

stockholder equity of the Underlying Securities rather than the Trust to meet the requirement in Section 107A of the Company Guide. The Commission notes that the distribution and principal amount/aggregate market value requirements found in Sections 107A(b) and (c), respectively, will otherwise be met by the Trust as issuer of the ABS Securities. Thus, the ABS Securities will conform to the initial listing guidelines under Section 107A and continued listing guidelines under Sections 1001–1003 of the Company Guide, except for the assets and stockholder equity characteristics of the Trust. At the time of issuance, the Commission also notes that the ABS Securities will receive an investment grade rating from an NRSRO.

The Commission also believes that the listing and trading of the ABS Securities should not unduly impact the market for the Underlying Securities or raise manipulative concerns. As discussed more fully above, the Exchange represents that, in addition to requiring the issuers of the Underlying Securities meet the Exchange's Section 107A listing requirements (in the case of Treasury securities, the Exchange will rely on the fact that the issuer is the U.S. Government rather than the asset and stockholder tests found in Section 107A), the Underlying Securities will also be required to meet or exceed the Exchange's Bond and Debenture Listing Standards pursuant to Section 104 of the Amex's Company Guide, which among other things, requires that underlying debt instrument receive at least an investment grade rating of "B" or equivalent from an NRSRO. Furthermore, at least 75% of the basket is required to contain Underlying Securities from issuances of \$100 million or more. The Amex also represents that the basket of Underlying Securities will not be managed and will remain static over the term of the ABS securities. In addition, the Amex's surveillance procedures will serve to deter as well as detect any potential manipulation.

The Commission notes that the investors may obtain price information on the Underlying Securities through market vendors such as Bloomberg, L.P., or through Web sites such as <http://www.investinginbonds.com> (for Underlying Corporate Bonds) and <http://www.publicdebt.treas.gov> and <http://www.govpx.com> (for Treasury Securities and GSE Securities, respectively).

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Amex has

requested accelerated approval because this product is similar to several other asset-backed instruments currently listed and traded on the Amex.<sup>28</sup> The Commission believes that the ABS Securities will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the ABS Securities promptly. Additionally, the ABS Securities will be listed pursuant to Amex's existing hybrid security listing standards as described above. Based on the above, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act<sup>29</sup> to approve the proposal on an accelerated basis.

#### V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>30</sup> that the proposed rule change (SR-Amex-2004-08) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>31</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-4573 Filed 3-1-04; 8:45 am]

BILLING CODE 8010-01-P

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49317; File No. SR-FICC-2003-12]

#### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Modifications to FICC's Rules Regarding Member Compliance With Applicable Laws, Modern Forms of Signatures, and Non-Eligibility of Certain Securities

February 24, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on October 17, 2003, 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 primarily by FICC. The Commission is publishing this notice to solicit comments on the

<sup>28</sup> See *supra* note 11.

<sup>29</sup> 15 U.S.C. 78f(b)(5) and 78s(b)(2).

<sup>30</sup> 15 U.S.C. 78o-3(b)(6) and 78s(b)(2).

<sup>31</sup> 17 CFR 200.30-3(a)(12).

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

proposed rule change from interested parties.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to allow FICC to amend rules for its Government Securities Division ("GSD") and Mortgage-Backed Securities Division ("MBS") regarding member compliance with applicable laws in the use of FICC's services, use of modern forms of signatures, and the non-eligibility of certain securities.<sup>2</sup>

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC 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. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>3</sup>

##### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Compliance With Laws

The proposed rule change will allow FICC to add language to GSD and MBS rules to clarify and to remind members of the requirement to comply with all applicable laws in connection with their use of FICC's services.<sup>4</sup> In particular, members should be cognizant of all applicable securities, taxation, and money laundering laws because these laws are likely to be invoked each time a member submits a transaction for processing through FICC. For example, a member must comply with the applicable requirements pertaining to it

<sup>2</sup> On January 1, 2003, the MBS Clearing Corporation ("MBSCC") was merged into the Government Securities Clearing Corporation ("GSCC"), and GSCC was renamed FICC. FICC operates through two divisions, the Government Securities Division (the "GSD," formerly GSCC) and the Mortgage-Backed Securities Division ("MBS," formerly MBSCC) handling Government securities and mortgage-backed securities transactions, respectively. Each Division has retained its own set of rules. This rule filing will implement changes to the rules of both the GSD and MBS. Changes to the MBS rules will affect both clearing and electronic pool notification ("EPN") services.

