for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: April 19, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94745; File No. SR–FICC–2022–002]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Revise the MBSD Clearing Rules To Move Certain DRC Items (Mark-to-Market Items, Cash Obligation Items and Accrued Principal and Interest) From the Required Fund Deposit Calculation to Cash Settlement, Revise Certain Thresholds and Parameters in the Intraday Mark-to-Market Charge, Establish a New Intraday VaR Charge and Make Certain Other Clarifications

April 19, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 8, 2022, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

FICC is proposing to amend the Mortgage-Backed Securities Division (''MBSD'') Clearing Rules (''MBSD Rules'') [3] to (1)(a) delete the Deterministic Risk Component (''DRC'') from the Required Fund Deposit calculation, (b) move certain items currently in the DRC (Mark-to-Market items, cash obligation items and accrued principal and interest) to Cash Settlement and (c) retain the six days' interest for Fails item currently in the DRC calculation as a separate part of the Required Fund Deposit, (2) revise the definition of Intraday Mark-to Market Charge to reflect the movement of the DRC items to Cash Settlement and to revise certain thresholds and parameters, (3) establish a new intraday VaR Charge and (4) make other clarifying changes in the MBSD Rules, as described in more detail below.

The proposal would also make certain conforming changes to the Methodology and Model Operations Document—MBSD Quantitative Risk Model (the ''QRM Methodology'') in order to implement the proposed changes to the MBSD Rules, which changes are attached hereto [sic] as Exhibit 5B, as described in greater detail below.[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.

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

1. Purpose

As described in greater detail below, FICC is proposing changes to the MBSD Rules that would move mark-to-market components from Clearing Members' Required Fund Deposits to Cash Settlement. While the proposed change would impact, in some cases, the form of Clearing Members' payments with respect to these obligations, a study described in greater detail below indicated that the impact to Clearing Members with debit balances would not be material as compared to their total Clearing Fund obligations.

In connection with this proposed change, the proposal would also make conforming changes to the definition of ''Intraday Mark-to-Market Charge'' and would clarify the MBSD Rules regarding the thresholds and parameters used in collecting this charge. An impact study based on the hypothetical assumption that MBSD would reduce the thresholds to the proposed floors, as described in greater detail below, indicated the proposal could increase total average Intraday Mark-to-Market Charges collected by FICC by an amount that represented approximately 2.8% of the total average Clearing Fund collected on those days.

Finally, the proposal would provide greater transparency to Clearing Members by introducing a formal Intraday VaR Charge, which FICC currently collects as a special charge in certain market conditions. Again, a study conducted to approximate the impact of this proposed change indicated it could result in an increase in amounts collected by FICC, but that amount represented approximately less than 0.1% of total average Clearing Fund collected on the study dates, as described in greater detail below.

These proposed changes to the MBSD Rules are summarized below and described in greater detail in this filing:

(1) *Move Mark-to-Market related charges from the Required Fund Deposit calculation to Cash Settlement.* FICC is proposing to move all of the mark-to-market components currently in the DRC (except for six days' interest for Fails) [5] to Cash Settlement. FICC proposes to accomplish this by deleting the DRC from the Required Fund Deposit calculation and moving certain DRC items (Mark-to-Market items, cash

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms not otherwise defined herein are defined in the MBSD Rules, as applicable, *available at http://www.dtcc.com/legal/rules-and-procedures.*

[4] Because FICC requested confidential treatment, the QRM Methodology was filed separately with the Secretary of the U.S. Securities and Exchange Commission (''Commission'') as part of proposed rule change SR–FICC–2016–007 (the ''VaR Filing''). *See* Securities Exchange Act Release No. 79868 (January 24, 2017), 82 FR 8780 (January 30, 2017) (SR–FICC–2016–007) (''VaR Filing Approval Order''). FICC also filed the VaR Filing proposal as an advance notice pursuant to Section 806(e)(1) of 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 Securities Exchange Act of 1934, as amended (''Act'') (17 CFR 240.19b–4(n)(1)(i)), with respect to which the Commission issued a Notice of No Objection. *See* Securities Exchange Act Release No. 79843 (January 19, 2017), 82 FR 8555 (January 26, 2017) (SR–FICC–2016–801). The QRM Methodology has been amended following the VaR Filing Approval Order. *See* Securities Exchange Act Release Nos. 85944 (May 24, 2019), 84 FR 25315 (May 31, 2019) (SR–FICC–2019–001), 90182 (October 14, 2020) 85 FR 66630 (October 20, 2020) (SR–FICC–2020–009) and 92303 (June 30, 2021) 86 FR 35854 (July 7, 2021) (SR–FICC–2020–017).

[5] A Fail is a Transaction the clearing of which has not occurred or has not been reported to FICC as having occurred on the Contractual Settlement Date, or expiration date, as applicable. *See* definition of ''Fail'' in MBSD Rule 1, *supra* note 3.

obligation items and accrued principal and interest) to Cash Settlement. One item that FICC currently includes in the DRC calculations is six days' interest for Fails[6] which will be added directly to the Required Fund Deposit calculation and not moved to Cash Settlement.

While these changes would impact how Clearing Members pay those amounts (*i.e.,* through Cash Settlement rather than as part of the Required Fund Deposit), these changes would not affect the manner in which these items are calculated or the amounts that Clearing Members are paying with respect to these items. All of the items that are being moved to Cash Settlement would be required to be settled in cash. Therefore, the proposed change would require that Clearing Members satisfy their DRC obligations in cash as part of Cash Settlement, rather than through a mix of cash and Eligible Clearing Fund Securities as is permitted to satisfy Required Fund Deposit obligations.

FICC is proposing these changes in order to more closely align FICC's collections to industry practice, in response to regulatory feedback on its margin methodologies and to ensure the unrealized gains from mark-to-market changes do not leave the Required Fund Deposit insufficient to cover future exposure.

