSD Rules and the rules of CME;⁵⁵ and

- if CME determines at any time that any Eligible Positions of the Cross-Margining Customer cleared through the Customer Cross-Margining Account at CME are non-risk reducing, CME may either restrict the Cross-Margining Customer from adding positions or require the Cross-Margining Customer to move or liquidate Eligible Positions in the Customer Cross-Margining Account at CME;⁵⁶

The Customer Agreement would also require the Cross-Margining Customer to pledge, as security for the Cross-Margining Customer's present and future payment and delivery obligations in respect of its Customer Positions (including, without limitation, any obligation of the Cross-Margining Customer to reimburse the Eligible BD-FCM as a result of the Eligible BD-FCM's performance of such obligations), and grant to the Eligible BD-FCM a continuing security interest in, lien on and right of set-off against its right, entitlement, and interest in all of positions in each Customer Cross-Margining Account, all margin posted by the Cross-Margining Customer in connection with such positions, and the proceeds in respect thereof.⁵⁷ The Customer Agreement would also require the Cross-Margining Customer to agree that the Eligible BD-FCM may enter into agreements with the Clearing Organizations on the Cross-Margining Customer's behalf as set forth in the Customer Cross-Margining Clearing Member Agreement.⁵⁸

⁵⁵ See id., Section 3.

⁵⁶ See id.

⁵⁷ See id., Section 4.

⁵⁸ See id., Section 5.

(ii) Other Proposed Changes to the GSD Rules

A. Overview

FICC is proposing to make a number of changes to the GSD Rules to effectuate the Customer Cross-Margining Arrangement.

First, FICC proposes to create a new position Account type, the “Cross-Margining Customer Account,” in which Customer Positions would be recorded. The Cross-Margining Customer Account would constitute an “Indirect Participants Account.” A Netting Member that is an Eligible BD-FCM and approved participant in the Customer Cross-Margining Arrangement would be permitted to designate an Indirect Participants Account (other than a Segregated Indirect Participants Account) as a Cross-Margining Customer Account.⁵⁹ Any such designation would constitute a representation to FICC by the Netting Member that the Netting Member has complied with all regulatory requirements applicable to it in connection with its participation in the Customer Cross-Margining Arrangement, including the conditions in the Proposed Orders, and this representation would be deemed repeated each time the Netting Member deposits Cross-Margining Customer Margin.

Second, FICC proposes to adopt rule changes to set forth how FICC would calculate, collect, and hold margin for positions recorded in a Cross-Margining Customer Account. As noted above, FICC proposes to collect and hold Cross-Margining Customer Margin pursuant to substantially similar provisions as apply to Segregated Customer

⁵⁹ As mentioned above, the Third A&R Agreement would provide that a Netting Member may only designate one Sponsoring Member Omnibus Account and one Agent Clearing Member Omnibus Account as a Cross-Margining Customer Account. See Section 2(d) of the proposed Third A&R Agreement.

Margin, with certain modifications to satisfy the requirements of the Proposed Orders and align with the treatment of futures margin. Specifically:

- Consistent with Segregated Customer Margin and in accordance with the Proposed Orders, FICC would credit all Cross-Margining Customer Margin deposited by a Netting Member to a “securities account,” as defined in the NYUCC,⁶⁰ on its books and records maintained for that Netting Member for the benefit of its Cross-Margining Customers (i.e., a Cross-Margining Customer Margin Custody Account). The GSD Rules would further provide that all cash and securities credited to the Cross-Margining Customer Margin Custody Account shall be treated as “financial assets” within the meaning of Article 8 of the NYUCC, New York shall be the “securities intermediary’s jurisdiction” for purposes of the NYUCC and New York law shall govern all issues specified in Article 2(1) of the Hague Securities Convention.⁶¹ Such provisions are designed to ensure the Cross-Margining Customer Margin would not form part of FICC’s estate in the event FICC became subject to insolvency proceedings. They would also facilitate the ability of CME to perfect its security interest in the Cross-Margining Customer Margin. Such perfection would serve to protect CME, and in turn both the Cross-Margining Customers and the non-participating futures customers in the event of a Cross-Margining Participant default. It would also aim to ensure that the Cross-Margining Customer Margin is treated as “customer property” under Part 190 in the event of an Eligible BD-FCM’s insolvency, by helping to establish that the Cross-Margining Customer Margin is held to secure the futures positions of customers.
- In accordance with the Proposed Orders, FICC would hold Cross-Margining Customer Margin in (i) an account of FICC at a bank insured by the Federal Deposit Insurance Corporation (“FDIC”) that is segregated from any other account of FICC and used exclusively to hold Cross-Margining Customer Margin, and (ii) an account at the FRBNY that is segregated from any other account of FICC and used exclusively to hold Segregated Customer Margin and Cross-Margining Customer Margin. The GSD Rules would provide that any such account (other than one at the FRBNY) would need to be subject to a written notice consistent with the Proposed Orders.
- The same requirements applicable to Segregated Customer Margin with respect to the form and composition of eligible collateral, the minimum amounts of cash and Eligible Clearing Fund Treasury Securities, substitution

⁶⁰ NYUCC § 8-501(a).

⁶¹ NYUCC § 8-102(9); NYUCC § 8-110(e); The Convention on the Law Applicable to Certain Rights in Respect of Securities Held with an Intermediary, July 5, 2006, 17 U.S.T. 401, 46 I.L.M. 649 (entered into force Apr. 1, 2017).

and withdrawal, and treatment of excess margin would be applicable to Cross-Margining Customer Margin, except that (i) a Netting Member's rights or FICC's obligation with respect to any excess Cross-Margining Customer Margin would be subject to the Third A&R Agreement and the Customer Cross-Margining Clearing Member Agreement, and (ii) FICC would be permitted to retain the excess Cross-Margining Customer Margin deposited by a Netting Member with respect to a Cross-Margining Customer when the Netting Member has any outstanding payment or margin obligation arising from any Customer Positions, including those of another Cross-Margining Customer.

With regard to calculation, FICC proposes that, as with Segregated Customer Margin and in accordance with the requirements of the Proposed Orders, FICC would calculate the margin requirement in respect of each Cross-Margining Customer Account (the "Cross-Margining Customer Margin Requirement") on a gross (i.e., Cross-Margining Customer-by-Cross-Margining Customer) basis, as though each Cross-Margining Customer were a separate Netting Member. However, such margin requirement would be subject to any margin reduction pursuant to the Third A&R Agreement (which, as discussed above, would be determined using the same margin reduction methodology under Proprietary Cross-Margining Arrangement).

Third, FICC proposes to provide that Cross-Margining Customer Margin would be pledged to FICC to secure all obligations of the Netting Member and its Cross-Margining Customers arising under Customer Positions.⁶²

⁶² We note that in this regard, unlike Segregated Customer Margin, FICC would be able to use all Cross-Margining Customer Margin to satisfy the obligations arising from all Customer Positions recorded in the same Cross-margining Customer Account, even if such Customer Positions are not the particular ones of the individual Cross-Margining Customer that posted such margin. This treatment would be consistent with how futures customer margin is generally treated.

Fourth, FICC proposes to remove the existing Section 10(e) of Rule 3A, which currently prohibits Sponsored Members from participating in the Cross-Margining Arrangement.

Fifth, FICC proposes to make conforming changes to Rule 43, which sets out the terms related to Cross-Margining Arrangements, so that the Rule encompasses the Customer Cross-Margining Arrangement. In particular, FICC proposes to specify in Rule 43 that a Netting Member that is an Eligible BD-FCM may become a Cross-Margining Participant in connection with the Customer Cross-Margining Arrangement with the consent of FICC and CME. An Eligible BD-FCM would become such a Cross-Margining Participant and be permitted to establish a Cross-Margining Customer Account upon acceptance by FICC and CME of an executed Customer Cross-Margining Clearing Member Agreement. FICC further proposes to make clear that if FICC becomes obligated to make a payment to CME pursuant to the cross-guaranty under the Third A&R Agreement in relation to the obligations of a Cross-Margining Customer, both the Cross-Margining Customer and the relevant Eligible BD-FCM would be responsible for the reimbursement obligation that is owed to FICC as a result. If FICC receives a payment from CME pursuant to the Third A&R Agreement in connection with the Customer Cross-Margining Arrangement, FICC would not be permitted to apply such payment to any obligation other than the obligations of Cross-Margining Customers (whether or not arising in connection with any Eligible Positions).

Lastly, FICC proposes to remove provisions relating to “Market Professional” and “Market Professional Agreement for Cross-Margining” from the GSD Rules. Those provisions were adopted in connection with a “market professional” cross-margining

program between FICC and New York Portfolio Clearing, LLC.⁶³ That program—which permitted certain “market professional” customers of Netting Members to participate in cross-margining—is no longer active as New York Portfolio Clearing, LLC has since become defunct.

B. Summary of Proposed Rule Changes

To effectuate the proposed changes described above, FICC proposes to make the following amendments to its Rules.

New Defined Terms. FICC would revise Rule 1 to add the following new defined terms: (1) “Cross-Margining Customer,” (2) “Cross-Margining Customer Account,” (3) “Cross-Margining Customer Margin Custody Account,” (4) “Cross-Margining Customer Margin,” (5) “Cross-Margining Customer Margin Requirement,” and (6) “Customer Cross-Margining Arrangement.”

The term “Cross-Margining Customer” would mean a Sponsored Member or Executing Firm Customer whose Transactions are recorded in a Cross-Margining Customer Account.

The term “Cross-Margining Customer Account” would mean an Indirect Participants Account maintained by FICC for a Sponsoring Member or an Agent Clearing Member that has been designated pursuant to Rule 2B for purposes of recording Transactions of Cross-Margining Customers.

⁶³ See Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Expand the One-Pot Cross-Margining Program With New York Portfolio Clearing, LLC to Certain “Market Professionals,” 77 FR 30032 (May 21, 2012).

The term “Cross-Margining Customer Margin Custody Account” would mean a securities account within the meaning of the NYUCC maintained by FICC, in its capacity as securities intermediary as such term is used in the NYUCC, for an Agent Clearing Member or Sponsoring Member for the benefit of such Member’s Cross-Margining Customers.

The term “Cross-Margining Customer Margin” would mean all securities and funds deposited by a Sponsoring Member or an Agent Clearing Member with FICC to satisfy its Cross-Margining Customer Margin Requirement.

The term “Cross-Margining Customer Margin Requirement” would mean the amount of cash or Eligible Clearing Fund Securities that an Agent Clearing Member or Sponsoring Member is required to deposit with FICC to support the obligations arising from Transactions recorded in its Cross-Margining Customer Accounts. Specifically, a Netting Member’s Cross-Margining Customer Margin Requirement would be the amount of the item listed in Section 2(a)(vii) of Rule 4 (as described below). This definition would specify that references to the Cross-Margining Customer Margin Requirement “for” or “with respect to” a particular Cross-Margining Customer Account or Cross-Margining Customer (or similar language) would mean the portion of a Netting Member’s Cross-Margining Customer Margin Requirement arising from such Account or Cross-Margining Customer.

The term “Customer Cross-Margining Arrangement” would mean a Cross-Margining Arrangement pursuant to which a Cross-Margining Participant, at the discretion of FICC and in accordance with the provisions of Rule 43, may elect to have any of its Cross-Margining Customers’ margin requirement in respect of Eligible

Positions at FICC and such Cross-Margining Customer's margin requirements in respect of Eligible Positions at a clearing organization for a board of trade designated as a contract market under Section 5 of the CEA that has entered into a Cross-Margining Agreement with FICC (an "FCO") calculated by taking into consideration the net risk of such Eligible Positions at each of the clearing organizations.

Revisions to Defined Terms. In addition, FICC would make conforming revisions to the following defined terms in Rule 1: (1) "Cross-Margining Affiliate," (2) "Cross-Margining Agreement" (3) "Current Net Settlement Positions," (4) "Indirect Participants Account," and (5) "Type of Account" and "Type."

FICC proposes to amend the definition to "Cross-Margining Affiliate" to remove existing prong (ii), which relates to the "market professional" cross-margining program.

FICC proposes to amend the definition to "Cross-Margining Agreement" to encompass the Customer Cross-Margining Arrangement by specifying that the applicable Cross-Margining Participant may have any of its Cross-Margining Customers' margin requirement in respect of Eligible Positions at FICC and such Cross-Margining Customer's margin requirements in respect of Eligible Positions at a relevant FCO calculated by taking into consideration the net risk of such Eligible Positions at each of the clearing organizations. FICC also proposes to remove the last sentence of this definition, which relates to the "market professional" cross-margining program.

FICC proposes to make conforming edits to the definition of "Current Net Settlement Positions" to add references to "Cross-Margining Customer," "Cross-Margining Customer Account," and "Cross-Margining Customer Margin Requirement"

after each reference to “Segregated Indirect Participant,” “Segregated Indirect Participants Account,” and “Segregated Customer Margin Requirement,” respectively.

FICC proposes to amend the definitions of “Indirect Participants Account,” “Type of Account” and “Type” to include a Cross-Margining Customer Account.

Removal of defined terms. FICC proposes to remove the following defined terms from Rule 1: (1) “Market Professional” and (2) “Market Professional Agreement for Cross-Margining.”

Establishment of Cross-Margining Customer Accounts. FICC proposes to amend Section 3 of Rule 2B to provide that a Cross-Margining Customer Account may not be designated as a Segregated Indirect Participants Account.

In addition, FICC proposes to add a new Section 3a of Rule 2B to provide that (i) a Netting Member that is an Eligible BD-FCM and has been approved to become a Cross-Margining Participant in a Customer Cross-Margining Arrangement pursuant to a Cross-Margining Agreement may designate any of its Indirect Participants Accounts (other than a Segregated Indirect Participants Account) as a Cross-Margining Customer Account; (ii) any such designation of an Account shall constitute a representation to FICC by the Netting Member that the Netting Member has complied with all regulatory requirements applicable to it in connection with its participation in the Customer Cross-Margining Arrangement, including the conditions in the Proposed Orders; and (iii) the Netting Member shall be deemed to repeat this representation each time it deposits Cross-Margining Customer Margin.

Treatment of Cross-Margining Customer Margin. FICC proposes to make the following changes in relation to FICC's calculation, collection, and holding of Cross-Margining Customer Margin:

FICC proposes to amend Section 1a of Rule 4 to make clear that FICC's account at the FRBNY that is currently used to hold Segregated Customer Margin would also hold Cross-Margining Customer Margin.

FICC proposes to renumber current Section 1b of Rule 4 to Section 1c and add a new Section 1b. The new Section 1b would provide that:

- Each Netting Member shall deposit Cross-Margining Customer Margin with FICC in an amount equal to its Cross-Margining Customer Margin Requirement, which requirement shall be determined in accordance with Rule 4 and the Margin Component Schedule. The timing of the satisfaction of the Cross-Margining Customer Margin Requirement shall be determined in accordance with the provisions of Section 9 of Rule 4.
- FICC shall establish and maintain on its books and records a Cross-Margining Customer Margin Custody Account to which all Cross-Margining Customer Margin deposited with FICC shall be credited. The Cross-Margining Customer Margin credited to a Cross-Margining Customer Margin Custody Account shall be used exclusively to secure the present and future payment and reimbursement obligations of the Netting Member and its Cross-Margining Customers in relation to Eligible Positions of the Netting Member's Cross-Margining Customers at FICC and CME.
- All assets credited to each Cross-Margining Customer Margin Custody Account shall be treated as "financial assets" within the meaning of Article 8 of the NYUCC. New York is the "securities intermediary's jurisdiction" for purposes of the NYUCC and New York law shall govern all issues specified in Article 2(1) of the Hague Securities Convention.
- FICC shall hold all Cross-Margining Customer Margin in an account of FICC at an FDIC-insured bank within the meaning of the Exchange Act that is a qualified custodian under the Investment Company Act of 1940, as amended, or at the FRBNY. Any account at an FDIC-insured bank shall be segregated from any other account of FICC and shall be used exclusively to hold Cross-Margining Customer Margin, and shall be subject to a written notice of the bank provided to and retained by FICC consistent with the Proposed Orders. The account at the FRBNY shall be segregated from any other account of FICC and shall be used

exclusively to hold Cross-Margining Customer Margin and Segregated Customer Margin (the account at the FRBNY would not be subject to a written notice).