<sup>3</sup> The Commission has modified the text of the summaries prepared by FICC.

<sup>4</sup> FICC will add language to GSD Rule 3, Section 8 and amend language in MBS Article III, Rule 1, Section 7 of the clearing rulebook and in MBS Article VIII, Rule 1, Section 5 of the EPN rulebook.

that are contained in the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act<sup>5</sup> prior to submitting a transaction for processing through FICC's systems. Members cannot use FICC's system in furtherance of violation of any laws.

## 2. Electronic Signatures

The proposed rule change will also allow FICC to update its rules with respect to acceptable forms of signatures. Currently, GSD Rule 32 permits GSD to accept documents from members that have been executed using mechanically reproduced facsimile signatures. The proposed rule change modernizes Rule 32 to permit GSD at its option to accept other forms of signatures, such as electronic signatures, in lieu of original signatures.

The MBSD does not currently have a provision regarding acceptable forms of signatures in its rules. This filing adds Article V, Rule 16 to MBSD's clearing rulebook and Article X, Rule 15 to the EPN rulebook. The new language will mirror the language in GSD Rule 32.

## 3. Non-Eligibility of Certain Securities

The proposed rule change will also allow FICC to amend its definition of "eligible security" to make clear that any security of an issuer that either is listed on the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") issuer list or is incorporated in a country that is on the OFAC list of pariah countries cannot be an eligible security for purposes of FICC's rules.<sup>6</sup>

The proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>7</sup> and the rules and regulations thereunder because it will allow FICC to enhance compliance with applicable laws, thereby reducing risk, and to modernize its rules.

### *(B) Self-Regulatory Organization's Statement on Burden on Competition*

FICC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

### *(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed rule change have not yet been

solicited or received. FICC will notify the Commission of any written comments received by FICC.

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

The foregoing rule change took effect upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and Rule 19b-4(f)(4)<sup>9</sup> thereunder because the proposal effected a change in an existing service of FICC that (i) does not adversely affect the safeguarding of securities or funds in FICC's custody or control or for which it was responsible and (ii) does not significantly affect the respective rights or obligations of FICC or persons using the service. At any time within sixty days of the filing of such rule change, the Commission could have summarily abrogated such rule change if it appeared to the Commission that such action was necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-FICC-2003-12. 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, comments should be sent in either hardcopy or by e-mail but not by both methods. 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 Section, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of

such filing also will be available for inspection and copying at the principal office of FICC. Copies of the proposed rule change and all subsequent amendments are also available at [www.ficc.com](http://www.ficc.com). All submissions should refer to File No. SR-FICC-2003-12 and should be submitted by March 23, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-4571 Filed 3-1-04; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49316; File No. SR-FICC-2003-11]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Notification Obligations

February 24, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on October 30, 2003, the 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 primarily by FICC. On October 30, 2003, FICC also filed an amendment to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will modify the rules of FICC's Government Securities Division ("GSD") and the Mortgage-Backed Securities Division ("MBSD") so that notices disseminated to members in an electronic format will satisfy each Division's notification obligations.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any

<sup>5</sup> 15 U.S.C. 7001-7006, 7021, and 7031 (2000).

<sup>6</sup> The affected rules are GSD Rule 1; MBSD, clearing rulebook, Rule 1; and MBSD, EPN rulebook, Article VI, Rule 2.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(4).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>11</sup> 15 U.S.C. 78s(b)(1).