(2) *Revise the Intraday Mark-to-Market Charge Definition to reflect movement of Mark-to-Market charges to Cash Settlement and to revise thresholds and parameters.* FICC is proposing to modify the definition of ''Intraday Mark-to-Market Charge'' to reflect the proposed movement of the Mark-to-Market items and related items to Cash Settlement. In addition, FICC is proposing to remove the specific amounts listed for the dollar threshold and the percentage threshold and instead put floors in for the dollar threshold and percentage threshold. FICC is also proposing to remove the backtesting coverage target parameter. As discussed below, FICC currently has the ability to waive such thresholds and parameter under certain circumstances under the MBSD Rules which it does from time to time. However, FICC's current practice is to waive or adjust these thresholds and parameter in volatile market conditions, as permitted by the MBSD Rules. Therefore, these proposed changes to the Intraday Mark-to-Market Charge definition would align the MBSD Rules with FICC's current practice in certain circumstances and provide Clearing Members with greater transparency and certainty regarding the application of this charge outside of those circumstances. While FICC would have the authority to take this charge more frequently under the proposal, subject to the floors to the thresholds, neither the current calculation methodology nor the key components of the Intraday Mark-to-Market Charge would change.

FICC would also remove the provision allowing FICC to collect an Intraday Mark-to-Market Charge under certain circumstances where a Clearing Member meets a certain Surveillance Threshold that is set by a Clearing Member's rating on the Credit Risk Rating Matrix. FICC currently does not apply that provision and does not intend to apply that provision in the future.

FICC believes that the proposed changes to the thresholds and parameters are consistent with its current practices with respect to these thresholds and parameters as provided in the MBSD Rules and would not have a substantial impact on Clearing Members. FICC is transparent with Clearing Members when it sets and waives thresholds and parameters and would continue to notify Clearing Members through publication of Important Notices on its website of the current thresholds and parameters it is using and of any changes to those thresholds and parameters.[7] FICC would also continue to provide access to reports and calculator tools to allow Clearing Members to determine impacts of certain activity on their Required Fund Deposit amounts.[8]

FICC is proposing to change the thresholds and remove the backtesting coverage target parameter in order align the MBSD Rules with FICC's current practice and to provide FICC with greater flexibility to adjust the application of the Intraday-Mark-to-Market Charge to better respond to changing market conditions and other factors in connection with its regular reviews of its margining methodologies without having to rely on the waiver provisions. FICC is proposing to remove the provision relating to Surveillance Threshold because it is a provision that FICC does not currently use and does not think is necessary.

(3) *Establish a formal Intraday VaR Charge.* FICC is proposing to establish a formal Intraday VaR Charge in the MBSD Rules. FICC currently monitors VaR intraday and periodically requires intraday VaR collections in the Required Fund Deposit under certain conditions described below as a special charge. The proposed Intraday VaR Charge would formalize a charge that FICC is currently collecting under its authority to collect a special charge. Similar to the proposed change to Intraday Mark-to-Market Charge parameters and thresholds, this proposed change would align the Rules with FICC's current practice and would provide Clearing Member's with greater transparency regarding this margin charge. However, the proposal would not implement substantive or material changes to the risk this charge is designed to mitigate or to the overall methodology or key components of the calculation of this charge. As discussed below, FICC is proposing to remove the discretion to apply the Intraday VaR Charge under certain circumstances compared to when it implements the special charge. As a result, the introduction of the Intraday VaR Charge would result in more consistent intraday VaR collections when compared to the current practice, on both Securities Industry and Financial Markets Association (''SIFMA'') designated settlement dates and non-SIFMA designated settlement dates.

(4) *Make certain clarifying changes.* FICC is proposing to make certain clarifying changes to the MBSD Rules. Specifically, FICC would move certain definitions so that they are in alphabetical order, re-letter certain subsections that follow to conform to the deletion of certain subsections and update certain cross-references to improve the readability of the MBSD Rules and to reflect other changes set forth herein. The proposed clarifying changes would not have any substantive effect on the Clearing Members because such changes are clarifications and will not affect the rights or obligations of FICC or the Clearing Members.

FICC would also update the QRM Methodology to reflect the proposed changes to the MBSD Rules.

[6] In addition to interest that has accrued with respect to a Fails position in Clearing Member's portfolio, FICC also collects an additional six days of interest that has not yet accrued from the seller of any Fail because FICC assumes it could take three days to close out the position if the Clearing Member fails and the pool allocation process could take an additional three days.

[7] Important Notices are *available at https://www.dtcc.com/legal/important-notices.*

[8] For instance, FICC provides access to the FICC Risk Client Portal which is a Clearing Member accessible website portal that provides Clearing Members the ability, for information purposes, to view and analyze certain risks relating to their portfolio, including calculators to assess the risk and Clearing Fund impact of certain activities. FICC maintains the FICC Client Calculator available on the FICC Risk Client Portal that provides functionality to Clearing Members to enter 'what-if' position data and recalculate their VaR charge to determine margin impact pre-trade execution. The FICC Client Calculator allows Clearing Members to see the impact to the VaR Charge if specific transactions are executed, or to anticipate the impact of an increase or decrease to a current clearing position.

(i) Background

Required Fund Deposit/VaR Charge

The Required Fund Deposit serves as each *Clearing* Member's margin. The objective of the Required Fund Deposit is to mitigate potential losses to FICC associated with liquidation of the Clearing Member's portfolio in the event that FICC ceases to act for a Clearing Member (hereinafter referred to as a ''default''). Pursuant to the MBSD Rules, each Clearing Member's Required Fund Deposit amount currently consists of the greater of (i) the Minimum Charge or (ii) the sum of the following components: The VaR Charge, the DRC, a special charge (to the extent determined to be appropriate),[9] and, if applicable, the Backtesting Charge, Holiday Charge, Intraday Mark-to-Market Charge and the Margin Liquidity Adjustment Charge.[10] Of these components, the VaR Charge typically comprises the largest portion of a Clearing Member's Required Fund Deposit amount.