FICC proposes to amend current Section 1b (to be renumbered as Section 1c) of Rule 4 to (i) add references to “Cross-Margining Customer Accounts” after references to “Segregated Indirect Participants Accounts” in current Section 1b(a), and (ii) add a new sentence at the end of current Section 1b(b) to provide that FICC would calculate the Cross-Margining Customer Margin Requirement for a Cross-Margining Customer Account as the sum of the requirements applicable to each Cross-Margining Customer whose Transactions are recorded in such Account, as though each such Cross-Margining Customer were a separate Netting Member with a single Margin Portfolio consisting of such Transactions, in accordance with the Margin Component Schedule.

FICC proposes to amend Section 2 of Rule 4 by (i) adding references to “Cross-Margining Customer Margin Requirement” after references to “Segregated Customer Margin Requirement” in the title of Section 2 and Section 2(a), and (ii) adding a new clause (vii) of Section 2(a) to specify that the Cross-Margining Customer Margin Requirement would be an amount calculated with respect to the Netting Member’s Cross-Margining Customer Accounts.

FICC proposes to add a new Section 2c of Rule 4 entitled “Cross-Margining Customer Margin Requirement” to provide that (i) each Netting Member shall deposit any Cross-Margining Customer Margin with FICC by the Required Fund Deposit Deadline through a separate Deposit ID established by the Netting Member for each Cross-Margining Customer Account, and (ii) FICC shall report the Cross-Margining Customer Margin Requirements to each Netting Member twice daily in a Report which

shall specify the Cross-Margining Customer Margin Requirement for each Cross-Margining Customer Account.

FICC proposes to add a new Section 3(d) of Rule 4 and insert it before the last sentence of Section 3. The new Section 3(d) would provide that each Cross-Margining Customer Margin Requirement for a particular Cross-Margining Customer Account would be subject to the requirements that (i) a minimum of 40 percent of the Cross-Margining Customer Margin Requirement for such Account shall be satisfied with cash and/or Eligible Clearing Fund Treasury Securities, and (ii) a minimum of the product of \$1 million and the number of Cross-Margining Customers whose Transactions are recorded in such Cross-Margining Account must be made and maintained in cash. In addition, FICC proposes to amend the last sentence of Section 3 by adding a reference to “Cross-Margining Customer Margin Requirement” after the reference to “Segregated Indirect Participants Requirement.”

FICC proposes to amend Section 3a of Rule 4 to add a reference to “Cross-Margining Customers” after the reference to “Segregated Indirect Participants.” FICC also proposes to amend Section 3b of Rule 4 to add a reference to “Cross-Margining Customer Margin Custody Account” after the reference to “Segregated Customer Margin Custody Account.”

FICC proposes to amend Sections 3a, 3b, and 9 of Rule 4 to add references to “Cross-Margining Customer Margin,” after each reference to “Segregated Customer Margin.” FICC also proposes to amend Sections 3b and 9 of Rule 4 to add references to “Cross-Margining Customer Margin Requirement,” after each reference to “Segregated Customer Margin Requirement.”

FICC proposes to add a new Section 4(c) of Rule 4 to provide that (i) as security for any and all obligations and liabilities of a Netting Member and any of its Cross-Margining Customers to FICC arising out of or in connection with any Cross-Margining Customer Accounts of such Netting Member or Transactions recorded therein, each such Netting Member on behalf of itself and its Cross-Margining Customers grants to FICC a first priority perfected security interest in its right, title and interest in and to all Cross-Margining Customer Margin, each Cross-Margining Customer Margin Custody Account, and all distributions thereon and proceeds thereof, and (ii) FICC shall be entitled to exercise the rights of a pledgee under common law and a secured party under Articles 8 and 9 of the NYUCC with respect to such assets.

FICC proposes to amend Section 5 of Rule 4 by (i) adding a reference to “Cross-Margining Customer Margin” after the reference to “Segregated Customer Margin” in the title of Section 5, and (ii) adding a new paragraph at the end of Section 5 to provide that FICC shall only use Cross-Margining Customer Margin deposited by a Netting Member to (A) secure the Transactions of Cross-Margining Customers of such Netting Member recorded in any Cross-Margining Customer Account and satisfy payment and delivery obligations owing to FICC (including liquidating or otherwise using such Cross-Margining Customer Margin to obtain relevant cash or securities) in connection with a default in respect of such Transactions; and (B) for investment in U.S. Treasury securities with a maturity of one year or less.

FICC proposes to amend Section 10 of Rule 4 by (i) adding a reference to “Cross-Margining Customer Margin” after the reference to “Segregated Customer Margin” in the title of Section 10, (ii) amending the first paragraph of Section 10 to require FICC to

separately determine whether the amount of Cross-Margining Customer Margin supporting a Cross-Margining Customer's Transactions is in excess of the Cross-Margining Customer Margin Requirement for such Cross-Margining Customer ("Excess Cross-Margining Customer Margin"), and (iii) adding a new Section 10(c) to provide that upon a Member's request, and in accordance with such procedures as FICC may set forth from time to time, the Corporation shall return to the Member its Excess Cross-Margining Customer Margin, subject to the minimum amount of cash or Eligible Clearing Fund Securities required to be maintained pursuant to the GSD Rules (valued at their collateral value on the day of such withdrawal) and the terms of the Third A&R Agreement and Customer Cross-Margining Clearing Member Agreement, as the Member requests, provided that, subject to the Third A&R Agreement and the Customer Cross-Margining Clearing Member Agreement, and except to the extent required by applicable law or authorized by the Commission, FICC shall not retain Excess Cross-Margining Customer Margin due to any obligations of the Member unrelated to a Cross-Margining Customer Account of such Member. Section 10(c) of Rule 4 would further provide that FICC may, at its discretion, retain some or all of the Excess Cross-Margining Customer Margin if the Member has an outstanding payment or margin obligation to the Corporation with respect to the Transactions of any Cross-Margining Customer.

FICC proposes to amend the Margin Component Schedule to set out how Cross-Margining Customer Margin Requirements would be determined. Specifically, FICC proposes to insert a new paragraph at the end of Section 1 to provide that (i) on each Business Day, each Netting Member for which FICC maintains a Cross-Margining Customer Account shall be required to deposit with FICC Cross-Margining Customer

Margin equal to the sum of all Cross-Margining Customer Margin Requirements for all such Accounts, (ii) each Cross-Margining Customer Margin Requirement shall equal the sum of the amounts calculated pursuant to Section 3a of the Margin Component Schedule for each Cross-Margining Customer whose Transactions are recorded in the relevant Cross-Margining Customer Account, and (iii) each such calculation shall be performed twice daily pursuant to the Margin Component Schedule and subject to the provisions of Rule 4. Further, FICC proposes to add a new Section 3a to the Margin Component Schedule titled “Cross-Margining Customer Margin Requirement Calculations” to set out how specifically such requirement would be calculated, which would be substantially identical to how Segregated Customer Margin Requirement is calculated as set out in Section 3 of the Margin Component Schedule. Finally, FICC proposes to amend Section 5 to add references to “Cross-Margining Customer,” “Cross-Margining Customer Account,” and “Cross-Margining Customer Margin Requirement” after each reference to “Segregated Indirect Participant,” “Segregated Indirect Participants Account,” and “Segregated Customer Margin Requirement,” respectively.

Description of the Customer Cross-Margining Arrangement. FICC proposes to amend Rule 43 to explicitly describe the Customer Cross-Margining Arrangement as follows:

FICC proposes to add a new Section 2(c) of Rule 43 to provide that (i) a Netting Member that is an Eligible BD-FCM may become a Cross-Margining Participant in connection with the Customer Cross-Margining Arrangement with the consent of FICC and CME, and (ii) an Eligible BD-FCM that would become such a Cross-Margining Participant shall be permitted to establish a Cross-Margining Customer Account upon

acceptance by FICC and CME of an executed Customer Cross-Margining Clearing Member Agreement.

FICC proposes to amend Section 3 of Rule 43 to provide that, if FICC becomes obligated to make a payment to CME pursuant to the cross-guaranty under the Third A&R Agreement in relation to the obligations of a Cross-Margining Participant, its Cross-Margining Affiliate, or its Cross-Margining Customer, the Cross-Margining Participant (and, if FICC becomes obligated to make such a payment in respect of the obligations of a Cross-Margining Customer, the Cross-Margining Customer) shall thereupon immediately be obligated, whether or not FICC has then made payment to CME, to pay to FICC the amount of the reimbursement obligation that is owed to FICC as a result.

FICC proposes to add a new sentence at the end of Section 5 of Rule 43 to provide that, if FICC receives a payment from CME pursuant to the Third A&R Agreement in connection with the Customer Cross-Margining Arrangement, FICC would not be permitted to apply such payment to any obligation other than the obligations of Cross-Margining Customers (whether or not arising in connection with any Eligible Positions).

Conforming and clarifying Changes. FICC proposes to make the following conforming or clarifying changes:

FICC proposes to amend Section 4(b)(i) of Rule 2A to make clear that an applicant to become a Netting Member must have sufficient financial ability to make anticipated required deposits to not only Clearing Fund and Segregated Customer Margin, but also any Cross-Margining Customer Margin.

FICC proposes to remove Section 10(e) of Rule 3A to remove the current prohibition of Sponsored Members from participating in any Cross-Margining Arrangements, and accordingly renumber current Section 10(f) of Rule 3A to Section 10(e).

FICC proposes to remove (i) the language in parentheses in the first sentence of Section 1 of Rule 13, (ii) the second sentence in Section 2(b) of Rule 22A, and (iii) the portions of Sections 2(a) and 2(b) of Rule 43 that are crossed out in Exhibit 5, because those provisions relate to the “market professional” cross-margining program, which is no longer active and would not be used if the Customer Cross-Margining Arrangement becomes available.

(iii) Implementation of the Proposal

The proposed Third A&R Agreement would not become effective and replace the Second A&R Agreement until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed by FICC and CME.⁶⁴ Not later than two (2) business days following the date of the Commission’s approval of the proposed rule changes, FICC would add a legend to the proposed Third 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 Third A&R Agreement. FICC would issue a notice to members providing notice of the specific operative date at least two weeks prior to such date.

⁶⁴ See Section 18(j) of the proposed Third A&R Agreement.

2. Statutory Basis

FICC believes that the proposed rule change is consistent with Section 17A of the Exchange Act⁶⁵ and the rules thereunder applicable to FICC.

Section 17A(b)(3)(F) of the Exchange 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.⁶⁶ 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 Third A&R Agreement and the proposed changes to the GSD Rules would provide for funds and securities posted by Cross-Margining Participants in respect of Customer Positions, i.e., Cross-Margining Customer Margin, to be credited to the Cross-Margining Customer Margin Custody Account and treated as financial assets within the meaning of the NYUCC. These changes would have the effect of making FICC the “securities intermediary” in respect of such Cross-Margining Customer Margin and the Eligible BD-FCM, on behalf of its Cross-Margining Customers, the “entitlement holder” under the NYUCC.⁶⁷ By virtue of these designations, the Cross-Margining Customer Margin held by FICC would be unavailable to satisfy the claims of FICC’s general creditors and would be reserved for the Eligible BD-FCM (on behalf of its Cross-

⁶⁵ 15 U.S.C. 78q-1.

⁶⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁶⁷ NYUCC § 8-102(7) (“‘Entitlement holder’ means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary...”).

Margining Customers), including in an FICC insolvency.⁶⁸ Furthermore, the proposed changes would prohibit FICC from using Cross-Margining Customer Margin, except to satisfy the obligations arising from Customer Positions of the Cross-Margining Participant that posted such margin. Accordingly, it would reduce the possibility of such margin being exposed to loss on account of not only FICC's insolvency, but also the default of the Cross-Margining Participant or another Netting Member. The proposed changes would thus assure the safeguarding of the Cross-Margining Customer Margin.

Second, the proposed changes adopting and implementing the Customer Cross-Margining Arrangement would reduce the likelihood of FICC, each Netting Member, and indirect participants incurring a loss on account of a default by aligning each Cross-Margining Customer's margin requirements with the risk of such Cross-Margining Customer's Eligible Positions. Such alignment would serve to incentivize a Cross-Margining Customer to maintain portfolios that present lower risk because such lower risk would generally lead to lower margin requirements. Lower risk portfolios, in turn, would serve to reduce the risk of such Cross-Margining Customer's default and the Cross-Margining Participant's and FICC's exposure thereto. Accordingly, by allowing a Cross-Margining Customer to engage in cross-margining activity, the proposed changes would serve to promote the risk-reducing effects of cross-margining that are currently only

⁶⁸ See UCC § 8-503(a) (“To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, are not property of the securities intermediary, and are not subject to claims of creditors of the securities intermediary, except as otherwise provided in Section 8-511”). The exceptions to the foregoing rule in Section 8-511 only apply in the event that the securities intermediary has pledged the financial assets underlying the security entitlements to creditors, which would not be relevant here. See UCC § 8-511(b)-(c).

available to Cross-Margining Participants and their Eligible Affiliates. They would thus serve to enhance FICC's ability to safeguard the securities and funds in its control or for which it is responsible.

The lower margin requirements which would result from these changes would also incentivize Cross-Margining Customers to post initial margin in respect of their Eligible Positions, rather than rely on their Eligible BD-FCM to do so. Currently, FICC understands that it is common practice for Sponsoring Members and Agent Clearing Members to use their own assets to satisfy the FICC initial margin requirements associated with FICC-cleared positions that Eligible BD-FCMs carry for their customers.⁶⁹ This increases the costs to Sponsoring Members and Agent Clearing Members of offering customer clearing services and limits their capacity to do so. As a result of the proposed changes adopting and implementing the Customer Cross-Margining Arrangement, a Cross-Margining Customer's Eligible Positions at FICC would be eligible for a margin reduction if the Cross-Margining Customer posts the initial margin instead of requiring its Eligible BD-FCM to do so. It would thus incentivize Cross-Margining Customers to post such margin, which would likely result in an associated cost reduction from their Eligible BD-FCMs. Such posting would, in turn, serve to reduce Eligible BD-FCMs' risk to their Cross-Margining Customers and thereby promote the safeguarding of securities and funds in FICC's control or for which it is responsible.

⁶⁹ See Treasury Market Practices Group, Consultative White Paper: Non-Centrally Cleared Bilateral Repo and Indirect Clearing in the U.S. Treasury Market: Focus on Margining Practices (Feb. 26, 2025).

The proposed changes adopting and implementing the Customer Cross-Margining Arrangement would also promote the safeguarding of funds and securities for which FICC is responsible by ensuring that Customer Positions and Cross-Margining Customer Margin benefit from the customer protection regime applicable to futures contracts and associated margin. They would do this by requiring that Customer Positions and Cross-Margining Customer Margin be carried by the Cross-Margining Participant in a futures account and by satisfying the conditions necessary under the Proposed Orders to allow the Cross-Margining Participant to do that. Because the Customer Positions and Cross-Margining Customer Margin would be carried in a futures account, an Eligible BD-FCM would generally be required to safeguard Customer Positions and Cross-Margining Customer Positions to a substantially similar extent as is required for futures and associated margin. Furthermore, by requiring that Customer Positions and Cross-Margining Customer Margin be carried in a futures account and satisfying the other conditions of the Proposed Orders, the proposed changes would help to ensure that Customer Positions and Cross-Margining Customer Margin constitute “customer property” for purposes of Part 190 and that Cross-Margining Customer claims therefor constitute the claims of “customers” on account of their “net equity” within the meaning of Part 190.⁷⁰ Part 190 provides that, in the insolvency of an FCM, “customer property” shall be distributed to “customers” ratably on the basis of their “net equity” claims, in priority to all other claims (except administrative claims related to the administration of customer property).⁷¹ Accordingly, by ensuring that Customer Positions and Cross-

⁷⁰ See 17 C.F.R. §§ 190.01; 190.08; 190.09(a)(1)(i)(A).

⁷¹ See 17 C.F.R. § 190.09.

Margining Customer Margin constitute “customer property” and that Cross-Margining Customer claims therefore constitute “customer” “net equity” claims, the proposed changes would aim to provide Cross-Margining Customers with the same priority right to receive distributions on their allowed claims with respect to the Customer Positions and Cross-Margining Customer Margin as other public customers of the insolvent Eligible BD-FCM have in respect of their futures positions and associated margin. Accordingly, it would promote the safeguarding of Cross-Margining Customer Margin and the cash and securities distributed in respect of Customer Positions from the insolvency of the Cross-Margining Participant.

