

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>12</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>13</sup>

### IV. Solicitation of Comments

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

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2005-32 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-CBOE-2005-32. 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 Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2005-32 and should be submitted on or before June 27, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-2870 Filed 6-3-05; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51754; File No. SR-FICC-2005-07]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Establish a Firm Deadline by which Members of the Government Securities Division Must Satisfy Clearing Fund Deficiencies

May 27, 2005.

#### I. Introduction

On March 18, 2005, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-FICC-2005-07 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on April 21, 2005.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### II. Description

FICC is establishing a firm deadline by which members of FICC's Government Securities Division ("GSD") must satisfy clearing fund deficiencies. Currently, GSD's rules

provide a deadline for a member's satisfaction of a clearing fund deficiency of two hours after GSD has issued a notice of deficiency to that member. Under current practice, GSD issues its clearing fund deficiency notices by telephone calls typically at 8:30 a.m. eastern time and by a facsimile containing (i) a cover letter summarizing the deficiency status and (ii) a detailed report reflecting the firm's current clearing fund requirement and collateral on deposit. Therefore, deficiency calls typically must be satisfied by approximately 10:30 a.m. eastern time.

Notwithstanding GSD's issuance of clearing fund calls, each member has the ability to access a report each day detailing its clearing fund balances and any deficiency thereof generally by 12:30 a.m. eastern time.

Taking into account members' ready access to clearing fund deficiency information, the rule change establishes a firm deadline of 10:30 a.m. eastern time to ensure the timely satisfaction of clearing fund deficiency calls and to eliminate current provisions which correlate the timing of the deadline to the issuance of the notice by FICC.<sup>3</sup> As a result, it will be incumbent upon members to access directly the appropriate report detailing their clearing fund deposit requirements so they might satisfy any deficiencies.

#### III. Discussion

Section 17A(b)(3)(F) of the Act requires 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 for which it is responsible.<sup>4</sup> The Commission finds that FICC's proposed rule change is consistent with this requirement because it will promote timely satisfaction of clearing fund deficiency calls and will reduce the amount of risk to FICC and its members.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> that the proposed rule change (File No. SR-

<sup>3</sup> Under GSD's rule, FICC may extend this deadline if operational or systems difficulties arise that reasonably prevent members from satisfying the 10:30 a.m. eastern time deadline.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

<sup>13</sup> See 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on May 18, 2005, the date on which the Exchange submitted Amendment No. 1.

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> Securities Exchange Act Release No. 51550 (April 15, 2005), 70 FR 20781.

FICC-2005-07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51754; File No. SR-FICC-2005-07]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Establish a Firm Deadline by Which Members of the Government Securities Division Must Satisfy Clearing Fund Deficiencies

May 27, 2005.

#### I. Introduction

On March 18, 2005, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-FICC-2005-07 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on April 21, 2005.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### II. Description

FICC is establishing a firm deadline by which members of FICC's Government Securities Division ("GSD") must satisfy clearing fund deficiencies. Currently, GSD's rules provide a deadline for a member's satisfaction of a clearing fund deficiency of two hours after GSD has issued a notice of deficiency to that member. Under current practice, GSD issues its clearing fund deficiency notices by telephone calls typically at 8:30 a.m. Eastern Time and by a facsimile containing (i) a cover letter summarizing the deficiency status and (ii) a detailed report reflecting the firm's current clearing fund requirement and collateral on deposit. Therefore, deficiency calls typically must be satisfied by approximately 10:30 a.m. Eastern Time.

Notwithstanding GSD's issuance of clearing fund calls, each member has

the ability to access a report each day detailing its clearing fund balances and any deficiency thereof generally by 12:30 a.m. Eastern Time.

Taking into account members' ready access to clearing fund deficiency information, the rule change establishes a firm deadline of 10:30 a.m. Eastern Time to ensure the timely satisfaction of clearing fund deficiency calls and to eliminate current provisions which correlate the timing of the deadline to the issuance of the notice by FICC.<sup>3</sup> As a result, it will be incumbent upon members to access directly the appropriate report detailing their clearing fund deposit requirements so they might satisfy any deficiencies.

#### III. Discussion

Section 17A(b)(3)(F) of the Act requires 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.<sup>4</sup> The Commission finds that FICC's proposed rule change is consistent with this requirement because it will promote timely satisfaction of clearing fund deficiency calls and will reduce the amount of risk to FICC and its members.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> that the proposed rule change (File No. SR-FICC-2005-07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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<sup>3</sup> Under GSD's rule, FICC may extend this deadline if operational or systems difficulties arise that reasonably prevent members from satisfying the 10:30 a.m. Eastern Time deadline.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51753; File No. SR-NSCC-2005-02]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Enhance Automated Customer Account Transfer Service To Permit the Automated Notification of Changes to the Broker-Dealer of Record for Applicable Insurance Products

May 27, 2005.

#### I. Introduction

On April 4, 2005, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") and on April 12, 2005, amended proposed rule change SR-NSCC-2005-02 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on April 20, 2005.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### II. Description

NSCC is enhancing its Automated Customer Account Transfer Service ("ACAT Service") to permit the automated notification of changes to the broker-dealer of record for applicable insurance products.

Information regarding the broker-dealer of record for an annuity or life insurance product is maintained by the insurance company that is the issuer of the product. Currently there is no mechanism within the ACAT Service that can automate notification of changes to the broker-dealer of record. Annuity and life insurance products have a manually-intensive processing stream connected with account transfers relative to the automated processing of assets such as equity and debt securities and mutual fund shares.

Under the proposed rule, the delivering and receiving broker-dealers for annuities or life insurance products will be able to communicate information regarding the change of broker-dealer of record through the ACAT Service. The ACAT Service will communicate the information through a link to a new product of NSCC's Insurance Processing Services ("IPS") called Inforce Transactions ("IFT"). IFT

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

<sup>2</sup> Securities Exchange Act Release No. 51541 (April 13, 2005), 70 FR 20609 (April 20, 2005).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> Securities Exchange Act Release No. 51550 (April 15, 2005), 70 FR 20781.