The VaR Charge is calculated using a risk-based margin methodology that is intended to capture the market price risk associated with the securities in a Clearing Member's portfolio. The VaR Charge provides an estimate of the projected liquidation losses at a 99% confidence level. The methodology is designed to project the potential gains or losses that could occur in connection with the liquidation of a defaulting Clearing Member's portfolio, assuming that a portfolio would take three days to hedge or liquidate in normal market conditions. The projected liquidation gains or losses are used to determine the amount of the VaR Charge, which is calculated to cover projected liquidation losses at 99% confidence level.[11]

The aggregate of all Clearing Members' Required Fund Deposits constitutes the Clearing Fund of MBSD, which FICC would be able to access in the event a defaulting Clearing Member's own Required Fund Deposit is insufficient to satisfy losses to FICC caused by the liquidation of that Clearing Member's portfolio.

(ii) Proposed Changes

(a) Proposal To Delete the DRC, Move Certain DRC Items (the Mark-to-Market Items, Cash Obligation Items, and the Accrued Principal and Interest) to Cash Settlement and Retain Six Days' Interest for Fails in the Required Fund Deposit Calculation

Mark-to-Market—DRC

MBSD calculates the full suite of components that comprise the Required Fund Deposit[12] and imposes the Required Fund Deposit once per day, at the start of the day, based on a Clearing Member's prior end-of-day positions. One of the components of the daily Required Fund Deposit is a start-of-day Mark-to-Market component,[13] which is designed to mitigate the risk arising out of the value change between the contract/settlement value of a Clearing Member's open positions and the market value at the end of the prior day. Currently, MBSD's Mark-to-Market items, cash obligation items, and accrued principal and interest are included as the DRC in a Clearing Member's Required Fund Deposit calculation.[14] When the DRC is calculated, a debit or credit is added to the Required Fund Deposit amount of each Clearing Member raising the amount or lowering the amount, respectively.

Move Mark-to-Market, Cash Obligation Items and Accrued Principal and Interest to Cash Settlement

The DRC is designed to bring a Clearing Member's portfolio of open positions to market value. This charge is calculated as (i) the Mark-to-Market Debit; minus (ii) the Mark-to-Market Credit; plus (iii) a cash obligation item debit; minus (iv) a cash obligation item credit; plus or minus (v) accrued principal and interest.[15] FICC also includes another parameter, six days' interest for Fails, in the DRC calculation which is not explicitly referenced in the DRC definition in the MBSD Rules and is discussed in more detail below. FICC is proposing to move the Mark-to-Market items, cash obligation items, and accrued principal and interest from the Required Fund Deposit calculation to the Cash Settlement process in order to more closely align to industry practices regarding the handling of mark-to-market, in response to regulatory feedback on its margin methodologies and to ensure the unrealized gains from mark-to-market changes do not leave the Required Fund Deposit insufficient to cover future exposure.[16]

One cash obligation item that would be moved from DRC and the Required Fund Deposit calculation to Cash Settlement is the TBA Transaction Adjustment Payment. The TBA Transaction Adjustment Payment is the difference between the Settlement Price and the System Price at settlement of a TBA Transaction.[17] In connection with each TBA Transaction, a Clearing Member pays a TBA Transaction Adjustment Payment at Cash Settlement.[18] Currently, the TBA Transaction Adjustment Payment amount is calculated by FICC beginning three days prior to the settlement. The pre-settlement calculated TBA Transaction Adjustment Payment amount is included as a cash obligation item which is a component of the DRC and included in the Required Fund Deposit. The TBA Transaction Adjustment Payment amount is paid by Clearing Members into the Required Fund Deposit each day beginning two days prior to the settlement of the TBA Transaction and every day until Cash Settlement. FICC is proposing to move this cash obligation item to daily Cash Settlement and, as a result, pre-settlement TBA Transaction Adjustment Payment amounts will be paid by Clearing Members beginning two days prior to settlement of the TBA Transaction through Cash Settlement. As a result, the Clearing Member that is receiving the TBA Transaction Adjustment Payment credits prior to settlement of the TBA Transaction will pay the amount of overnight interest on those funds through Cash Settlement which interest amount will then be credited to the Clearing Member that paid the TBA Transaction Adjustment Payment amount. This overnight interest will be added as a Cash Settlement item in the MBSD Rules.

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[9] In order to mitigate exposure from certain market conditions and other financial and operational capabilities of a Clearing Member, FICC may impose a special charge. For instance, as discussed below, in connection with its intraday VaR monitoring, FICC currently imposes a special charge if a Clearing Member has an intraday VaR increase exceeding 100% and $1 million.

[10] MBSD Rule 4 Section 2, *supra,* note 3.

[11] Unregistered Investment Pool Clearing Members are subject to a VaR Charge with a minimum targeted confidence level assumption of 99.5 percent. *See* MBSD Rule 4, Section 2(c), *supra* note 3.

[12] Section 2 of MBSD Rule 4 set forth each component of the Required Fund Deposit. MBSD Rule 4 Section 2, *supra,* note 3.

[13] MBSD Rule 4 Section 2(a), *supra,* note 3.

[14] MBSD Rules 4, Section 2(c)(ii), *supra* note 3. *See also* definition of ''Deterministic Risk Component'' in MBSD Rule 1, *supra* note 3.

[15] Definition of ''Deterministic Risk Component'' in MBSD Rule 1, *supra* note 3.

[16] The Basel Committee on Banking Supervision and the Board of the International Organization of Securities Commissions recognized that the exchange of mark-to-market gains/losses ''is a prudent risk management tool that limits the build-up of systemic risk''—particularly for longer-dated transactions such as derivatives. *See* Basel Committee on Banking Supervision & Board of the International Organization of Securities Commissions, Margin Requirements for Non-Centrally Cleared Derivatives, at page 7 (2015), available at *https://www.bis.org/bcbs/publ/d317.pdf.*

[17] Definition of ''TBA Transaction Adjustment Payment'' in MBSD Rule 1, *supra* note 3.