In addition, the proposed changes would promote the safeguarding of funds and securities for which FICC is responsible by ensuring that customers of an Eligible BD-FCM that do not participate in cross-margining under the Customer Cross-Margining Arrangement (as well as Cross-Margining Customers in relation to positions and margin not subject to the arrangement) remain entitled to the full suite of protections under Section 15(c)(3) of the Exchange Act, Rule 15c3-3 under the Exchange Act, and SIPA. The proposed changes are designed to ensure this protection by requiring that Cross-Margining Customers enter into a Customer Agreement that includes the terms of the Subordination Agreement. Pursuant to such terms, each Cross-Margining Customer would agree that its claims to “customer property” as defined in SIPA or 11 U.S.C. § 741 against the Cross-Margining Participant with respect to its Customer Positions at FICC and associated Cross-Margining Customer Margin will be subordinated to the claims of

all other customers.⁷² Such subordination is designed to ensure that the claims of Cross-Margining Customers in relation to Customer Positions or Cross-Margining Customer Margin do not dilute the claims of non-participating customers of Eligible BD-FCMs in relation to Segregated Customer Margin (as well as any claims Cross-Margining Customers in relation to Segregated Customer Margin) in a SIPA proceeding.

Accordingly, the Cross-Margining Arrangement would help to ensure that such Segregated Customer Margin remains safeguarded to the same extent as would be the case in the absence of the Customer Cross-Margining Arrangement.

Section 17A(b)(3)(F) of the Exchange 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.⁷³ 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.

The proposed changes would extend the existing cross-margining arrangement to Customer Positions, which is currently only available for clearing members (and certain Eligible Affiliates) at FICC and CME with respect to proprietary positions. By doing so, the proposed changes would serve to eliminate impediments to Cross-Margining Customers submitting transactions for central clearing. Specifically, the proposed rule change would serve to align the margin requirements for Customer Positions with the risk

⁷² See Appendix C, Exhibit I “[Customer Required Terms Annex or Agreement]” of the proposed Third A&R Agreement.

⁷³ 15 U.S.C. 78q-1(b)(3)(F).

the positions present. As a result, they would eliminate impediments to clearing that can arise from unduly high margin requirements. Furthermore, by aligning margin requirements with risk, the proposed changes would incentivize market participants to submit more Treasury securities transactions eligible to be cross-margined 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. Therefore, the proposed rule change would also serve to promote prompt and accurate clearance and settlement of securities transactions.⁷⁴ Accordingly, 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.⁷⁵

Rule 17ad-22(e)(6)(i) under the Exchange 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

⁷⁴ Id.

⁷⁵ 15 U.S.C. 78q-1(b)(3)(F).

covered clearing agency's payment, clearing, or settlement facilities.⁷⁶ FICC believes that the proposed changes would ensure the satisfaction of these requirements.

First, the Customer Cross-Margining Arrangement would produce margin levels commensurate with the risks and particular attributes of the Eligible Positions. This is because FICC would calculate initial margin requirements for Customer Positions using the same methodology as under the Proprietary Cross-Margining Arrangement, with each Cross-Margining Customer treated effectively as an independent Netting Member. The Commission recently approved this methodology, finding in particular that it satisfied the requirements of Rule 17ad-22(e)(6).⁷⁷

Second, the proposed changes would provide that FICC-cleared Customer Positions of a Cross-Margining Customer would be recorded in a Cross-Margining Customer Account, which account would be a separate Type of Account for purposes of the GSD Rules.⁷⁸ By virtue of these changes, the margin applicable to Customer Positions would be calculated separately and independently of the margin for any positions recorded in a different Type of Account, including any Proprietary Account of the Cross-Margining Participant. In addition, the proposed rule changes would provide for Customer Cross-Margining Margin to be collected and held in substantially a similar manner to Segregated Customer Margin. The Commission recently approved FICC's arrangements for Segregated Customer Margin, finding in particular that they "should

⁷⁶ 17 CFR 240.17ad-22(e)(6)(i).

⁷⁷ See Order Granting Approval of Proposed Rule Change To Amend and Restate the Cross-Margining Agreement Between FICC and CME, Securities Exchange Act Release No. 98327 (Sept. 8, 2023), 88 FR 63185 (Sept. 14, 2023).

⁷⁸ See Section 1, "Definitions." of the proposed Third A&R Agreement.

ensure that a Netting Member's proprietary transactions are not netted with indirect participant transactions for margin calculations and that margin for indirect participant transactions is collected and held separately and independently from margin for a Netting Member's proprietary transactions." Accordingly, the proposed rule change would ensure compliance with Rule 17ad-22(e)(6)(i).

Rule 17ad-22(e)(4)(i) under the Exchange 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.⁷⁹ FICC believes that the proposed changes 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, under the Customer Cross-Margining Arrangement, FICC would calculate the margin requirement applicable to Customer Positions on a gross (i.e., Cross-Margining Customer-by-Cross-Margining Customer) basis, with margin reductions for offsetting positions calculated using a methodology that the Commission recently approved.⁸⁰ Examining the similar customer-by-customer gross margining arrangements adopted by FICC for Segregated Indirect

⁷⁹ 17 CFR 240.17ad-22(e)(4)(i).

⁸⁰ See Self-Regulatory Organizations; the Fixed Income Clearing Corporation; Order Granting Approval of Proposed Rule Change To Amend and Restate the Cross-Margining Agreement Between FICC and CME, 88 FR 63185 (Sept. 15, 2023).

Participants, the Commission found that they would “better isolate the risk profiles of individual indirect participants from Netting Members, which should help FICC better understand and monitor each individual participant’s risk exposures.”⁸¹ In addition, the proposed rule change would require each Eligible BD-FCM for whom FICC maintains one or more Cross-Margining Customer Account(s) to deposit to FICC cash or eligible securities to meet the Cross-Margining Customer Margin Requirement that is calibrated to the risks of each Cross-Margining Customer’s portfolio. Such Eligible BD-FCM would also be required to enter into a Customer Cross-Margining Clearing Member Agreement with FICC and CME, pursuant to which the Eligible BD-FCM would pledge to FICC, on behalf of itself and each Cross-Margining Customer, the positions and margin subject to the Customer Cross-Margining Arrangement at both FICC and CME. This pledge, coupled with the cross-guarantee set forth in the Third A&R Agreement, would ensure that FICC and CME are able to look to the full portfolio of Customer Positions and associated margin at FICC and CME in order to satisfy any obligations arising under Customer Positions. Accordingly, the proposed changes would ensure that FICC will have sufficient resources to rely on to cover cross-margining exposures under the Customer Cross-Margining Arrangement.

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

⁸¹ See Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change, as Modified by Partial Amendment No. 1, To Modify the GSD Rules (i) Regarding the Separate Calculation, Collection and Holding of Margin for Proprietary Transactions and That for Indirect Participant Transactions, and (ii) To Address the Conditions of Note H to Rule 15c3-3a, 89 FR 93763, 93776 (Nov. 27, 2024).

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 changes would expand the Cross-Margining Arrangement, which currently is only available for proprietary positions of Cross-Margining Participants and those of their Eligible Affiliates, to Customer Positions. This expansion would serve to facilitate access for indirect participants to FICC's clearance and settlement services for Treasury transactions by aligning the margin requirements applicable to such participants' positions with the risk those positions present. Such alignment would serve to eliminate impediments to access that can arise when there is a mismatch between margin and risk. Furthermore, by creating an incentive for Cross-Margining Customers to cover the margin requirements for their own positions, the proposed rule change would serve to reduce the need for Netting Members to use their own resources to cover such margin obligations. As a result, it would reduce the costs and increase the capacity of Netting Members to provide clearing services, which would in turn allow Netting Members to increase the volume of transactions they clear and reduce the prices at which they provide such clearing services. Moreover, by creating significant cost savings and efficiencies for Cross-Margining Customers that consolidate offsetting positions into a single clearing member regardless of execution counterparty, the proposed changes would create a natural incentive for Netting Members to offer done-away clearing services. For such Netting Members, carrying Treasury securities positions entered into by a customer with other parties would provide a potential opportunity to reduce the risk of the customer's futures positions and earn clearing revenue without the cost of funding the customer's

margin obligations, and such clearing services could create opportunities to increase the Netting Member's scope of customers. Therefore, the proposed changes would facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.⁸²

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

FICC believes that the proposed changes to the GSD Rules and the Third A&R Agreement would promote competition by enabling customers of Eligible BD-FCMs to benefit from cross-margining.

As described above, under the Existing Agreement, cross-margining is currently only available for a Cross-Margining Participant's proprietary positions and those of an Eligible Affiliate. Accordingly, customers of Cross-Margining Participants are not able to benefit from cross-margining; they must continue to have their Eligible Securities Positions margined without regard to potential risk offsets involving other Eligible Futures Positions. By extending availability of cross-margining to Customer Positions, the proposed rule change would serve to place customers of Eligible BD-FCMs on a more level playing field with Cross-Margining Participants and Eligible Affiliates. It would ensure that such customers have the ability to achieve similar margin efficiencies and pursue similar trading strategies on similar terms as Cross-Margining Participants and Eligible Affiliates. As a result, the proposed changes would improve competitive parity in the U.S. Treasury market between direct participants and indirect participants at FICC.

⁸² 17 CFR 240.17ad-22(e)(18)(iv)(C).

The proposed rule change would also promote competition by allowing all customers of Eligible BD-FCMs, rather than only market professionals or a similar subset, to access central clearing. As a result, the proposed rule change would ensure that introducing cross-margining maintains competitive parity among customers of Eligible BD-FCMs.

FICC believes that the proposed rule change would introduce a burden of competition as between Eligible BD-FCMs and other Netting Members because the Customer Cross-Margining Arrangement would only be available for Customer Positions carried by Eligible BD-FCMs. However, FICC believes that this burden on competition is necessary in order to ensure that Customer Positions and associated Cross-Margining Customer Margin are safeguarded pursuant to robust customer protections. In particular, the dual registration of an Eligible BD-FCM as a broker-dealer and FCM is necessary to ensure that the Customer Positions and associated margin can be carried in a futures account under the CEA and applicable CFTC regulations and that they benefit from the Part 190 distributional rules in the event of the clearing member's failure. FICC has concluded that it would not be feasible to achieve similar customer protections if Customer Positions were carried at a Netting Member not registered as a BD and FCM. Indeed, FICC has observed that other U.S. cross-margining arrangements involving customers similarly require such dual registration as a condition to participation in the arrangement.⁸³

⁸³ See Order Granting Conditional Exemptions Under the Securities Exchange Act of 1934 in Connection With the Portfolio Margining of Cleared Swaps and Security-Based Swaps That Are Credit Default Swaps, Securities Exchange Act Release No. 93501 (Nov. 1, 2021), 86 FR 61357 (Nov. 5, 2021); Order Granting Conditional Exemptions Under the Securities Exchange Act of 1934 in

In addition, the proposed rule change would promote competition by providing market participants with greater flexibility in the methods through which transactions in U.S. Treasury securities can be cleared. With the introduction of the Customer Cross-Margining Arrangement, clearing members will be able to offer a wider variety of clearing methods to their indirect participant customers. Such indirect participants will accordingly be able to participate in a wider variety of clearing methods, and will be able to choose whether to clear transactions under the Customer Cross-Margining Arrangement or whether to clear transactions at FICC without engaging in cross-margining.

Accordingly, the proposed rule change would promote competition by allowing Cross-Margining Customers to obtain the benefits associated with cross-margining, ensuring that Cross-Margining Customers are not at an undue competitive disadvantage relative to clearing members and certain Eligible Affiliates who are currently able to access such benefits under the Proprietary Cross-Margining Arrangement, and providing market participants with greater flexibility in the access models available for the clearing of transactions in U.S. treasury securities.

Connection With Portfolio Margining of Swaps and Security-Based Swaps, Securities Exchange Act Release No. 68433 (Dec. 14, 2012), 77 FR 75211 (Dec. 19, 2012); Order, Treatment of Funds Held in Connection with Clearing by LCH SA of Single-Name Credit Default Swaps, Including Spun-Out Component Transactions (Nov. 1, 2021); Order, Treatment of Funds Held in Connection with Clearing by ICE Clear Credit of Credit Default Swaps (Jan. 14, 2013).

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

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

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

All prospective commenters should follow the Commission's instructions on how to submit comments, available at www.sec.gov/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.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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 Exchange 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-2025-025 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-2025-025. 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 filing 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-2025-025 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.⁸⁴

Secretary

⁸⁴ 17 CFR 200.30-3(a)(12).

EXHIBIT 3A

The information contained in this Exhibit 3A 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 or financial information that is privileged or confidential and (ii) the supervision of Fixed Income Clearing Corporation (FICC), which is a financial institution. This Exhibit 3A 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 3A 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 (marked); 27 pages.

PAGE REDACTED IN ITS ENTIRETY

EXHIBIT 3B

The information contained in this Exhibit 3B 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 or financial information that is privileged or confidential and (ii) the supervision of Fixed Income Clearing Corporation (FICC), which is a financial institution. This Exhibit 3B 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 3B 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):

- Letter from the Fixed Income Clearing Corporation and Chicago Mercantile Exchange Inc. to Vanessa Countryman dated as of December 11, 2025 (“SEC Petition”); 26 pages.

PAGE REDACTED IN ITS ENTIRETY

EXHIBIT 3C

The information contained in this Exhibit 3C 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 or financial information that is privileged or confidential and (ii) the supervision of Fixed Income Clearing Corporation (FICC), which is a financial institution. This Exhibit 3C 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 3C 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):

- Letter from the Fixed Income Clearing Corporation and Chicago Mercantile Exchange Inc. to Christopher J. Kirkpatrick dated as of May 14, 2025 (“CFTC Petition”); 24 pages.

PAGE REDACTED IN ITS ENTIRETY

EXHIBIT 5A

Bold and underlined text indicates proposed new language.

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

Yellow shaded, bold and underlined text indicates language proposed to be added by SR-FICC-2025-015 (filing is pending approval).

~~**Yellow shaded, bold and strikethrough text**~~ indicates language proposed to be deleted by SR-FICC-2025-015 (filing is pending approval).

~~**Yellow shaded, bold and strikethrough red text**~~ indicates proposed deletions to language proposed to be added by SR-FICC-2025-015 (filing is pending approval).

Blue shaded, bold and underlined text indicates language proposed to be added by SR-FICC-2025-019 (filing is pending approval).

~~**Blue shaded, bold and strikethrough text**~~ indicates language proposed to be deleted by SR-FICC-2025-019 (filing is pending approval).

~~**Blue shaded, bold and strikethrough red text**~~ indicates proposed deletions to language proposed to be added by SR-FICC-2025-019 (filing is pending approval).

Gray shaded, bold and underlined text indicates language proposed to be added by SR-FICC-2025-021 (filing is pending approval).

FIXED INCOME CLEARING CORPORATION
GOVERNMENT SECURITIES DIVISION RULEBOOK

RULE 1 – DEFINITIONS

[Changes to this Rule, as amended by File No. SR-FICC-2025-025 and SR-FICC-2025-801, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. These changes will not be implemented until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed to by FICC and CME. Upon that date, these changes will be implemented, and this legend will be automatically removed from this Rule.]

Unless the context requires otherwise, the terms defined in this Rule shall, for all purposes of these Rules, have the meanings herein specified.

* * *

Cross-Margining Affiliate

The term “Cross-Margining Affiliate” means an affiliate of a Cross-Margining Participant that is a member of an FCO and has agreed: ~~(i) to have its positions and margin at the FCO margined together with Eligible Positions of the Cross-Margining Participant at the Corporation in accordance with the applicable Cross-Margining Agreement, and/or (ii) if permitted by the applicable Cross-Margining Agreement, to have the positions and margin of Market Professionals cleared by the Cross-Margining Affiliate at the FCO margined together with Eligible Positions of the Market Professional customers of the Cross-Margining Participant at the Corporation.~~

Cross-Margining Agreement

The term “Cross-Margining Agreement” means an agreement between the Corporation and a particular FCO pursuant to which a Cross-Margining Participant, at the discretion of the Corporation and in accordance with the provisions of Rule 43, may elect to have (i) its margin requirement-Required Fund Deposit in respect of Eligible Positions at FICC and its (or its Cross-Margining Affiliate’s, if applicable) margin requirements in respect of Eligible Positions at such FCO, or (ii) any of its Cross-Margining Customers’ margin requirements in respect of Eligible Positions at FICC and such Cross-Margining Customer’s margin requirements in respect of Eligible Positions at such FCO, in each case, calculated by taking into consideration the net risk of such Eligible Positions at each of the clearing organizations. ~~A Cross-Margining Agreement may include provisions for the cross-margining by a Netting Member of Eligible Positions held in the accounts of Market Professionals.~~

* * *

Cross-Margining Customer

The term “Cross-Margining Customer” means a Sponsored Member or Executing Firm Customer whose Transactions are recorded in a Cross-Margining Customer Account.