[18] MBSD Rule 11, Section 1 and Section 7(a), *supra* note 3.

In order to move the Mark-to-Market items, cash obligation items, and accrued principal and interest from the DRC to the Cash Settlement process, FICC would change the calculation of Cash Settlement to include amounts for the following: (i) Amounts of pre-settlement TBA Transaction Adjustment Payments, (ii) the return of the pre-settlement TBA Transaction Adjustment Payments, (iii) accrued overnight interest in connection with pre-settlement TBA Transaction Adjustment Payments, (iv) Mark-to-Markets, (v) accrued principal and interest payments required for any Fail, (vi) the return of Mark-to-Market for each Transaction, and principal and interest related payments for each Fail that was collected or paid during the prior Cash Settlement Amount, and (vii) accrued overnight interest in connection with Mark-to-Markets.

As a result of this change, a Clearing Member's Cash Settlement amount would be calculated to include such Clearing Member's pre-settlement TBA Transaction Adjustment Payment items, Mark-to-Market items, cash obligation items, and accrued principal and interest. The Cash Settlement amount would be a cash-only event that is collected or paid (as applicable) by the payment deadlines established by FICC. FICC currently processes MBSD cash settlement debits at 10 a.m. EST daily and cash settlement credits at 2:45 p.m. EST daily.[19]

Six Days' Interest for Fails

Currently, in addition to interest on Fails that has accrued with respect to any Fails position, the DRC calculation also includes an additional amount equal to six days' interest that has not yet accrued for a sell position of a Fail. This parameter is not in the MBSD Rules. It is reflective of FICC's current practice and it is designed to account for the risk that if a Clearing Member with a net sell position defaults, FICC would make appropriate principal and interest payments on an allocated pool that settles past record date, in addition to the delivery of the related securities to the non-defaulting Clearing Member with the corresponding buy position. FICC collects an additional six days of interest from the seller of any Fail because FICC assumes it could take three days to close out the position and the pool allocation process could take an additional three days.

Although FICC is proposing to move three of the items of the DRC from the Required Fund Deposit calculation to MBSD's Cash Settlement process as discussed above, FICC would continue to include the six days' interest for Fails as a component in the Required Fund Deposit calculation. FICC is proposing to keep the six days' interest for Fails in the Required Fund Deposit calculation because this amount would not have accrued but would continue to mitigate additional interest that may accrue in the event that FICC must close out the position in the event of a Clearing Member default. Therefore, the six days' interest for Fails would remain in the Required Fund Deposit calculation and would be formally added in the MBSD Rules.

(b) Proposal To Revise the Definition of Intraday Mark-to-Market Charge

Intraday Mark-to-Market Charge

Another component of the daily Required Fund Deposit is the Intraday Mark-to-Market Charge. During each trading day, the exposure a Clearing Member's position presents to FICC may change due to the settlement of existing transactions and new trade activities and as the value of the Clearing Member's portfolio changes due to market influences. The DRC is intended to cover FICC's exposure to a Clearing Member that is due to market moves and/or trading and settlement activity by bringing the portfolio of outstanding positions up to the market value at the end of the prior day. However, because the DRC is calculated only once daily using the prior end-of-day positions and prices, it does not mitigate FICC's exposure arising out of intraday changes to a Clearing Member's positions and to the market value of the Clearing Member's portfolio that result in an adverse change to the Clearing Member's Mark-to-Market. FICC manages this intraday risk exposure by observing hourly snapshots of Clearing Members' portfolios from 9:00 a.m. EST to 4:00 p.m. EST and monitoring intraday changes to each Clearing Member's Mark-to-Market. FICC may then collect an Intraday Mark-to-Market Charge from Clearing Members to cover significant risk exposures that warrant the collection of intraday margin pursuant to the MBSD Rules.

FICC currently calculates the Intraday Mark-to-Market Charge by tracking three criteria (each, a ''Parameter Break'') for each Clearing Member.[20] The Parameter Breaks help FICC determine whether a Clearing Member's Mark-to-Market exposure poses a risk to FICC that is significant enough to warrant an Intraday Mark-to-Market Charge. The objective of the Parameter Breaks is to ensure that FICC is able to limit exposure to intraday Mark-to-Market fluctuations that (a) are of a large dollar amount (the ''Dollar Threshold''), (b) exhaust a significant portion of a Clearing Member's VaR Charge (the ''Percentage Threshold'') and (c) are experienced by Clearing Members with backtesting deficiencies that bring backtesting results for that Clearing Member below the 99 percent confidence target (the ''Coverage Target''), indicating that a Clearing Member's activity was not sufficiently covered by margin.[21]

FICC's current practice is to review intraday snapshots of each Clearing Member's portfolios to determine whether the Clearing Member has experienced a change in its Mark-to-Market exposure that warrants FICC assessing an Intraday Mark-to-Market Charge. More specifically, if a Clearing Member's Mark-to-Market exposure breaches all three Parameter Breaks, the Clearing Member will be subject to the Intraday Mark-to-Market Charge and FICC will collect the charge subject to waivers or changes to the amount of the calculated charge, as described below. However, where FICC determines that certain market conditions exist, including but not limited to (i) sudden swings in an equity index in either direction that exceed certain threshold amounts determined by FICC and (ii) moves in U.S. Treasury yields and mortgage-backed security spreads outside of historically observed market moves, FICC does not require that the Coverage Target be breached and FICC may reduce the Dollar Threshold and the Percentage Threshold if FICC determines that such reduction is appropriate in order to accelerate collection of anticipated additional margin from Clearing Members whose portfolios may present relatively greater risks to FICC on an overnight basis. Any such reduction would not cause the Dollar Threshold to be less than $250,000 and the Percentage Threshold to be less than 5 percent.[22]

Irrespective of market conditions, FICC retains the discretion to impose the Intraday Mark-to-Market Charge on

[19] The schedule of cash settlement for MBSD is posted on its website at *http://www.dtcc.com.* See MBSD Rule 11, Section 9(f), *supra* note 3.

[20] *See* definition of ''Intraday Mark-to-Market Charge'' in MBSD Rule 1, *supra* note 3. *See also* Securities Exchange Release No. 80253 (March 15, 2017), 82 FR 14581 (March 21, 2017) (SR–FICC–2017–004) (codifying FICC's practices with respect to the assessment and collection of the intraday Mark-to-Market charge in the MBSD Rules and describing the Intraday Mark-to-Market Charge) (''Intraday Mark-to-Market Charge Filing'').

[21] *Id.*

[22] *See* Section (b) of the definition of ''Intraday Mark-to-Market Charge'' in MBSD Rule 1, *supra* note 3.

Clearing Members that (i) are approaching but have not yet breached the Percentage Threshold (but are at 20 percent or greater of the daily VaR Charge) and (ii) have a Mark-to-Market exposure that exceeds a certain dollar amount (''Surveillance Threshold'') that is set by FICC per Clearing Member based on the Clearing Member's internal Credit Risk Rating Matrix (''CRRM'') rating and/or the Clearing Member's Watch List status, if the Corporation determines that the size of such Clearing Member's Mark-to-Market change exposes the Corporation to increased risk (''Surveillance Threshold Provision'').[23]

Although FICC generally collects the Intraday Mark-to-Market Charge under the conditions described above, FICC retains the discretion to waive or alter such Intraday Mark-to-Market Charge in circumstances where it determines that the Mark-to-Market exposure and/or the breaches of the Parameter Breaks do not accurately reflect FICC's risk exposure to the Clearing Member's intraday Mark-to-Market fluctuation (*e.g.,* Mark-to-Market fluctuation arising from trade error).[24] Based on FICC's assessment of the impact of these circumstances and FICC's actual risk exposure to a Clearing Member, FICC may, in its discretion, waive or alter (decrease or increase) an Intraday Mark-to-Market Charge for a Clearing Member. Given the variability of the factors that result in breaches of the Parameter Breaks, FICC believes that it is important to maintain such discretion in order to limit the imposition of the Intraday Mark-to-Market Charge to those Clearing Members with Mark-to-Market exposures that pose a significant level of risk to FICC. The MBSD Rules provide that such Intraday Mark-to-Market Charge as a result of this waiver provision would not reduce a Clearing Member's Required Fund Deposit below the amount reported at the start of day and any increase to the Intraday Mark-to-Market Charge would not cause the Intraday Mark-to-Market Charge to be greater than two times its calculated amount.[25]

Revise the Intraday Mark-to-Market Charge To Reflect Movement of Mark-to-Market Items to Cash Settlement and To Revise Thresholds and Parameters

FICC is proposing to revise the definition of Intraday Mark-to-Market Charge in order to reflect the movement of the Mark-to-Market items to Cash Settlement from the Required Fund Deposit. FICC is also proposing to revise the Dollar Threshold and the Percentage Threshold to remove the specific threshold amounts currently listed and provide a floor amount for each. In addition, FICC is proposing to remove the Coverage Target from the definition.

FICC is proposing each of these changes to provide it with greater flexibility to change the thresholds that apply to the Intraday Mark-to-Market Charge. Although the definition currently provides FICC the ability to (i) change the Dollar Threshold and the Percentage Threshold and not consider the Coverage Target if certain market conditions occur,[26] (ii) collect an Intraday Mark-to-Market Charge from a Clearing Member if it has not breached the Percentage Threshold but exceeds a certain dollar threshold based on the Clearing Member's CRRM rating[27] and (iii) waive or alter the imposition of the Intraday Mark-to-Market Charge under certain circumstances,[28] FICC would like the ability to change the default thresholds that apply from time to time (subject to a floor) rather than rely on the set percentages because it believes that this would allow FICC to more quickly adapt to changing market conditions and more accurately reflects FICC's current application of the Dollar Threshold and Percentage Threshold.

In addition, FICC's current practice is to waive or adjust the Dollar Threshold and parameter in volatile market conditions, as permitted by the MBSD Rules. Therefore, these proposed changes to the Intraday Mark-to-Market Charge definition would align the MBSD Rules with FICC's current practice in certain circumstances and provide Clearing Members with greater transparency and certainty regarding the application of this charge outside of those circumstances. While FICC would have the authority to take this charge more frequently under the proposed changes, subject to the threshold floors, neither the current calculation methodology nor the key components of the Intraday Mark-to-Market Charge would change.

FICC has relied on the waiver provisions in the definition and reduced the thresholds from time to time on a case-by-case basis. FICC believes that removing the set percentages and providing a floor of not less than $1,000,000 for the Dollar Threshold and not less than 10 percent of the daily VaR Charge for the Percentage Threshold, would align the MBSD Rules with FICC's current practice in certain circumstances and give Clearing Members a better understanding of the default thresholds that FICC is using to determine whether to apply the Intraday Mark-to-Market Charge. FICC is transparent with Clearing Members when it sets and waives thresholds and parameters and would continue to notify Clearing Members of the current thresholds and parameters it is using and of any changes to those thresholds and parameters. FICC would also continue to provide reports and tools to allow Clearing Members to determine impacts of certain activity on their Required Fund Deposit amounts.

FICC would notify Clearing Members by important notice of the Dollar Threshold and Percentage Threshold that it would be applying and upon changes to those thresholds. Changes to such parameters and thresholds would be subject to FICC's model risk management governance procedures set forth in the Clearing Agency Model Risk Management Framework which include daily backtesting of model performance, periodic sensitivity analyses of models and annual validation of models (''Model Risk Management Framework'').[29] Initially, upon implementation of the proposed changes, FICC would continue to use the same Dollar Threshold ($1,000,000) and the same Percentage Threshold (30%) that it is currently using in determining whether to apply the Intraday Mark-to-Market Charge.