Cross-Margining Customer Account

The term “Cross-Margining Customer Account” means an Indirect Participants Account maintained by the Corporation for a Sponsoring Member or an Agent Clearing Member that has been established pursuant to Rule 2B for purposes of recording Transactions of Cross-Margining Customers.

Cross-Margining Customer Margin

The term “Cross-Margining Customer Margin” means all securities and funds deposited by a Sponsoring Member or an Agent Clearing Member with the Corporation to satisfy its Cross-Margining Customer Margin Requirement.

Cross-Margining Customer Margin Custody Account

The term “Cross-Margining Customer Margin Custody Account” means a securities account within the meaning of the NYUCC maintained by the Corporation, in its capacity as securities intermediary as such term is used in the NYUCC, for an Agent Clearing Member or Sponsoring Member for the benefit of such Member’s Cross-Margining Customers.

Cross-Margining Customer Margin Requirement

The term “Cross-Margining Customer Margin Requirement” means the amount of cash or Eligible Clearing Fund Securities that an Agent Clearing Member or Sponsoring Member is required to deposit with the Corporation to support the obligations arising from Transactions recorded in its Cross-Margining Customer Accounts. A Netting Member’s Cross-Margining Customer Margin Requirement shall be the amount of the item listed in Section 2(a)(vii) of Rule 4. References to the Cross-Margining Customer Margin Requirement “for” or “with respect to” a particular Cross-Margining Customer Account or Cross-Margining Customer (or similar language) mean the portion of a Netting Member’s Cross-Margining Customer Margin Requirement arising from such Account or Cross-Margining Customer.

* * *

Current Net Settlement Positions

The term “Current Net Settlement Positions” means those Net Settlement Positions that are scheduled to settle on the Business Day with respect to which the calculation is made. Notwithstanding the foregoing, if a Current Net Settlement Position recorded in a Sponsoring Member Omnibus Account, ~~or~~ Segregated Indirect Participants Account, or Cross-Margining Customer Account is not clearly allocable to an individual Sponsored Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer, including because one or more transactions (other than Sponsored GC Trades and ACS Triparty Trades) recorded in the Account did not settle on its original Scheduled Settlement Date (such failure to settle would not occur with respect to Sponsored GC Trades and ACS

Triparty Trades), then, for purposes of calculating the relevant Netting Member's Sponsoring Member Omnibus Account Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, **or Cross-Margining Customer Margin Requirement** for such Account and not for purposes of calculating the Net Settlement Position under Rule 11, the Corporation shall at the securities Fedwire opening on each Business Day and then throughout the Business Day allocate the Current Net Settlement Position to the Sponsored Members, ~~or~~ Segregated Indirect Participants, **or Cross-Margining Customers** whose positions are carried in the Account as follows:

- (i) If the Current Net Settlement Positions of such account is long in a particular CUSIP, then the Current Net Settlement Positions shall be allocated on a pro rata basis to each Sponsored Member, ~~or~~ Segregated Indirect Participant, **or Cross-Margining Customer**, as applicable, that had long positions in the relevant CUSIP in the Account as of the end of the preceding Business Day.
- (ii) If the Current Net Settlement Positions of such Account is short in a particular CUSIP, then the Current Net Settlement Positions shall be allocated on a pro rata basis to each Sponsored Member, ~~or~~ Segregated Indirect Participant, **or Cross-Margining Customer**, as applicable, that had short positions in the relevant CUSIP in the Account as of the end of the preceding Business Day.

* * *

Customer Cross-Margining Arrangement

The term "Customer Cross-Margining Arrangement" means a Cross-Margining Arrangement pursuant to which a Cross-Margining Participant, at the discretion of the Corporation and in accordance with the provisions of Rule 43, may elect to have any of its Cross-Margining Customers' margin requirement in respect of Eligible Positions at FICC and such Cross-Margining Customer's margin requirements in respect of Eligible Positions at a relevant FCO calculated by taking into consideration the net risk of such Eligible Positions at each of the clearing organizations.

* * *

Indirect Participants Account

The term "Indirect Participants Account" means a Sponsoring Member Omnibus Account, **a Sponsored GC CIL Omnibus Account**, or an Agent Clearing Member Omnibus Account, including any **Sponsoring Member Omnibus Account or Agent Clearing Member Omnibus** Account that has been designated as a Segregated Indirect Participants Account pursuant to Rule 2B, **or a Cross-Margining Customer Account**, except as otherwise expressly stated in the Rules.

* * *

Market Professional

~~The term “Market Professional” means an entity, other than a Non-Customer, that is a party to a Market Professional Agreement for Cross Margining.~~

Market Professional Agreement for Cross Margining

~~The term “Market Professional Agreement for Cross Margining” means an agreement, in the form approved by the Corporation and the relevant FCO, pursuant to which a Market Professional authorizes its Eligible Positions and margin to be carried in a Market Professional Cross Margining Account.~~

* * *

Type of Account

The terms “Type of Account” and “Type” mean any one of a Dealer Account, Broker Account, Sponsoring Member Omnibus Account, **Sponsored GC CIL Omnibus Account**, Agent Clearing Member Omnibus Account, ~~or~~ Segregated Indirect Participants Account, or Cross-Margining Customer Account.

* * *

RULE 2A – INITIAL MEMBERSHIP REQUIREMENTS

[Changes to this Rule, as amended by File No. SR-FICC-2025-025 and SR-FICC-2025-801, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. These changes will not be implemented until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed to by FICC and CME. Upon that date, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 4 – Membership Qualifications and Standards for Netting Members

* * *

(b) Financial Responsibility – The applicant shall:

(i) have sufficient financial ability to make anticipated required deposits to the Clearing Fund, ~~and~~ Segregated Customer Margin, **and Cross-Margining Customer Margin** as provided for in Rule 4 and calculated pursuant to the Margin Component Schedule, and anticipated Funds-Only Settlement Amounts, and to meet all of its other obligations to the Corporation in a timely manner; and

* * *

RULE 2B – ACCOUNTS

[Changes to this Rule, as amended by File No. SR-FICC-2025-025 and SR-FICC-2025-801, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. These changes will not be implemented until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed to by FICC and CME. Upon that date, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 3 – Segregation Designations for Indirect Participants Accounts

A Netting Member may designate any of its Indirect Participants Accounts **(other than its Sponsored GC CIL Omnibus Accounts or Cross-Margining Customer Accounts)** as a Segregated Indirect Participants Account. Any such designation of an Account shall constitute a representation to the Corporation by the Netting Member that the Netting Member intends to meet all Segregated Customer Margin Requirements for such Account using cash or securities deposited by Segregated Indirect Participants with the Netting Member, except to the extent the Netting Member temporarily uses its own securities in accordance with the conditions set forth in Section (b)(1)(iii) of Note H to SEC Rule 15c3-3a. A Netting Member shall be deemed to repeat this representation each time it deposits Segregated Customer Margin. Only Transactions in U.S. Treasury securities may be recorded in a Segregated Indirect Participants Account.

* * *

Section 3a – Establishment of Cross-Margining Customer Accounts

A Netting Member that (i) is a Broker or Dealer and a Futures Commission Merchant and (ii) has been approved to become a Cross Margining Participant in a Customer Cross-Margining Arrangement pursuant to a Cross-Margining Agreement may designate any of its Indirect Participants Accounts (other than a Segregated Indirect Participants Account) as a Cross-Margining Customer Account. Any such designation of an Account shall constitute a representation to the Corporation by the Netting Member that the Netting Member has complied with all regulatory requirements applicable to it in connection with its participation in the Customer Cross-Margining Arrangement, including the conditions in the applicable order(s) issued by the SEC or the CFTC in relation to the Customer Cross-Margining Arrangement. A Netting Member shall be deemed to repeat this representation each time it deposits Cross-Margining Customer Margin.

* * *

RULE 3A – SPONSORING MEMBERS AND SPONSORED MEMBERS

[Changes to this Rule, as amended by File No. SR-FICC-2025-025 and SR-FICC-2025-801, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. These changes will not be implemented until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed to by FICC and CME. Upon that date, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 10 – Clearing Fund Obligations

* * *

~~(e) Sponsoring Members, with respect to their Sponsoring Member Omnibus Accounts and, if applicable, Sponsored GC CIL Omnibus Accounts, shall not be eligible to participate in any Cross Margining Arrangements.~~

~~(e)~~(f) For purposes of the application of Rule 4 and the Margin Component Schedule to a Sponsoring Member Omnibus Account, each Sponsored GC Trade **(other than a Sponsored GC CIL Trade)** shall be treated as a GCF Repo Transaction, each GC Funds Lender and GC Funds Borrower **under any such Sponsored GC Trade** shall be treated as a GCF Counterparty, and each Sponsored GC Clearing Agent Bank shall be treated as a GCF Clearing Agent Bank.

~~(f)~~(g) **To secure the full and timely performance of its obligations to the Corporation in connection with each Sponsored GC CIL Trade, each CIL Funds Lender will be required to execute a CIL Custodial Agreement Supplement wherein it pledges and grants to the Corporation, and agrees that the Corporation shall have, a continuing lien on and security interest in, all of such CIL Funds Lender's rights, title and interest in and to all Purchased GC Repo Securities subject to each outstanding Sponsored GC CIL Trade.**

* * *

RULE 4 – CLEARING FUND AND LOSS ALLOCATION

[Changes to this Rule, as amended by File No. SR-FICC-2025-025 and SR-FICC-2025-801, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. These changes will not be implemented until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed to by FICC and CME. Upon that date, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 1a – Segregated Customer Margin

* * *

The Corporation shall hold all Segregated Customer Margin in **(i)** an account of the Corporation at a bank within the meaning of the Exchange Act that is insured by the Federal Deposit Insurance Corporation and is a qualified custodian under the Investment Company Act of 1940, as amended, **which account shall be segregated from any other account of the Corporation and shall be used exclusively to hold Segregated Customer Margin**, or **(ii) an account of the Corporation** at the Federal Reserve Bank of New York which account shall be segregated from any other account of the Corporation and shall be used exclusively to hold Segregated Customer Margin and **Cross-Margining Customer Margin**. Each such account shall be subject to a written notice of the bank or Federal Reserve Bank provided to and retained by the Corporation that the Segregated Customer Margin in the account is being held by the bank or Federal Reserve Bank pursuant to SEC Rule 15c3-3 and is being kept separate from and not commingled with any other accounts maintained by the Corporation or any other person at the bank or Federal Reserve Bank. Each such account shall also be subject to a written contract between the Corporation and the bank or Federal Reserve Bank which provides that the Segregated Customer Margin in the account is subject to no right, charge, security interest, lien, or claim of any kind in favor of the bank or Federal Reserve Bank or any person claiming through the bank or Federal Reserve Bank.

Section 1b – Cross-Margining Customer Margin

Each Netting Member shall deposit Cross-Margining Customer Margin with the Corporation in an amount equal to its Cross-Margining Customer Margin Requirement, which requirement shall be determined in accordance with this Rule and the Margin Component Schedule. The timing of the satisfaction of the Cross-Margining Customer Margin Requirement shall be determined in accordance with the provisions of Section 9 of this Rule.

The Corporation shall establish and maintain on its books and records a Cross-Margining Customer Margin Custody Account to which all Cross-Margining Customer Margin deposited with the Corporation shall be credited. The Cross-Margining Customer Margin credited to a Cross-Margining Customer Margin Custody Account shall be used exclusively to secure the present and future payment and reimbursement obligations of the

Netting Member and its Cross-Margining Customers in relation to Eligible Positions of the Netting Member's Cross-Margining Customers.

All assets credited to each Cross-Margining Customer Margin Custody Account shall be treated as "financial assets" within the meaning of Article 8 of the NYUCC. New York is the "securities intermediary's jurisdiction" for purposes of the NYUCC and New York law shall govern all issues specified in Article 2(1) of the Hague Securities Convention.

The Corporation shall hold all Cross-Margining Customer Margin in (i) an account of the Corporation at a bank within the meaning of the Exchange Act that is insured by the Federal Deposit Insurance Corporation and is a qualified custodian under the Investment Company Act of 1940, as amended, which account shall be segregated from any other account of the Corporation and shall be used exclusively to hold Cross-Margining Customer Margin, or (ii) an account of the Corporation at the Federal Reserve Bank of New York which account shall be segregated from any other account of the Corporation and shall be used exclusively to hold Segregated Customer Margin and Cross-Margining Customer Margin. Any such account (other than the account at the Federal Reserve Bank of New York) shall be subject to a written notice of the bank provided to and retained by the Corporation that is consistent with applicable order(s) issued by the SEC or the CFTC in relation to the Customer Cross-Margining Arrangement.

Section 1**bc** – Margin Portfolios

(a) A Margin Portfolio shall consist of such Accounts of the Member as the Member shall designate in accordance with the Rules. Each Margin Portfolio shall not contain more than one Type of Account. Sponsoring Member Omnibus Accounts that are designated as Segregated Indirect Participants Accounts **or Cross-Margining Customer Accounts** shall not be included in the same Margin Portfolio as Agent Clearing Member Omnibus Accounts that have been designated as Segregated Indirect Participants Accounts **or Cross-Margining Customer Accounts**.

(b) The Corporation shall calculate a Member's Required Fund Deposit with reference to the Margin Portfolios of the Member (other than those consisting of Segregated Indirect Participants Accounts) as set forth in the Margin Component Schedule. The Corporation shall calculate a Member's Segregated Customer Margin Requirement for a given Segregated Indirect Participants Account as the sum of the requirements applicable to each Segregated Indirect Participant whose Transactions are recorded in such Account, as though each such Segregated Indirect Participant were a separate Netting Member with a single Margin Portfolio consisting of such Transactions, in accordance with the Margin Component Schedule. **The Corporation shall calculate a Member's Cross-Margining Customer Margin Requirement for a given Cross-Margining Customer Account as the sum of the requirements applicable to each Cross-Margining Customer whose Transactions are recorded in such Account, as though each such Cross-Margining Customer were a separate Netting Member with a single Margin Portfolio consisting of such Transactions, in accordance with the Margin Component Schedule.**

Section 2 – Required Fund Deposit Requirements, ~~and~~ Segregated Customer Margin Requirements, and Cross-Margining Customer Margin Requirements

~~(a)~~ Each Business Day, each Netting Member shall be required to deposit with the Corporation its Required Fund Deposit, ~~and~~ Segregated Customer Margin Requirement, and Cross-Margining Customer Margin Requirement consisting of:

* * *

Segregated Customer Margin Requirement:

- (vi) an amount calculated with respect to the Netting Member's Segregated Indirect Participants Accounts constituting Sponsoring Member Omnibus Accounts; ~~and~~
- (vii) an amount calculated with respect to the Netting Member's Segregated Indirect Participants Accounts constituting Agent Clearing Member Omnibus Accounts; and

Cross-Margining Customer Margin Requirement:

- (viii) an amount calculated with respect to the Netting Member's Cross-Margining Customer Accounts.

* * *

Section 2c – Cross-Margining Customer Margin Requirement

(a) Each Netting Member shall deposit any Cross-Margining Customer Margin with the Corporation by the Required Fund Deposit Deadline through a separate Deposit ID established by the Netting Member for each Cross-Margining Customer Account.

(b) The Corporation shall report the Cross-Margining Customer Margin Requirements to each Netting Member twice daily in a Report which shall specify the Cross-Margining Customer Margin Requirement for each Cross-Margining Customer Account.

Section 3 – Form of Deposit

* * *

(d) The following requirements shall apply to each Cross-Margining Customer Margin Requirement for a particular Cross-Margining Customer Account.

- (i) A minimum of 40 percent of the Cross-Margining Customer Margin Requirement for such Account shall be satisfied with cash and/or Eligible Clearing Fund Treasury Securities.

(ii) A minimum of the product of \$1 million and the number of Cross-Margining Customers whose Transactions are recorded in such Cross-Margining Account must be made and maintained in cash.

Notwithstanding anything to the contrary in this Rule, the Corporation may require a Netting Member's Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, **or Cross-Margining Customer Margin Requirement** to be in proportions of cash, Eligible Clearing Fund Securities and Eligible Letters of Credit that the Corporation determines to be necessary to protect itself and its Members from Legal Risk.

Section 3a – Special Provisions Related to Deposits of Cash

Cash deposits to the Clearing Fund and Segregated Customer Margin **and Cross-Margining Customer Margin** consisting of cash shall be made in immediately-available funds. The Corporation may invest any cash in the Clearing Fund, including (i) cash deposited by a Netting Member as part of its Actual Deposit, (ii) the proceeds of (x) any loans made to the Corporation secured by the pledge by the Corporation of Eligible Clearing Fund Securities pledged to the Corporation or (y) any sales of Eligible Clearing Fund Securities pledged to the Corporation, (iii) cash receipts from any investment of, repurchase or reverse repurchase agreements relating to, or liquidation of, Clearing Fund assets, and (iv) cash payments on Eligible Letters of Credit (collectively, "Clearing Fund Cash") in accordance with the Clearing Agency Investment Policy adopted by the Corporation.

Each Netting Member shall be entitled to any interest earned or paid on Clearing Fund cash deposits. Any interest earned on Segregated Customer Margin **or Cross-Margining Customer Margin** consisting of cash shall be paid to the Netting Member for the benefit of, and as agent for, its Segregated Indirect Participants **or Cross-Margining Customers, respectively.**

Section 3b – Special Provisions Related to Eligible Clearing Fund Securities

All Eligible Clearing Fund Securities pledged to secure Clearing Fund deposits or constituting Segregated Customer Margin **or Cross-Margining Customer Margin** shall, for collateral valuation purposes, be subject to a haircut and may be subject to a concentration limit. The Corporation shall determine the applicable haircuts and any concentration limits from time to time in accordance with its internal policy and governance process, based on factors determined to be relevant by the Corporation, which may include, for example, backtesting results and the Corporation's assessment of market conditions, in order to set appropriately conservative haircuts and/or concentration limits for the Eligible Clearing Fund Securities and minimize backtesting deficiency occurrences. The haircuts and any concentration limits prescribed by the Corporation shall be set forth in a haircut schedule that is published on the Corporation's website. It shall be the Member's responsibility to retrieve the haircut schedule. The Corporation will provide Members with at a minimum one Business Day's advance notice of any change in the haircut schedule.

Eligible Clearing Fund Securities that are used to secure an open account indebtedness, and Segregated Customer Margin **and Cross-Margining Customer Margin** consisting of Eligible Clearing Fund Securities must be pledged to the Corporation on such terms and conditions

as it may require, and be delivered to the Corporation or to the Corporation's account at a financial institution designated by the Corporation. The valuation of such Eligible Clearing Fund Securities shall be at current market value, which shall be determined by the Corporation not less frequently than on a daily basis, less an applicable haircut. The Corporation has the right, in its discretion, to refuse to accept a particular type of Eligible Clearing Fund Security as a permissible form of Clearing Fund deposit, ~~or Segregated Customer Margin,~~ **or Cross-Margining Customer Margin.**

Upon appropriate notice to the Corporation, pursuant to procedures that the Corporation establishes for such purpose, and subject to reasonable time constraints imposed by the Corporation based on its operational and administrative capacities, a Netting Member may substitute and/or withdraw Eligible Clearing Fund Securities from pledge and deposit, provided that the Netting Member has, effective immediately prior to the withdrawal, taken appropriate action to maintain its Required Fund Deposit and satisfy its Segregated Customer Margin Requirement **and Cross-Margining Customer Margin Requirement.** Notwithstanding the above sentence, the Corporation may decline to permit a substitution or withdrawal on a given Business Day later than one hour prior to the close of the securities Fedwire on such day. Any interest on Eligible Clearing Fund Securities deposited by a Netting Member to secure a Clearing Fund open account indebtedness or as Segregated Customer Margin **or Cross-Margining Customer Margin** that is received by the Corporation shall be credited to the Netting Member's cash deposits to the Clearing Fund or the associated Segregated Customer Margin Custody Account **or Cross-Margining Customer Margin Custody Account,** as applicable, except in the case of Clearing Fund in the event of a default by such Netting Member on any obligations to the Corporation under these Rules, in which case the Corporation may exercise its rights under Section 6 of this Rule.

Section 4 – Lien

* * *

(c) As security for any and all obligations and liabilities of a Netting Member and any Cross-Margining Customer to the Corporation arising out of or in connection with any Cross-Margining Customer Accounts of such Netting Member or Transactions recorded therein, each such Netting Member, on behalf of itself and its Cross-Margining Customers, grants to the Corporation a first priority perfected security interest in its right, title and interest in all Cross-Margining Customer Margin, each Cross-Margining Customer Margin Custody Account, and all distributions thereon and proceeds thereof. The Corporation shall be entitled to exercise the rights of a pledgee under common law and a secured party under Articles 8 and 9 of the NYUCC with respect to such assets.

Section 5 – Use of Clearing Fund, ~~and Segregated Customer Margin,~~ **and Cross-Margining Customer Margin**

* * *

On each Business Day, the Corporation shall calculate the portion of Segregated Customer Margin that supports each Segregated Indirect Participant's Transactions. The Corporation shall only use that portion (i) to secure the Transactions of such Segregated Indirect Participant recorded

in the corresponding Segregated Indirect Participants Account and satisfy payment and delivery obligations owing to the Corporation (including liquidating or otherwise using such Segregated Customer Margin to obtain relevant cash or securities) in connection with a default in respect of such Transactions; and (ii) for investment in U.S. Treasury securities with a maturity of one year or less. The Corporation may not use Segregated Customer Margin supporting one Segregated Indirect Participant's Transactions to secure or satisfy payment or delivery obligations in connection with another Segregated Indirect Participant's Transactions or any other Transactions of any other person.

The Corporation shall only use Cross-Margining Customer Margin deposited by a Netting Member (i) to secure the Transactions of Cross-Margining Customers of such Netting Member recorded in any Cross-Margining Customer Account and satisfy payment and delivery obligations owing to the Corporation (including liquidating or otherwise using such Cross-Margining Customer Margin to obtain relevant cash or securities) in connection with a default in respect of such Transactions; and (ii) for investment in U.S. Treasury securities with a maturity of one year or less.

* * *

Section 9 – Initial Required Fund Deposit, ~~and~~ Segregated Customer Margin Requirement, ~~and~~ **Cross-Margining Customer Margin Requirements**, and Changes in Members' Required Fund Deposit, ~~and~~ Segregated Customer Margin Requirements, ~~and~~ **Cross-Margining Customer Margin Requirements**

The initial Required Fund Deposit, ~~and~~ Segregated Customer Margin Requirement (if applicable), ~~and~~ **Cross-Margining Customer Margin Requirement (if applicable)** of a Netting Member shall be required to be deposited into the Clearing Fund or deposited with the Corporation no later than 5 Business Days prior to the Business Day on which such Person becomes a Netting Member in accordance with the Corporation's procedures.

A Netting Member must increase the amount of its deposit to the Clearing Fund (by the deposit of cash, Eligible Netting Securities, and/or Eligible Letters of Credit subject to the requirements of this Rule) and deposit Segregated Customer Margin ~~and~~ **Cross-Margining Customer Margin** by the Required Fund Deposit Deadline on any Business Day that such Netting Member's Actual Deposit, ~~or~~ Segregated Customer Margin, ~~or~~ **Cross-Margining Customer Margin** is less than its Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, ~~or~~ **Cross-Margining Customer Margin Requirement**, as applicable, as set forth in the Report listing such, subject to the conditions included in this Rule 4. If there is an increase in a Netting Member's Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, ~~or~~ **Cross-Margining Customer Margin Requirement**, at the time the increase becomes effective, the Netting Member's obligations to the Corporation shall be determined in accordance with the increased Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, ~~or~~ **Cross-Margining Customer Margin Requirement** whether or not the Netting Member has satisfied such increased amount.

If the Corporation applies a Netting Member's Clearing Fund deposits as permitted pursuant to this Rule, the Corporation may take any and all actions with respect to the Netting

Member's Actual Deposit, including assignment, transfer, and sale of any Eligible Clearing Fund Securities, that the Corporation determines is appropriate. If such application or the use of any Segregated Customer Margin **or Cross-Margining Customer Margin** in accordance with these Rules results in any deficiency in the Netting Member's Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, **or Cross-Margining Customer Margin Requirement**, the Netting Member shall immediately replenish it. If the Netting Member fails to do so, the Corporation may take disciplinary action against such Netting Member pursuant to Rule 21 or Rule 48. Any disciplinary action that the Corporation takes pursuant to Rule 21 or Rule 48 or the voluntary or involuntary cessation of membership shall not affect the Netting Member's obligations to the Corporation or any remedy to which the Corporation may be entitled under applicable law.

The Corporation retains discretion to extend the Required Fund Deposit Deadline on any Business Day if there are operational or system difficulties that would reasonably prevent Members from satisfying Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, **or Cross-Margining Customer Margin Requirement** deficits by the time specified in the Corporation's procedures.

Notwithstanding the foregoing, the Corporation may require a Netting Member or Netting Members generally to deposit additional amounts to their Clearing Fund deposit on an intraday basis if the Corporation believes such action is necessary to protect itself and its Members.

Section 10 – Excess Clearing Fund Deposits, ~~or~~ Segregated Customer Margin, **or Cross-Margining Customer Margin**

The Corporation shall determine, twice each Business Day whether the amount deposited by a Member in the Clearing Fund is in excess of its Required Fund Deposit ("Excess Clearing Fund Deposit"); and shall separately determine **(1)** whether the amount of Segregated Customer Margin supporting a Segregated Indirect Participant's Transactions is in excess of the Segregated Customer Margin Requirement for such Segregated Indirect Participant ("Excess Segregated Customer Margin"), **and (2) whether the amount of Cross-Margining Customer Margin supporting a Cross-Margining Customer's Transactions is in excess of the Cross-Margining Customer Margin Requirement for such Cross-Margining Customer ("Excess Cross-Margining Customer Margin")**. On any day that the Corporation has determined that an Excess Clearing Fund Deposit, ~~or~~ Excess Segregated Customer Margin, **or Excess Cross-Margining Customer Margin** exists, the Corporation will, in the form and manner required by the Corporation, notify each such Member of such excess.

* * *

(c) Subject to the terms of the applicable Cross-Margining Agreement and any participant agreement entered into between the Corporation and the Member, upon a Member's request, and in accordance with such procedures as the Corporation may set forth from time to time, the Corporation shall return to the Member its Excess Cross-Margining Customer Margin subject to the minimum amount of cash or Eligible Clearing Fund Securities required to be maintained pursuant to the Rules (valued at their collateral value on the day of such withdrawal) as the Member requests. Subject to the terms of the

applicable Cross-Margining Agreement and any participant agreement entered into between the Corporation and the Member, and except to the extent required by applicable law or authorized by the SEC, the Corporation shall not retain Excess Cross-Margining Customer Margin due to any obligations of the Member unrelated to a Cross-Margining Customer Account of such Member.

Notwithstanding the foregoing, the Corporation may, at its discretion, retain some or all of the Excess Cross-Margining Customer Margin if the Member has an outstanding payment or margin obligation to the Corporation with respect to the Transactions of any Cross-Margining Customer of the Netting Member.

* * *

RULE 13 – FUNDS-ONLY SETTLEMENT

[Changes to this Rule, as amended by File No. SR-FICC-2025-025 and SR-FICC-2025-801, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. These changes will not be implemented until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed to by FICC and CME. Upon that date, these changes will be implemented, and this legend will be automatically removed from this Rule.]

Section 1 – General

One or more times on each Business Day, each Netting Member, as appropriate in accordance with this Rule, shall be obligated to pay to the Corporation, and/or shall be entitled to collect from the Corporation, the following ~~(determined separately, where applicable, for the Market Professional Cross-Margining Account of a Netting Member):~~

* * *

RULE 22A – PROCEDURES FOR WHEN THE CORPORATION CEASES TO ACT

[Changes to this Rule, as amended by File No. SR-FICC-2025-025 and SR-FICC-2025-801, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. These changes will not be implemented until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed to by FICC and CME. Upon that date, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 2 – Action by the Corporation

Except as otherwise may be determined by the Board in any particular case, from and after the time the Corporation ceases to act for a **Defaulting** Member, the following shall apply:

* * *

(b) Except as otherwise provided in Rules 17 and 18, all long and short Net Settlement Positions, and Forward Net Settlement Positions of the **Defaulting** Member outstanding **as well as any positions established in the Defaulting Member's Indirect Participants Accounts that the Corporation has determined to close out pursuant to Rule 3A or Rule 8** at the time the Corporation ceases to act for the **Defaulting** Member that have been reported by the Corporation to Members pursuant to Rule 11 and Rule 14 shall be closed out by:

* * *

~~If a Member also has a Market Professional Cross-Margining Account, any resulting gains upon liquidation of the Defaulting Member's Proprietary Account(s) shall be used to offset any resulting liquidation loss in the Market Professional Cross-Margining such Account or in an Indirect Participants Account of the Defaulting Member.~~

* * *

RULE 43 – CROSS-MARGINING ARRANGEMENTS

[Changes to this Rule, as amended by File No. SR-FICC-2025-025 and SR-FICC-2025-801, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. These changes will not be implemented until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed to by FICC and CME. Upon that date, these changes will be implemented, and this legend will be automatically removed from this Rule.]

* * *

Section 2 – Agreement to Become a Cross-Margining Participant

(a) A Netting Member that is a member of one or more FCOs may become a Cross-Margining Participant in a Cross-Margining Arrangement between the Corporation and one or more FCOs with the consent of the Corporation and each such FCO. A Netting Member shall become a Cross-Margining Participant upon acceptance by the Corporation and each applicable FCO of an agreement executed by such Cross-Margining Participant in the form specified in the applicable Cross-Margining Agreement(s) ~~and shall be permitted to establish a Market Professional Cross-Margining Account upon acceptance by the Corporation and each applicable FCO of an agreement executed by such Cross-Margining Participant in the form specified in the applicable Cross-Margining Agreement.~~

(b) A Netting Member having an affiliate that is a member of one or more FCOs may become a Cross-Margining Participant, and its affiliate may become a Cross-Margining Affiliate in a Cross-Margining Arrangement between the Corporation and one or more such FCOs with the consent of the Corporation and each such FCO. A Netting Member shall become a Cross-Margining Participant and its affiliate shall become a Cross-Margining Affiliate, upon acceptance by the Corporation and each applicable FCO of an agreement executed by such Cross-Margining Participant and its Cross-Margining Affiliate in the form specified in the applicable Cross-Margining Agreement ~~and shall be permitted to establish a Market Professional Cross-Margining Account upon acceptance by the Corporation and each applicable FCO of an agreement executed by such Cross-Margining Participant and its Cross-Margining Affiliate in the form specified in the applicable Cross-Margining Agreement.~~

(c) A Netting Member that is a member of one or more FCOs, and is registered as a Broker or Dealer and a Futures Commission Merchant, may become a Cross-Margining Participant in a Customer Cross-Margining Arrangement between the Corporation and one or more FCOs with the consent of the Corporation and each such FCO. A Netting Member shall become such a Cross-Margining Participant upon acceptance by the Corporation and each applicable FCO of an agreement executed by such Cross-Margining Participant in the form specified in the applicable Cross-Margining Agreement(s) and shall be permitted to establish a Cross-Margining Customer Account upon acceptance by the Corporation and each applicable FCO of an agreement executed by such Cross-Margining Participant in the form specified in the applicable Cross-Margining Agreement.

Section 3 – Cross-Margining Guaranty and Reimbursement Obligation

In the event that the Corporation becomes obligated to make a payment to an FCO under the Corporation's Cross-Margining Guaranty of the obligations of a Cross-Margining Participant, ~~or~~ its Cross-Margining Affiliate, or its Cross Margining Customer, the Cross-Margining Participant (and, if the Corporation becomes obligated to make such a payment in respect of the obligations of a Cross-Margining Customer, the Cross-Margining Customer) shall thereupon immediately be obligated, whether or not the Corporation has then made payment to FCO, to pay to the Corporation the amount of the "Reimbursement Obligation" as specified in the applicable Cross Margining Agreement.