Remove the Coverage Target

FICC is also proposing to remove the Coverage Target from the definition because it believes that it is not necessary with the other Parameter Breaks. In addition, in volatile market conditions an Intraday Mark-to-Market Charge may be appropriate even if a Clearing Member is meeting the

[23] *See* Section (c) of the definition of ''Intraday Mark-to-Market Charge'' in MBSD Rule 1, *supra* note 3.

[24] *See* Section (d) of the definition of ''Intraday Mark-to-Market Charge'' in MBSD Rule 1, *supra* note 3.

[25] *Id.*

[26] *See* Section (b) of the definition of ''Intraday Mark-to-Market Charge'' in MBSD Rule 1, *supra* note 3.

[27] *See* Section (c) of the definition of ''Intraday Mark-to-Market Charge'' in MBSD Rule 1, *supra* note 3.

[28] *See* Section (d) of the definition of ''Intraday Mark-to-Market Charge'' in MBSD Rule 1, *supra* note 3.

[29] *See* Securities Exchange Act Release No. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (SR–DTC–2017–008; SR–FICC–2017–014; SR–NSCC–2017–008); Securities Exchange Act Release No. 84458 (October 19, 2018), 83 FR 53925 (October 25, 2018) (SR–DTC–2018–009; SR–FICC–2018–010; SR–NSCC–2018–009); Securities Exchange Act Release No. 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (SR–DTC–2020–008; SR–FICC–2020–004; SR–NSCC–2020–008); Securities Exchange Act Release No. 92380 (July 13, 2021), 86 FR 38140 (July 19, 2021) (SR–FICC–2021–006); Securities Exchange Release No. 94271 (February 17, 2022), 87 FR 10411 (February, 24 2022) (SR–FICC–2022–001).

established Coverage Target. This concept is already reflected in Section (b) of the definition of Intraday Mark-to-Market Charge [30] which provides FICC the ability to not consider the Coverage Target. FICC has relied on the waiver provisions in the definition and not considered the Coverage Target on a case-by-case basis. FICC believes that removing the Coverage Target would align the MBSD Rules with FICC's current practice and also provide greater transparency into FICC's application of the Intraday Mark-to-Market Charge rather than relying on the waiver provision in Section (b) on a case-by-case basis giving Clearing Members a better understanding of the default thresholds that FICC is using to determine whether to apply the Intraday Mark-to-Market Charge.

Remove the Surveillance Threshold Provision

FICC is also proposing to remove the Surveillance Threshold Provision. The Surveillance Thresholds were intended as a tool to aid FICC in identifying Clearing Members whose Mark-to-Market exposures may necessitate the collection of an Intraday Mark-to-Market Charge.[31] However, FICC does not currently apply the Surveillance Threshold Provision and does not intend to apply the Surveillance Threshold Provision in the future, Therefore, FICC believes that removing the provision would align the MBSD Rules with FICC's current practice.

(c) Proposal To Introduce the Intraday VaR Charge

Intraday VaR Collections

MBSD observes hourly snapshots from 8:00 a.m. EST to 4:00 p.m. EST of Clearing Members' portfolios to monitor large changes due to SIFMA TBA settlement activity. If a Clearing Member's portfolio has an intraday VaR Charge increase exceeding 100% and $1 million from the start-of-day VaR Charge, FICC may assess a special charge, typically on SIFMA designated settlement dates, and require the Clearing Member to make an intraday payment to the Required Fund Deposit. A Clearing Member may also be subject to an intraday VaR collection via a special charge on any non-SIFMA designated settlement date if the Clearing Member's portfolio has an intraday VaR Charge increase exceeding 100% and $1 million and it is deemed by FICC that the increase in VaR could lead to a backtesting deficiency or push a Clearing Member below 99% backtest coverage.

Establish Intraday VaR Charge

FICC is proposing to amend the MBSD Rules to include a formal Intraday VaR Charge. More specifically, FICC is proposing to utilize its existing intraday monitoring to determine when the difference between a Clearing Member's (1) start of day VaR Charge, collected on that Business Day as part of the Clearing Member's start of day Required Fund Deposit based on that Clearing Member's prior end-of-day positions, and (2) a calculation of the VaR Charge based on that Clearing Member's adjusted intraday positions as of a point intraday between the collection of the start of day Required Fund Deposit and end of day settlement, exceeds a certain percentage or dollar amount.[32] FICC has occasionally observed significant intraday changes to market price volatility and significant changes to the size and composition of Clearing Members' portfolios that could cause the amount collected as the VaR Charge at the start of that Business Day to no longer be sufficient to mitigate the volatility risks that such positions present to FICC. Therefore, FICC believes it is appropriate to implement an Intraday VaR Charge that, similar to the current Intraday Mark-to-Market Charge and the intraday VaR collections pursuant to the special charge, may be collected by FICC when certain thresholds are met.

The Intraday VaR Charge would be collected when (1) the start of day VaR Charge, collected on that Business Day as part of the Clearing Member's start of day Required Fund Deposit based on that Clearing Member's prior end-of-day positions, and (2) a calculation of the VaR Charge based on that Clearing Member's adjusted intraday positions as of a point intraday between the collection of the start of day Required Fund Deposit and end of day settlement, exceeds a certain percentage threshold and dollar amount. As with the current intraday VaR monitoring and collections through the special charge, the initial percentage threshold and dollar amount to be used by FICC would be 100% and $1 million. FICC could adjust the percentage amount and dollar threshold or other parameters from time to time as appropriate in order to continue to reflect a threshold that mitigates the volatility risks that such positions present to FICC. Changes to the Intraday VaR Charge thresholds would be subject to FICC's model risk management governance procedures set forth in the Model Risk Management Framework.[33] FICC would update Clearing Members by important notice if the default thresholds or parameters for the Intraday VaR Charge are changed.