* * *

Section 5 – Application of Cross-Margining Payments

The Corporation shall, in its sole discretion either:

(a) apply any Cross-Margining Payments received by the Corporation on account of a Cross-Margining Participant (1) to the unpaid obligations of such Cross-Margining Participant to the Corporation and (2) to reduce the assessments made or that otherwise would be made against other Netting Members (each a "Cross-Margining Beneficiary Participant") pursuant to Section 7 of Rule 4; or

(b) retain any Cross-Margining Payment and not apply such payment to reduce any assessments against other Netting Members pursuant to Rule 4 for so long as the Corporation determines that the Corporation is no longer liable for any Cross-Margining Repayment, at which point the Cross-Margining Payment shall be treated as an amount that has been recovered pursuant to Rule 4.

Notwithstanding the foregoing, the Corporation shall only apply any Cross-Margining Payment received by the Corporation on account of a Cross-Margining Participant in connection with the Customer Cross-Margining Arrangement to the unpaid obligations of the Cross-Margining Customers of such Cross-Margining Participant to the Corporation (whether or not arising in connection with any Eligible Positions).

* * *

MARGIN COMPONENT SCHEDULE

[Changes to this Schedule, as amended by File No. SR-FICC-2025-025 and SR-FICC-2025-801, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. These changes will not be implemented until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed to by FICC and CME. Upon that date, these changes will be implemented, and this legend will be automatically removed from this Schedule.]

Section 1 – Overview

Each Business Day, each Netting Member shall be required to deposit with the Corporation an amount equal to the sum of all applicable Required Fund Deposit Portions, calculated twice daily or on a more frequent basis if the Corporation deems it appropriate pursuant to this Schedule and subject to the provisions of Rule 4.

Each Business Day, each Netting Member for which the Corporation maintains a Segregated Indirect Participants Account shall be required to deposit with the Corporation Segregated Customer Margin equal to the sum of all Segregated Customer Margin Requirements for all such Accounts. Each Segregated Customer Margin Requirement shall equal the sum of the amounts calculated pursuant to Section 3 below for each Segregated Indirect Participant whose Transactions are recorded in the relevant Segregated Indirect Participants Account. Each such calculation shall be performed twice daily or on a more frequent basis if the Corporation deems it appropriate pursuant to this Schedule and subject to the provisions of Rule 4.

Each Business Day, each Netting Member for which the Corporation maintains a Cross-Margining Customer Account shall be required to deposit with the Corporation Cross-Margining Customer Margin equal to the sum of all Cross-Margining Customer Margin Requirements for all such Accounts. Each Cross-Margining Customer Margin Requirement shall equal the sum of the amounts calculated pursuant to Section 3a below for each Cross-Margining Customer whose Transactions are recorded in the relevant Cross-Margining Customer Account. Each such calculation shall be performed twice daily or on a more frequent basis if the Corporation deems it appropriate pursuant to this Schedule and subject to the provisions of Rule 4.

* * *

Section 3a – Cross-Margining Customer Margin Requirement Calculations

(a) Unadjusted GSD Margin Portfolio Amount

Each Business Day, the Corporation shall determine, with respect to each Cross-Margining Customer's Transactions recorded in a given Cross-Margining Customer Account, an Unadjusted GSD Margin Portfolio Amount as the sum of the following, as applicable, which the Corporation shall adjust such that the Unadjusted GSD Margin Portfolio Amount is equal to or greater than zero:

(i) the VaR Charge,

plus or minus

(ii) in the case of a Cross-Margining Customer that is a GCF Counterparty, the Blackout Period Exposure Adjustment during the monthly Blackout Period or until the Pool Factors used for collateral valuation are updated,

plus

(ii) a Portfolio Differential Charge.

(b) Additional Charges

The Corporation shall add the following to the Unadjusted GSD Margin Portfolio Amount, as applicable:

(i) in the case of a Cross-Margining Customer with backtesting deficiencies, the Backtesting Charge, if applicable,

plus

(ii) the Holiday Charge, on the Business Day prior to a Holiday,

plus

(iii) a Margin Liquidity Adjustment Charge,

plus

(iv) Intraday Supplemental Fund Deposit,

plus

(v) Volatility Event Charge.

(c) Minimum Charge and Total Required Fund Deposit Amount

For each Cross-Margining Customer, the Corporation shall determine the greater of (i) the sum of the Unadjusted GSD Margin Portfolio Amount and all applicable additional charges; and (ii) a minimum charge of \$1 million. The Corporation may, in its sole discretion, adjust the minimum amount in (ii) of this paragraph if the Corporation determines that a different minimum charge would be appropriate and consistent with achieving its backtesting coverage target. Members would be notified of any such adjustment to the applicable minimum charge by an Important Notice. The Cross-Margining Customer Margin Requirement shall be the sum of the amounts calculated for each Cross-Margining Customer pursuant to this paragraph.

* * *

Section 5 – Definitions and Calculations of Clearing Fund Components

Backtesting Charge

The term “Backtesting Charge” means an additional charge that may be added to a Netting Member’s Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, or Cross-Margining Customer Margin Requirement to mitigate exposures to the Corporation caused by settlement risks that may not be adequately captured by the Corporation’s portfolio volatility model. The Corporation may assess this charge on the start of the day portfolio of a Netting Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer, and/or its intraday portfolios as needed, to enable the Corporation to achieve its backtesting coverage target. The Backtesting Charge may apply to Netting Members, ~~or~~ Segregated Indirect Participants, or Cross-Margining Customers that have 12-month trailing backtesting coverage (as such coverage is calculated for purposes of calculating the Backtesting Charge) below the 99 percent backtesting coverage target, excluding deficiencies attributable to Blackout Period exposures. The Backtesting Charge shall generally be equal to the third largest deficiency of the Netting Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer that occurred during the previous 12 months. Deficiencies attributable to Blackout Period exposures would be included only during the Blackout Period. The Corporation may in its discretion adjust such charge if the Corporation determines that circumstances particular to the settlement activity of a Netting Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer and/or market price volatility warrant a different approach to determining or applying such charge in a manner consistent with achieving the Corporation’s backtesting coverage target.

In calculating a Netting Member’s, ~~or~~ Segregated Indirect Participant’s, or Cross-Margining Customer’s backtesting coverage (for purposes of calculating the Backtesting Charge) and in calculating any applicable Backtesting Charge, the Corporation would not include amounts already collected from that Netting Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer as (i) a Backtesting Charge, and (ii) other components of the Required Fund Deposit, ~~or~~ Segregated Customer Margin, or Cross-Margining Customer Margin, as applicable, on an intraday basis pursuant to this Margin Component Schedule.

* * *

Excess Capital Differential

The term “Excess Capital Differential” means the amount by which a Netting Member’s VaR Charge, other than the VaR Charges calculated for such Member’s Segregated Indirect Participants Accounts or Cross-Margining Customer Accounts, exceeds its Netting Member Capital.

* * *

Holiday Charge

The term “Holiday Charge” means an additional charge that may be added to the Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, or Cross-Margining Customer Margin Requirement on the Business Day prior to a Holiday. The Holiday Charge approximates the exposure that the trading activity of a Netting Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer on the applicable Holiday could pose to the Corporation. Since the Corporation cannot collect margin on the Holiday, the Holiday Charge is due on the Business Day prior to the applicable Holiday.

The methodology for calculating a Holiday Charge shall be determined by the Corporation in advance of each applicable Holiday. The Holiday Charge approximates each Netting Member’s Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, or Cross-Margining Customer Margin Requirement to address the exposure that could be posed to the Corporation by the trading activity of the Netting Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer. The Corporation shall have the discretion to calculate the Holiday Charge based on its assessment of market conditions at the time the Holiday Charge is calculated (such as, for example, significant market occurrences that could impact market price volatility). The Corporation shall inform Netting Members of the methodology it will use to calculate the Holiday Charge by an Important Notice issued no later than 10 Business Days prior to the day on which the applicable Holiday Charge is applied. Examples of potential methodologies for the Holiday Charge may include, but shall not be limited to, time scaling of the VaR Charge or a stress scenario that reflects potential market price volatility on the Holiday.

Intraday Mark-to-Market Charge

The term “Intraday Mark-to-Market Charge” means an additional charge that is collected from a Member, or Segregated Indirect Participant, or Cross-Margining Customer (unless waived or decreased by the Corporation per subsection (c) below) to mitigate the Corporation’s exposures that may arise due to intraday changes in the size, composition and constituent security prices of such Member’s Margin Portfolio, or Segregated Indirect Participant’s portfolio, or Cross-Margining Customer’s portfolio, including when certain risk thresholds are breached or when the products cleared or markets served display elevated volatility.

The Intraday Mark-to-Market Charge, with respect to each Margin Portfolio, or Segregated Indirect Participant’s portfolio, or Cross-Margining Customer’s portfolio, equals the difference between (a) the mark-to-market amount reflected either in the last Funds-Only Settlement Amount or Intraday Mark-to-Market Charge, as applicable, for the Margin Portfolio, or Segregated Indirect Participant’s portfolio, or Cross-Margining Customer’s portfolio and (b) such Margin Portfolio’s, or Segregated Indirect Participant’s portfolio, or Cross-Margining Customer’s portfolio marked to the most recently observed System Price for such positions and shall be recalculated intraday, each Business Day, at the times and frequencies established by the Corporation for this purpose, which times and frequencies shall be communicated to Members, and

Segregated Indirect Participants, and Cross-Margining Customers on the Corporation's public website.

The following apply with respect to the Intraday Mark-to-Market Charge:

- (a) The Intraday Mark-to-Market Charge applies to a Margin Portfolio, and/or Segregated Indirect Participant's portfolio, and/or Cross-Margining Customer's portfolio that:
- (i) experienced an adverse intraday mark-to-market change that equals or exceeds a certain threshold dollar amount (but not less than \$1,000,000) as determined by the Corporation from time to time as compared to the mark-to-market amount reflected either in the last Funds-Only Settlement Amount or Intraday Mark-to-Market Charge, as applicable, for the Margin Portfolio, ~~or~~ Segregated Indirect Participant's portfolio, or Cross-Margining Customer's portfolio,
 - (ii) experienced an adverse intraday mark-to-market change that equals or exceeds a certain threshold percentage (but not less than 10 percent) as determined by the Corporation from time to time as compared to the last calculated VaR Charge for the Margin Portfolio, ~~or~~ Segregated Indirect Participant's portfolio, or Cross-Margining Customer's portfolio, and

* * *

- (b) If volatile market conditions occur, the Corporation may:
- (C) elect to modify or not consider the 12-month backtesting coverage threshold in Parameter (iii)(y) above, when applying the Intraday Mark-to-Market Charge to Margin Portfolios, and/or Segregated Indirect Participants' portfolios, and/or Cross-Margining Customers' portfolios that may present relatively greater risks to the Corporation on an overnight basis due to such market conditions.

* * *

- (c) The Corporation may waive the imposition of the Intraday Mark-to-Market Charge, or may decrease the amount of the Intraday Mark-to-Market Charge, in circumstances where the Corporation determines that the adverse intraday mark-to-market change of the Margin Portfolio, or Segregated Indirect Participant's portfolio, or Cross-Margining Customer's portfolio and/or the breaches of the Parameters referred to in subsection (a) do not accurately reflect the Corporation's risk exposure from the intraday mark-to-market fluctuation of the Margin Portfolio, ~~or~~ Segregated Indirect Participant's portfolio, or Cross-Margining Customer's portfolio. Examples of circumstances that the Corporation may consider with respect to the determination in the previous sentence may include, but shall not be limited to, large mark-to-market fluctuations arising out of trade errors. All waiver and/or reduction of the Intraday Mark-to-Market Charge shall

be approved, documented and reviewed on a regular basis pursuant to the Corporation's procedures.

Intraday Supplemental Fund Deposit

The term "Intraday Supplemental Fund Deposit" means an additional charge that may be included in each Member's Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, or Cross-Margining Customer Margin Requirement intraday. The Corporation shall re-calculate intraday, each Business Day, at the times and frequencies established by the Corporation for this purpose, which times and frequencies shall be communicated to Members, Cross-Margining Customers, and Segregated Indirect Participants on the Corporation's public website, the amount of the intraday VaR Charge applicable to each Margin Portfolio of a Member and to each Segregated Indirect Participant and each Cross-Margining Customer, based upon the open positions of the Margin Portfolio or Segregated Indirect Participant or Cross-Margining Customer at a designated time intraday, for purposes of establishing whether a Member shall be required to make an Intraday Supplemental Fund Deposit, including when certain risk thresholds are breached or when the products cleared or markets served display elevated volatility.

* * *

The Corporation shall establish procedures for ongoing monitoring and collection of an amount calculated in respect of a Member's, ~~or~~ Segregated Indirect Participant's, or Cross-Margining Customer's Intraday Supplemental Fund Deposit, including parameters regarding threshold amounts that require payment, and the form and time by which payment is required to be made to the Corporation, which parameters as well as payment form and time shall be communicated to Members, ~~and~~ Segregated Indirect Participants, and Cross-Margining Customers on the Corporation's public website. The Corporation reserves the right to require a Member/Segregated Indirect Participant/Cross-Margining Customer or Members/Segregated Indirect Participants/Cross-Margining Customers generally to make additional Intraday Supplemental Fund Deposits if the Corporation determines it to be necessary to protect itself and its Members in response to factors such as market conditions or financial or operational capabilities affecting a Member/Segregated Indirect Participant/Cross-Margining Customer or Members/Segregated Indirect Participants/Cross-Margining Customers generally.

The Corporation may determine not to collect an Intraday Supplemental Fund Deposit, or may decrease the amount of the Intraday Supplemental Fund Deposit, in circumstances where the Corporation determines that the volatility-based intraday exposure of the Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer and/or the breaches of the threshold amount do not accurately reflect the Corporation's risk exposure to the Member, ~~or~~ Segregate Indirect Participant, or Cross-Margining Customer. Examples of circumstances that the Corporation may consider with respect to the determination in the previous sentence may include, but shall not be limited to, (i) changes in portfolio composition result in the threshold amount not being breached on a consistent or persistent basis, (ii) trades that will be offset by trades submitted later in the day, (iii)

the threshold amount was breached due to the submission of erroneous trades that are being corrected, or (iv) the threshold amount was breached due to erroneous data inputs.

The Corporation may waive the collection of an Intraday Supplemental Fund Deposit in exigent circumstances if the Corporation determines (i) that such a waiver is necessary to protect the Corporation, its participants, investors and the public interest or (ii) it can effectively address the risk exposure presented by the Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer without the collection of the Intraday Supplemental Fund Deposit.

Margin Liquidity Adjustment Charge or MLA Charge

The terms “Margin Liquidity Adjustment Charge” or “MLA Charge” mean, with respect to each Margin Portfolio, Sponsored Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer, an additional charge applied to Net Unsettled Positions of a Member, Sponsored Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer. The MLA Charge shall be calculated daily and shall be included in each Member’s Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, or Cross-Margining Customer Margin Requirement, as applicable.

* * *

If a Sponsored Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer clears through multiple Accounts, for each such Account, the Corporation shall calculate both (1) an MLA Charge for each asset group/subgroup in the account on a standalone basis, as provided above, and (2) an MLA Charge for each asset group/subgroup in the Account as part of a consolidated portfolio, as provided below, with the higher amount applied as the MLA Charge for the relevant asset group/subgroup. The applicable MLA Charge for each asset group/subgroup shall be added together to result in one total MLA Charge for the Account.

* * *

Margin Proxy

The term “Margin Proxy” means, with respect to each Margin Portfolio, Sponsored Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer, an alternative volatility calculation for specified Net Unsettled Positions of a Netting Member, Sponsored Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer, calculated using historical market price changes of such U.S. Treasury and agency pass-through mortgage-backed securities indices determined by the Corporation. The Margin Proxy would be applied by the Corporation as an alternative to the model-based volatility calculation of the VaR Charge for each Netting Member’s Margin Portfolio or for each Sponsored Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer. The Margin Proxy shall cover such range of historical market price moves and parameters as the Corporation from time to time deems appropriate.

Minimum Margin Amount

The term “Minimum Margin Amount” means, with respect to each Margin Portfolio, Sponsored Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer, a minimum volatility calculation for specified Net Unsettled Positions of the Margin Portfolio, Sponsored Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer, respectively, as of the time of such calculation.

* * *

Portfolio Differential Charge

The term “Portfolio Differential Charge” means, with respect to each Margin Portfolio, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer, an additional charge to be included in each Member’s Required Fund Deposit, ~~or~~ Segregated Customer Margin Requirement, or Cross-Margining Customer Margin Requirement.

The Portfolio Differential Charge shall be calculated twice each Business Day as the exponentially weighted moving average (“EWMA”) of the historical increases in the VaR Charge of the Member, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer that occur between collections of Required Fund Deposits, ~~or~~ Segregated Customer Margin Requirement, or Cross-Margining Customer Margin Requirement over a lookback period of no less than 100 days with a decay factor of no greater than 1, times a multiplier that is no less than 1 and no greater than 3, as determined by the Corporation from time to time as applicable to each Type of Account based on backtesting results. The Corporation will provide Members with at a minimum 10 Business Days advance notice of any change to the lookback period, the decay factor and/or the multiplier via an Important Notice.

Unadjusted GSD Margin Portfolio Amount

The term “Unadjusted GSD Margin Portfolio Amount” means, with respect to each Margin Portfolio, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer, the amount greater than or equal to zero determined by the Corporation in accordance with this Schedule.

VaR Charge

The term “VaR Charge” means, with respect to each Margin Portfolio, Sponsored Member, CIL Funds Lender, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer, a calculation of the volatility of specified Net Unsettled Positions of the Margin Portfolio, Sponsored Member, CIL Funds Lender, ~~or~~ Segregated Indirect Participant, or Cross-Margining Customer, respectively, as of the time of such calculation. Such volatility calculations shall be made in accordance with any generally accepted portfolio volatility model, including, but not limited to, any margining formula employed by any other clearing agency registered under Section 17A of the Securities Exchange Act of 1934. Such calculation shall be made utilizing such assumptions (including confidence levels) and based on such observable market data as the Corporation deems reasonable, and shall cover

such range and assessment of volatility as the Corporation from time to time deems appropriate. To the extent that the primary source of such market data becomes unavailable for an extended period of time, the Corporation shall utilize the Margin Proxy as an alternative volatility calculation. In its assessment of volatility, the Corporation shall calculate an additional bid-ask spread risk charge measured by multiplying the gross market value of each Net Unsettled Position by a basis point charge, where the applicable basis point charge shall be reviewed at least annually and shall be based on the following risk groups: (a) mortgage pool transactions; (b) TIPS; (c) U.S. agency bonds; and (d) U.S. Treasury securities, which shall be further categorized by maturity – those maturing in (i) less than five years, (ii) equal to or more than five years and less than ten years, and (iii) equal to or more than ten years.

With respect to each CIL Funds Lender, the VaR Charge shall be calculated as the positive difference between (1) the amount of VaR Charge that the Corporation would have collected if the Sponsored GC CIL Trades of that CIL Funds Lender had been subject to the calculation of a Sponsoring Member Omnibus Account Required Fund Deposit, and (2) the aggregate of all CIL Required Haircuts on that CIL Funds Lender's Sponsored GC CIL Trades.

If the volatility calculation (or the Margin Proxy, when applicable) is lower than the VaR Floor, then the VaR Floor will be utilized as the VaR Charge of the Margin Portfolio, Sponsored Member, ~~or~~ Segregated Indirect Participant, **or Cross-Margining Customer**.

The Corporation shall have the discretion to not apply the VaR calculation(s) to Net Unsettled Positions in classes of securities whose volatility is less amenable to statistical analysis, or to Term Repo Transactions and Forward-Starting Repo Transactions (including term and forward-starting GCF Repo Transactions) whose term repo rate volatility is less amenable to statistical analysis. In lieu of such calculation, the component required with respect to such transactions shall instead be determined utilizing a haircut method based on a historic index volatility model.

The Corporation shall take into account the VaR confidence level applicable to the Member, ~~or~~ Segregated Indirect Participant, **or Cross-Margining Customer** in calculating the VaR Charge.

In the case of a Margin Portfolio of a Cross-Margining Participant that is subject to one or more Cross-Margining Arrangements, in the discretion of the Corporation, the VaR Charge may be reduced by an amount not to exceed the any thresholds set forth in the applicable Cross-Margining Agreement and calculated on the current Business Day for such Cross-Margining Participant in accordance with the applicable Cross-Margining Agreements.

VaR Floor

The term “VaR Floor” means, with respect to each Margin Portfolio, Sponsored Member, ~~or~~ Segregated Indirect Participant, **or Cross-Margining Customer**, the greater of (i) the VaR Floor Percentage Amount and (ii) the Minimum Margin Amount.

* * *

Bold and underlined text indicates proposed new 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 Nos. SR-FICC-2025-025 and SR-FICC-2025-801, are available at www.dtcc.com/legal/sec-rule-filings. These changes have been approved by the SEC but have not yet been implemented. These changes will not be implemented until the latest of (i) the date on which all necessary regulatory approvals of the proposed Third A&R Agreement have been received by FICC and CME and (ii) a date agreed to by FICC and CME. Upon that date, these changes will be implemented and this legend will be automatically removed from the Third A&R Agreement.]

~~SECOND~~THIRD AMENDED AND RESTATED CROSS-MARGINING AGREEMENT

This ~~Second~~Third Amended and Restated Cross-Margining Agreement (this “Agreement”) is entered into as of this [] day of [], 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 **(the “Proprietary 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~~ ~~arrangement~~ Proprietary Cross-Margining Arrangement, FICC and CME entered into that certain Cross-Margining Agreement, dated as of January 2, 2004 (~~“Original Agreement”~~), as amended (the “Original Agreement”), whereby 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.

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.

~~GF.~~ ~~Pursuant to SEC Rule 17ad-22 under the Exchange Act, FICC’s GSD maintains~~ The parties amended and restated the First A&R Agreement in the Second Amended and Restated Cross-Margining Agreement, dated as of July 30, 2025 (the “Second A&R Agreement”). Pursuant to the Second A&R Agreement, FICC and CME 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 in compliance with FICC’s obligations under SEC Rule 17ad-22 under the Exchange Act to maintain 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”).

HG. FICC and CME now desire to amend and restate the ~~First~~Second A&R Agreement to ~~permit positions maintained by~~ establish an additional cross-margining arrangement (the “Customer Cross-Margining Arrangement”) whereby a Customer (as defined below) of a Joint Clearing Member ~~for an affiliate that is a Non-Customer, as defined below, (each, an “may elect to have positions in Eligible Affiliate”) to be cross-~~ Products (defined below) at CME and positions in Eligible Products at FICC carried in a Cross-Margining Account (defined below) and margined ~~pursuant to this Agreement in compliance with FICC’s obligations under the Separate Calculation Requirement~~ based upon the combined risk presented by positions in Eligible Products and make certain additional changes that the parties find to be appropriate and desirable.

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) **“Agreement” has the meaning set forth in the preamble.**

~~(a)~~**(b)** “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)~~**(c)** “Allocated Net Gain” has the meaning set forth in Section 7(c)**(ii)**.

~~(c)~~**(d)** “Allocated Net Loss” has the meaning set forth in Section 7(c)**(ii)**.

~~(d)~~**(e)** “Bankruptcy Code” shall mean 11 U.S.C. §§ 101 et seq.

~~(e)~~**(f)** “Beneficiary” has the meaning set forth in Section 7(i).

~~(f)~~**(g)** “Business Day” means each day on which trading in Eligible Products is conducted and on which FICC and CME both conduct money settlements.

~~(g)~~**(h)** “CEA” has the meaning set forth in the recitals.

~~(h)~~**(i)** “CFTC” has the meaning set forth in the recitals.

~~(i)~~**(j)** “Claims and Losses” has the meaning set forth in Section 12(b).

~~(j)~~**(k)** “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)~~**(l)** “Clearing Member Agreement” means, **(i) with respect to the Proprietary Cross-Margining Arrangement**, 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 and (ii) with respect to the Customer Cross-Margining Arrangement, the agreement set forth in Appendix C between the Clearing Organization and a Joint Clearing Member, in each case to participate in the cross-margining arrangement** pursuant to this Agreement and the Rules.

~~(l)~~**(m)** “Clearing Organization” means either FICC, acting through its Government Securities Division or CME and “Clearing Organizations” means both FICC and CME.

~~(m)~~(n) “CME” has the meaning set forth in the preamble.

~~(n)~~(o) “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)~~(p) “CME Guaranty Fund” means the Base Guaranty Fund established pursuant to CME Rules.

~~(p)~~(q) “CME’s Debtor” has the meaning set forth in Section 8(a).

~~(q)~~(r) “Collateral on Hand” means the Margin held by a Clearing Organization with respect to ~~the Cross-Margining Account~~ Liquidation Portfolio 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) “Combined Portfolio” means, in the case of a Pair of Cross-Margining Accounts consisting of Proprietary Cross-Margining Accounts, all Eligible Positions in such Cross-Margining Accounts, and in the case of a Pair of Cross-Margining Accounts consisting of Customer Cross-Margining Accounts, all Eligible Positions of a single Customer in such Cross-Margining Accounts.

~~(s)~~(t) “Confidential Information” has the meaning set forth in Section 10(a).

~~(t)~~(u) “Cross-Margining Account” means, ~~with respect to a Clearing Member of FICC, the transactions, positions and margin maintained in 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.~~ “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 a Proprietary Cross-Margining Account or a Customer Cross-Margining Account.

~~(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~~ a 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~~ Liquidation Portfolio 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 or a Customer~~) 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~~ such Liquidation Portfolio.

(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 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) "Customer" means an indirect clearing participant that (i) meets the definition of futures customer set out in CFTC Regulation 1.3 and (ii) is a "Sponsored Member" or "Executing Firm Customer" as defined under the GSD Rules.

(aa) "Customer Agreement" means an agreement containing the terms in Exhibit I to the Clearing Member Agreement set forth as Appendix C hereto between a Clearing Member and a Customer that elects to participate in the cross-margining arrangement established pursuant to this Agreement and the Rules.

(bb) "Customer Cross-Margining Account" means, with respect to a Clearing Member of FICC, an Indirect Participants Account (as defined in the GSD Rules) at FICC that is maintained for Customers and identified in FICC's books and records as being subject to this Agreement, and with respect to a Clearing Member of CME, 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 Customers of such Clearing Member that are subject to this Agreement.

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

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

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

~~(ee)~~(ff) "Eligible Affiliate" has the meaning set forth in the recitals.

(gg) "Eligible Collateral" has the meaning set forth in Section 5(a).

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

~~(ee)~~(ii) "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.

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

~~(gg)~~(kk) “FICC” has the meaning set forth in the preamble.

~~(hh)~~(ll) “FICC Clearing Fund” means the clearing fund established pursuant to GSD Rules.

~~(ii)~~(mm) “FICC Eligible Products” means positions in 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).

~~(jj)~~(nn) “FICC’s Debtor” has the meaning set forth in Section 9(a).

~~(kk)~~(oo) “GSD” means FICC’s Government Securities Division.

~~(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.**

~~(mm)~~(pp) “Guarantor” has the meaning set forth in Section 7(i).

~~(nn)~~(qq) “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.

~~(oo)~~(rr) “Indebtedness to CME” has the meaning set forth in Section 8(a).

~~(pp)~~(ss) “Indebtedness to FICC” has the meaning set forth in Section 9(a).

~~(qq)~~(tt) “Indemnified Party” has the meaning set forth in Section 12(a)

~~(rr)~~(uu) “Indemnitor” has the meaning set forth in Section 12(a).

~~(ss)~~(vv) “Joint Clearing Member” has the meaning set forth in the recitals.

~~(tt)~~(ww) “Liquidation Cost” means, with respect to a ~~Cross-Margining Account~~Liquidation Portfolio 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~~Liquidation Portfolio 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 or a Customer) 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 or a Customer) 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.

(xx) **“Liquidation Portfolio” means, with respect to a Defaulting Member, all such Defaulting Member’s Proprietary Cross-Margining Account(s) or all such Defaulting Member’s Customer Cross-Margining Account(s).**

(uu)(vv) “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, Actual ~~Deposits~~**Deposit and Cross-Margining Customer Margin** (as defined under the GSD Rules) and option premiums held in or for ~~the~~**a** 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 **or a Customer**) with respect to ~~the~~**such** 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.

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

(ww)(aaa) “Net Gain” or “Net Loss” means, with respect to ~~the Cross-Margining Account~~**Liquidation Portfolio** 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~~**Liquidation Portfolio**. If such amount is a negative number, a Clearing Organization shall be deemed to have a “Net Loss” with respect to the relevant ~~account~~**Liquidation Portfolio**. 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)(bbb) “Non-Customer” means any affiliate of the Clearing Member **or any person that is an officer, director, partner or other related person 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.

(yy)(ccc) “Other VM Gain” or “Other VM Loss” means: (x) with respect to a **Liquidation Portfolio of a** Defaulting Member ~~of~~**at** FICC, the amounts owed to or by the Defaulting Member (or, if applicable for FICC Eligible Products, an Eligible Affiliate) **or a Customer**, 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 **Related** GSD Accounts that ~~does~~ not include the positions in the ~~Cross-Margining Account~~**Liquidation Portfolio** at FICC; and (y) with respect to a **Liquidation Portfolio of a** Defaulting Member ~~of~~**at** CME, the amounts owed to or by the Defaulting Member;

(or, if applicable, a Customer), as applicable, by or to CME arising from or related to the market-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.~~ **Liquidation Portfolio** at CME. **[Notwithstanding the foregoing, in the event that there is a Cross-Margin VM Gain with respect to a Liquidation Portfolio consisting of the Defaulting Member’s Proprietary Cross-Margining Account(s), the “Other VM Gain” and “Other VM Loss” with respect to such Liquidation Portfolio shall be calculated by also taking into account the amounts described in the foregoing sentence in respect of Eligible Positions in the Defaulting Member’s Customer Cross-Margining Account(s).]**

~~(zz)~~**(ddd)** “Original Agreement,” **“First A&R Agreement,”** and **“Second A&R Agreement”** ~~hashave~~ the meaning set forth in the recitals.

(eee) **“Pair of Cross-Margining Accounts”** means a **Customer Cross-Margining Account at CME and a Customer Cross-Margining Account at FICC or a Proprietary Cross-Margining Account at CME and a Proprietary Cross-Margining Account at FICC.**

~~(aaa)~~**(fff)** “Party” and “Parties” have the meaning set forth in the preamble.

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

~~(eee)~~**(hhh)** “Proprietary Account” has the meaning given that term in CFTC Regulation 1.3. ~~Unless otherwise expressly provided, the term “Proprietary Account” includes the Proprietary Cross-Margining Account of a Cross-Margining Participant of CME.~~

(iii) **“Proprietary Cross-Margining Account”** means, with respect to a **Clearing Member of FICC, a Proprietary Account at FICC (as defined in the GSD Rules) or an Indirect Participants Account at FICC that is maintained for Non-Customers, in each that is 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.**

(iii) **“Proprietary Cross-Margining Arrangement”** and **“Customer Cross-Margining Arrangement”** have the meanings set forth in the preamble.

~~(ddd)~~**(kkk)** “Reimbursement Obligation” has the meaning set forth in Section 7(i).

(III) **“Related GSD Account”** means, with respect to a **Liquidation Portfolio of a Defaulting Member at FICC consisting of Proprietary Cross-Margining Account(s), the Proprietary Account(s) (as defined under the GSD Rules) of the Defaulting Member at FICC, and with respect to a Liquidation Portfolio of a Defaulting Member at FICC consisting of Customer Cross-Margining Account(s), the Indirect Participants Account(s) (as defined under the GSD Rules) of the Defaulting Member at FICC, which, in each case,**

include positions that are cross-margined pursuant to this Agreement and positions that are not cross-margined pursuant to this Agreement.

~~(eee)~~**(mmm)** “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.

~~(fff)~~**(nnn)** “SEC” has the meaning set forth in the recitals.

~~(ggg)~~**(ooo)** “Separate Calculation Requirement” has the meaning set forth in the recitals.

~~(hhh)~~**(ppp)** “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~~**Eligible Positions in a Liquidation Portfolio** at the Clearing Organization after taking into account the Margin Reduction**(s)** set forth in Section 4(a), by (ii) the Cross-Margining Requirement.