As discussed above, FICC currently may impose a special charge on non-SIFMA designated settlement dates if a Clearing Member's portfolio has an intraday VaR Charge increase exceeding 100% and $1 million and it is deemed by FICC that the increase in VaR could lead to a backtesting deficiency or push a Clearing Member below 99% backtest coverage. FICC would impose the Intraday Var Charge using the same methodology on SIFMA-designated settlement dates and non SIFMA-designated settlement dates. As a result, FICC would begin charging the Intraday VaR Charge on both SIFMA designated settlement dates and non-SIFMA designated settlement dates if the thresholds are crossed regardless of whether the increase in VaR could lead to a backtesting deficiency or push a Clearing Member below 99% backtest coverage.

Portfolio compositions in MBSD can change materially between the day before settlement and the settlement date, when components of the portfolio settle. FICC has implemented an intraday market price risk surveillance process to monitor the change in market price risk associated with settlement risk. The portfolio that is currently margined intraday includes the actual settled positions and the intraday trades/positions that have been transacted, providing FICC with the accurate portfolio to margin and measure whether the Intraday VaR Charge should be applied.

(d) Proposed Clarifying Changes

FICC is proposing to make certain clarifying changes to the MBSD Rules. Specifically, FICC would move certain definitions so that they are in alphabetical order, re-letter certain subsections that follow to conform to the deletion of certain subsections and update certain cross-references to reflect other changes set forth herein. The proposed clarifying changes would not have any substantive effect on the Clearing Members because such changes are clarifications and will not affect the

[30] *See* Section (b) of the definition of ''Intraday Mark-to-Market Charge'' in MBSD Rule 1, *supra* note 3.

[31] *See* Intraday Mark-to-Market Charge Filing *supra* note 20.

[32] FICC would continue to monitor intraday volatility in increments throughout the day, and the calculation of the Intraday VaR Charge would be done at those intervals. Similar to the Intraday Mark-to-Market Charge, collections may occur multiple times throughout the day, as determined from time to time by FICC.

[33] *See supra* note 29.

rights or obligations of FICC or the Clearing Members.

(iii) Detailed Description of the Proposed Changes to the MBSD Rules

(a) Proposed Changes to MBSD Rule 1 (Definitions)

FICC is proposing to amend the definition of the term ''Aggregated Account'' to reflect that the Mark-to-Market requirements would be included in the calculation for the Cash Settlement obligations.

FICC is proposing to delete the term ''Deterministic Risk Component'' because FICC would eliminate DRC from the Required Fund Deposit calculation as set forth in MBSD Rule 4 and move three items DRC to Cash Settlement, as described above.

FICC is proposing to move the placement of the term ''Government Securities Division Funds-Only Settling Bank Member'' so that it appears in the correct alphabetical order.

FICC is proposing to move the placement of the term ''Government Securities Issuer Clearing Member'' so that it appears in the correct alphabetical order.

FICC is proposing to revise the term ''Intraday Mark-to-Market Charge'' to (i) reflect the movement of the DRC items to Cash Settlement, (ii) revise the Dollar Threshold to be a certain threshold dollar amount as determined by FICC from time to time subject to a $1,000,000 floor, (iii) revise the Percentage Threshold to be a certain threshold percentage as determined by FICC from time to time subject to a 10% floor, (iv) remove the Coverage Target, (v) remove the Surveillance Threshold Provision, as described above and (vi) re-letter and change certain cross-references to reflect the foregoing changes.

FICC is proposing to add the new defined term ''Intraday VaR Charge''. This term would be defined as an additional charge that is collected from a Clearing Member if the difference of (i) a Clearing Member's VaR Charge collected pursuant to MBSD Rule 4 and (ii) such Clearing Member's intraday VaR calculations exceeds a certain percentage threshold and dollar amount determined by FICC from time to time based on its regular review of margining methodologies.

FICC is proposing to add the following terms that would be referred to in MBSD Rule 11 which governs the Cash Settlement process in connection with the movement of the cash obligation items and accrued principal and interest of the DRC from the Required Fund Deposit calculation to Cash Settlement:

''Margin Transaction Adjustment Payment Return Interest''—This term would be defined as the overnight interest that accrued on the Margin Transaction Adjustment Payment for each Transaction that was collected or paid during the prior Cash Settlement.

''Margin Transaction Adjustment Payment Return''—This term would be defined as the return of Margin Transaction Adjustment Payment for each Transaction that was collected or paid during the prior Cash Settlement.

''Margin Transaction Adjustment Payment Return Interest''—This term would be defined as the overnight interest that accrued on the Margin Transaction Adjustment Payment for each Transaction that was collected or paid during the prior Cash Settlement.

''Mark Return''—This term would be defined as the return of Mark-to-Market for each Transaction, and principal and interest related payments for each Fail that was collected or paid during the prior Cash Settlement.

''Mark Return Interest''—The term ''Mark Return Interest'' means the overnight interest that accrued on the Mark Return for each Transaction that was collected or paid during the prior Cash Settlement.

FICC is proposing to amend the term ''Mark-to-Market'' to change the cross-reference from MBSD Rule 4 to MBSD Rule 11 because the Mark-to-Market calculation would be moved to MBSD Rule 11 in connection with the movement of Mark-to-Market items of the DRC from the Required Fund Deposit calculation to Cash Settlement.

FICC is proposing to delete the terms ''Mark-to-Market Credit'' and ''Mark-to-Market Debit'' because those terms are only used in the definition of ''Deterministic Risk Component'' which FICC is proposing to delete in connection with the movement of DRC items the Required Fund Deposit calculation to Cash Settlement.