~~(iii)~~**(qqq)** “Stand-Alone Margin Requirement” means, as to each Clearing Organization **and a Cross-Margining Account**, the Margin requirement that such Clearing Organization would calculate with respect ~~to such~~ a Cross-Margining Account ~~it carries~~ as if calculated by such Clearing Organization without regard to this Agreement or another cross-margining agreement **and, in case of such Margin requirement of FICC, without regard to any netting across positions of multiple Executing Firm Customers (as defined in the GSD Rules) in the same Agent Clearing Member Omnibus Account (as defined in the GSD Rules).**

~~(jjj)~~**(rrr)** “Variation Margin” means, with respect to ~~the~~**a** 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 **or a Customer**) 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~~**Margining Account** 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, To~~ become a Cross-Margining Participant **for the Proprietary Cross-Margining Arrangement**, 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. **To become a Cross-Margining Participant for the Customer Cross-Margining Arrangement and establish Customer Cross-Margining Accounts, a Clearing Member must be a Joint Clearing Member that is both (i) a broker or dealer registered with the SEC and (ii) a futures commission merchant registered with the CFTC.** 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; **under the applicable cross-margining arrangement. A Joint Clearing Member**

shall designate each Cross-Margining Account as either “Proprietary” or “Customer” as appropriate. The Clearing Organizations shall be under no obligation to deal directly with a Customer, and a Customer shall have no right to assert a claim against a Clearing Organization with respect to, nor shall a Clearing Organization be liable to a Customer for, any obligations of a Clearing Organization in connection with the Customer’s participation in the Customer Cross-Margining Arrangement pursuant to this Agreement.

(b) A Joint Clearing Member shall become a Cross-Margining Participant **for the Proprietary Cross-Margining Arrangement** 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 **for the Proprietary Cross-Margining Arrangement** 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) A Joint Clearing Member shall become a Cross-Margining Participant for the Customer Cross-Margining Arrangement upon the acceptance by FICC and CME of a Clearing Member Cross-Margining Agreement (Joint Clearing Member) in the form of Appendix C hereto. In addition, each Joint Clearing Member electing to establish Customer Cross-Margining Accounts shall be required to execute, and cause each Customer clearing through its Customer Cross-Margining Accounts to execute, a Customer Agreement. For the Customer Cross-Margining Arrangement, a Joint Clearing Member may have one Pair of Cross-Margining Accounts for each separate type of Indirect Participants Account (as defined in the GSD Rules) at FICC and the same Customer Cross-Margining Account at CME may be part of each such Pair of Cross-Margining Accounts; provided, however, that the same Customer’s positions may not be maintained in multiple such Pairs of Cross-Margining Accounts of the same Joint Clearing Member.

~~(d)~~**(e)** 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; **or any of its Eligible Affiliates or Customers.**

~~(e)~~**(f)** 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) **with respect to some or all Cross-Margining Accounts of the Cross-Margining Participant, in each case,** upon two Business Days’ prior written notice to the other Clearing Organization provided, however, that no such termination shall be effective with respect to **(i)** 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, **or (ii) Section 7 of the Agreement until the Stand-Alone Margin Requirement with respect to each Cross-Margining Account subject to such termination has been fully satisfied.**

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~~**is** non-risk reducing, CME may either restrict the addition of Eligible Positions to ~~the~~**a** Cross-Margining Account at CME or require the Cross-Margining Participant to move or liquidate such Eligible Positions at CME. **In the case of a Combined Portfolio consisting of Eligible Positions of a Customer, each Joint Clearing Member will hold in a futures account, as defined in CFTC Regulation 1.3, of the Joint Clearing Member, FICC Eligible Products forming part of such Combined Portfolio and associated money, securities and property, together with the CME Eligible Products and futures customer funds, as defined in CFTC Regulation 1.3, held by such Joint Clearing Member in accordance with any conditions set forth in the regulatory approvals of this Agreement issued by the SEC and CFTC and applicable law.**

(b) In the event the transactions or positions maintained in an Account (as defined in the GSD Rules) are ~~not~~**neither maintained for Customers nor** 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 **Proprietary** Cross-Margining Accounts, including a **Proprietary** Cross-Margining Account for its proprietary positions and separate **Proprietary** 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~~**a** 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~~**Combined Portfolio (calculated in the case of a Combined Portfolio consisting of Customer Eligible Positions as if each Customer's positions were maintained in a separate** Cross-Margining Accounts) and (y) the Margin it would require if the ~~combined portfolio of the CME Eligible Products and FICC Eligible Products~~**Combined Portfolio** were held in a single account (~~the "Combined Portfolio"~~) and determine the percentage of margin savings that would be derived for such ~~accounts~~**Combined Portfolio** 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 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 **for each Cross-Margining Account** 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 **for a Combined Portfolio** may be less than the sum of the Stand-Alone Margin Requirements **for the relevant Cross-Margining Accounts**, 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~~ **Eligible Collateral.**

(a) Asset types acceptable to satisfy the Cross-Margin Requirement ("Eligible Collateral") must meet the respective eligibility requirements of the Clearing Organization to which the collateral is provided.

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~~**each** 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, **(or a Customer whose positions are maintained in a Cross-Margining Participant's Cross-Margining Account)**. 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 **for all Combined Portfolios of the Defaulting Member**, and (y) its Margin Reduction at the Non-Liquidating CO **for all Combined Portfolios of the Defaulting Member**, 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, **anits** Eligible Affiliates **or Customers**), 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 with respect to the Defaulting Member's Proprietary Cross-Margining Accounts or Customer Cross-Margining Accounts:

- (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"), which may include a joint liquidating auction so that hedged positions can be closed out simultaneously or, in the case of a transfer of Eligible Positions in a Customer Cross-Margining Account, so that the positions of each Customer in a Combined Portfolio can, if feasible, be transferred to the same clearing firm. 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 for any Liquidation Portfolio, any Clearing Organization ("X") may, upon written notice to the other Clearing Organization ("Y"), offer to buy-out the Relevant Positions in such Liquidation Portfolio 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 in relation to the Liquidation Portfolio subject to such a buy-out. 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 in relation to the relevant Liquidation Portfolio if the Default Event is resolved under this Section 7(b)(ii).
- (iii) If a Clearing Organization determines that (A) it is not ~~advisable~~legally permissible or ~~feasible~~possible to resolve the Default Event as to a particular Liquidation Portfolio pursuant to Paragraphs (b)(i) or (b)(ii) above, or (B) resolving the Default Event pursuant to Paragraphs (b)(i) or (b)(ii) above would result in substantially greater losses to each Clearing Organization than doing so pursuant to this Paragraph (b)(iii), 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~~ each relevant 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 in relation to the relevant Liquidation Portfolio 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 **separately with respect to each Liquidation Portfolio of a Defaulting Member**:

- (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 **Section 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~~**Liquidation Portfolio**. 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 **separately with respect to each Liquidation Portfolio of the Defaulting Member**:
 - (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~~ Liquidation Portfolio 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~~ Liquidation Portfolio 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”) **with respect to such a Liquidation Portfolio** 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, **with respect to a Liquidation Portfolio of the Defaulting Member**, 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”) **with respect to such a Liquidation Portfolio** 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 **with respect to such a Liquidation Portfolio**. FICC shall notify CME, and CME shall notify FICC, of the amount of ~~its own~~ **each such** 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, **(i) the obligation of any Customer, and (ii)** 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. **FICC acknowledges and agrees that it holds all Cross-Margining Customer Margin both for itself and as agent and bailee for CME. FICC further agrees to comply with CME’s entitlement orders with respect to any Cross-Margining Customer Margin without further consent of the Clearing Member or Customer for whom such Cross-Margining Customer Margin is held, provided, however, that CME agrees that it shall not issue, and FICC shall not comply with, any entitlement orders that are inconsistent with the terms of this Agreement.**

(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 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 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 ~~p~~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~~**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: FICCProductRisk@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: FICCProductRisk@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”) [Proprietary Cross-Margining Program]

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) 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 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); (ix) all transactions and positions in each Cross-Margining Account of Member will be solely (A) for Member's own account and/or (B) for the account of one or more Eligible Affiliate(s) of Member; and (x) in the event any of the 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 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 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”) [Proprietary Cross-Margining Program]

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]

APPENDIX C

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

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 Customer 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 Third Amended and Restated 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 its Customer Cross-Margining Accounts. 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 hereby makes application to the Clearing Organizations to establish a Customer Cross-Margining Account at CME and one or more Customer Cross-Margining Account(s) at FICC in the name of Member, each of which Customer Cross-Margining Accounts shall be in addition to any Proprietary Cross-Margining Account of Member established pursuant to the Cross-Margining Agreement. Each Customer Cross-Margining Account shall be limited to transactions and positions carried by Member for Customers who have signed a Customer Agreement containing the terms set forth in Exhibit I hereto. Member agrees that it shall not commence clearing transactions through or carrying positions in a Customer Cross-Margining Account for any Customer until such Customer has executed a Customer Agreement. Member agrees to indemnify and hold harmless the Clearing Organizations, their respective directors, officers and employees and each person, if any, who controls either of the Clearing Organizations against any claims, losses, liabilities and expenses, including, without limitation, reasonable legal fees and expenses and amounts paid or payable in settlement of any action, proceeding or investigation arising from any claim by any party resulting from the carrying of positions in a Customer Cross-Margining

Account that belong to any person other than a Customer for whom a Customer Agreement is in effect.

Member as agent for each of its Customers (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 Customer's positions in a Customer Cross-Margining Account, and (ii) agrees that each Customer 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 Customers to the terms in the foregoing sentence.

Member hereby pledges, as security for its and its Customers' present and future payment and reimbursement obligations to FICC and CME arising from Member's Customer Cross-Margining Accounts (including, without limitation, the Reimbursement Obligations) or otherwise under this Agreement on behalf of itself and each Customer, grants to each Clearing Organization a first priority continuing security interest in, lien on and right of set-off against all of the positions, margin deposits or other property held by or subject to the control of or owing from either Clearing Organization including any and all Net Gains in respect of Member's Customer Cross-Margining Accounts 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, (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, and (iv) Member authorizes FICC to comply with CME's entitlement orders with respect to any [Segregated Cross-Margining Customer Margin] pursuant to the Cross-Margining Agreement without further consent of the Clearing Member or Customer for whom such [Segregated Cross-Margining Customer Margin] is held.

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 for a Combined Portfolio pursuant to the Cross-Margining Agreement will yield any, or the highest possible, Margin Reduction for the Combined Portfolio.

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; and (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, including any clearing agreement between Member and a Customer). 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 Member or any Customer of any rights it or they 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.

Member may terminate this Agreement 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 that (i) all positions in the Customer Cross-Margining Accounts have been closed or transferred to other accounts in accordance with the Rules, and (ii) all Stand-alone Margin Requirement in respect of any such transferred positions and all obligations of Member to the Clearing Organizations in respect of the Customer Cross-Margining Accounts have been fully satisfied.

Either Clearing Organization may terminate Member's participation with respect to any Customer Cross-Margining Account of Member (the "Affected Customer Cross-Margining Accounts") at any time upon written notice to the other Clearing Organization pursuant to the Cross-Margining Agreement and to Member. In connection with such termination, the Clearing Organizations may require Member to close or transfer all

positions in the Affected Customer Cross-Margining Accounts in accordance with the Rules, and this Agreement shall thereupon terminate with respect to Affected Customer Cross-Margining Accounts provided that the Stand-alone Margin Requirement in respect of the transferred positions and all obligations of Member to the Clearing Organizations in respect of Affected Customer Cross-Margining Accounts have been fully satisfied.

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. 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.

This Agreement shall become effective upon the later of execution of this Agreement, or on the receipt of all necessary regulatory approvals from the Securities and Exchange Commission and the Commodity Futures Trading Commission.

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.

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]

EXHIBIT I TO APPENDIX C

[Customer Required Terms Annex or Agreement]

This [Annex / Agreement] is executed by and between the Clearing Member and Customer identified below in the signature block and sets out certain required terms between the Clearing Member and Customer with respect to Customer's participation in the Customer Cross-Margining Arrangement offered by the Fixed Income Clearing Corporation ("FICC") and Chicago Mercantile Exchange ("CME"). The terms hereof supplement and form a part of the [list relevant customer agreement(s)] ([collectively] the "Customer Agreement") between Clearing Member and Customer. To the extent of any inconsistency between any terms hereof and any terms of the Customer Agreement or any other agreement related or ancillary to the Customer Agreement, the terms hereto shall govern.

1. Capitalized terms that are not defined herein shall have their meanings set forth in the Third Amended and Restated Cross-Margining Agreement between FICC and CME, as such agreement may be amended or renamed from time to time (the "Cross-Margining Agreement").

2. Customer agrees, acknowledges, and understands that:

(a) In accordance with the terms and conditions of that certain exemption granted by the Securities and Exchange Commission ("SEC") by order dated [] (the "SEC Order"), all money, securities and property deposited with Clearing Member by Customer to margin, guarantee or secure Customer's positions in a Customer Cross-Margining Account (the "Customer Property") will be held in a futures account as defined in Commodity Futures Trading Commission ("CFTC") Regulation § 1.3 and subject to Commodity Exchange Act ("CEA") Section 4d(a) and (b).

(b) Customer's positions in FICC Eligible Products and Customer Property (including any margin at FICC) (i) will not receive customer treatment under the Securities Exchange Act of 1934 or the Securities Investor Protection Act of 1970 ("SIPA") or be treated as "customer property" as defined in 11 U.S.C. 741 in a liquidation of Clearing Member, and (ii) will be subject to any applicable protections under Subchapter IV of Chapter 7 of Title 11 of the United States Code and rules and regulations thereunder including the CFTC Part 190 Regulations. Customer's claims to "customer property" as defined in SIPA or 11 U.S.C. 741 against Clearing Member with respect to its positions in FICC Eligible Products and Customer Property (including any margin held at FICC) will be subordinated to the claims of all other customers, as the term "customer" is defined in 11 U.S.C. 741 or SIPA.

(c) Customer's positions in each Customer Cross-Margining Account of Clearing Member, all margin held in respect thereof, and all proceeds of any of the foregoing, may be commingled with the positions and property of other customers of Clearing Member and used by Clearing Member to purchase, margin, secure, settle or otherwise carry positions on behalf of Customer and other futures customers. Customer acknowledges and understands that an order issued by the CFTC dated [] (the "CFTC Order"), rendered inapplicable the provisions of the CFTC's regulations (including, but not limited to, CFTC Regulations

§§ 1.20(a), 1.22 and 1.24), to the extent that such regulations would prohibit the commingling and use of Customer Property as provided herein. Customer further acknowledges that such property will be treated in a manner consistent with the CFTC Order and that such property held on its behalf by Clearing Member will be customer property received by a futures commission merchant (“FCM”) to be accounted for, treated and dealt with by such FCM in a manner consistent with Section 4d of the CEA.

(d) In the event a Clearing Organization suspends or ceases to act for Clearing Member, it shall be within the sole discretion of the Clearing Organizations to determine whether to transfer, liquidate, or settle Customer’s positions in the relevant Customer Cross-Margining Account.

3. Customer further agrees, acknowledges, and understands that its participation in the Customer Cross-Margining Program is subject to the terms of (i) the Cross-Margining Agreement, (ii) the Cross-Margining Participant Agreement by and among Clearing Member and the Clearing Organizations in the form of Appendix C to the Cross-Margining Agreement, as such agreement may be amended from time to time (the “Cross-Margining Participant Agreement”) and (iii) the GSD Rules and CME Rules, as such Rules may be amended from time to time. Without limiting the generality of the foregoing, Customer agrees, acknowledges, and understands if CME determines at any time that any Eligible Positions of Customer cleared through the Customer Cross Margining Account at CME are non-risk reducing, CME may either restrict Customer from adding positions in Eligible Products or require Customer to move or liquidate Eligible Positions cleared by Customer through the Clearing Member’s Customer Cross-Margining account at CME.

4. Without limiting any other security interest granted by Customer to Clearing Member, Customer hereby pledges, as security for Customer’s present and future payment and delivery obligations in respect of Customer’s positions maintained in any of Clearing Member’s Customer Cross-Margining Accounts (including, without limitation, any obligation of Customer to reimburse Clearing Member as a result of Clearing Member’s performance of such obligations), and grants to Clearing Member a continuing security interest in, lien on and right of set-off against its right, entitlement, and interest in all of positions in each Customer Cross-Margining Account, all margin posted by Customer in connection such positions, and the proceeds in respect thereof (such positions, margin deposits, property and proceeds, the “Collateral”).

5. Customer hereby authorizes Clearing Member to enter into agreements with the Clearing Organizations on Customer’s behalf as set forth in Appendix C to the Cross-Margining Agreement.

The Parties have caused this [Annex/Agreement] to be duly executed and delivered as of this [] day of [Month/Year].

Clearing Member

Customer

Name of Clearing Member:

Name of Customer:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____