(b) Proposed Changes to MBSD Rule 4 (Clearing Fund and Loss Allocation)

Section 2 (Required Fund Deposit Requirements)

FICC is proposing to amend this section as follows: (i) Move the Mark-to-Market calculation of profits and losses (as set forth in subsection (a)) to the Cash Settlement process (set forth in Section 7 of MBSD Rule 11); (ii); re-letter the subsections that follow to conform to the deletion of subsection (a); (iii) update cross-references; (iv) reflect that the definitions of Long Position and Short Position would now also be used in Rule 11 in connection with the movement of the Mark-to-Market calculation to Rule 11; (v) add, with respect to a Clearing Member that is a seller, an amount equal to six days interest for any Fail as a separate item in the Required Fund Deposit; (vi) add the Intraday VaR Charge as a separate line item of the Required Fund Deposit to reflect the introduction of the Intraday VaR Charge and (vii) capitalize ''Intraday VaR Charge'' in new proposed Section 2(e) to reflect the introduction of the Intraday VaR Charge.

Proposed New Section 3a (Calculation of Intraday VaR Charge and Intraday Mark-to-Market Charge)

FICC is proposing to add this new Section 3a to provide it with the authority to collect an Intraday VaR Charge and the Intraday Mark-to-Market Charge from Clearing Members as discussed above. In connection with this change, FICC would re-letter current Sections 3a (Special Provisions Relating to Deposits of Cash) and 3b (Special Provisions Relating to Deposits of Eligible Clearing Fund Securities) in order to conform to this proposed new Section 3a. The section would provide that pursuant to procedures established by the FICC, FICC would re-calculate intraday, each Business Day, at the times established by FICC for this purpose, the amount of the Intraday VaR Charge and the Intraday Mark-to-Market Charge to each Clearing Member's margin portfolio based upon the open positions in such margin portfolio at a designated time intraday, for purposes of establishing whether a Clearing Member shall be required to make payment of an additional amount to its Required Fund Deposit. Such additional amounts would be deemed part of the Clearing Member's Required Fund Deposit for all purposes under the MBSD Rules.

The section would provide that FICC would establish procedures for collection of an amount calculated in respect of a Clearing Member's Intraday VaR Charge and Intraday Mark-to-Market Charge, including parameters regarding threshold amounts that require payment, and the form and time by which payment is required to be made to FICC. Consistent with the application of the special charge, FICC would also reserve the right to require a Clearing Member or Clearing Members generally to make additional Intraday VaR Charges or Intraday Mark-to-Market Charges if FICC determines it to be necessary to protect itself and its Clearing Members in response to factors such as market conditions or financial or operational capabilities affecting a Clearing Member or Clearing Members generally. The methodology for such additional Intraday Var Charges or Intraday Market Charges would be subject to FICC's model risk management governance procedures set forth in the Model Risk Management Framework. [34]

Section 5 (Use of Clearing Fund)

FICC is proposing to replace the reference to ''Section 3a'' with ''Section 3b'' in order to reflect the proposed renumbering of Section 3a to 3b described above.

(c) Proposed Changes to MBSD Rule 11 (Cash Settlement)

Proposed New Section 7 (Mark-to-Market—Computation of Profits or Loss)

FICC is proposing to move the Mark-to-Market calculation (as set forth in Section 2(a) of MBSD Rule 4) to proposed new Section 7 of MBSD Rule 11 to reflect the movement of Mark-to-Market to Cash Settlement, as described above. This proposed section would be further amended to state that on each Business Day, profits and/or losses would be computed by FICC and such amounts would be reflected on a Report made available to Clearing Members by FICC. The amount reflected would be either paid by FICC to the Clearing Member or paid by the Clearing Member to FICC.

Section 7 (Computation of Cash Balance for Each Account)

FICC is proposing to re-number this current Section 7 as Section 8a to conform to the proposed changes to move the Mark-to-Market calculation to Section 7 in MBSD Rule 11.

FICC is proposing to amend the Cash Balance calculation to include the positive and negative amounts of any (i) Margin Transaction Adjustment Payment, (ii) Margin Transaction Adjustment Payment Return, (iii) Margin Transaction Adjustment Payment Return Interest, (iv) Mark-to-Market; (v) accrued principal and interest payments required for any Fail, (vi) Mark Return and (vii) Mark Return Interest. FICC is proposing to add these defined terms in connection with the movement of the cash obligation items and accrued principal and interest of the DRC from the Required Fund Deposit calculation to Cash Settlement. In connection with these changes, FICC would re-letter the remainder of the clauses listed in this section.

Section 8 (Netting of Cash Balances for Aggregated Accounts)

FICC is proposing to re-number this current Section 8 as Section 8b to conform to the proposed changes to move the Mark-to-Market calculation to Section 7 in MBSD Rule 11.

(d) Proposed Change to the Section Entitled ''Interpretative Guidance With Respect to Watch List Consequences''

FICC is proposing to amend subsection 1 (Additional Clearing Fund Deposits) of Section A (Clearing Fund-Related Consequences) to (i) update the reference to Section 2(a) of Rule 4 to Section 3a of Rule 4 to reflect the new Section 3a; (ii) add a reference to the Intraday VaR Charge; (iii) change references of ''Surveillance Thresholds'' to ''thresholds'' to reflect the removal of the Surveillance Threshold Provision and the definition of Surveillance Threshold and to reflect that the Intraday VaR Charge may be subject to certain thresholds that are not ''Surveillance Thresholds''; (iv) delete the statement that pursuant to Section 2(f) of MBSD Rule 4, the Corporation may subject a Clearing Member to an intraday VaR Charge if the Clearing Member is on the Watch List because such statement would be redundant following the proposed changes just described and (v) change cross references for subsections 2(c) of MBSD Rule 4 to 2(b) to conform to the proposed renumbering of subsection 2(c) of MBSD Rule 4.

(e) Proposed QRM Methodology Changes

In connection with the proposed changes, FICC would modify the QRM Methodology to reflect the move of the DRC items from the Required Fund Deposit calculation to the MBSD Cash Settlement process and delete the concept of the DRC and to add the six days' interest for any Fail by a seller in the Required Fund Deposit calculation.

(iv) Impact on Clearing Members

FICC conducted an impact study of the proposed changes based on data from July 1, 2020 to June 30, 2021 (''Impact Study''). The results of the Impact Study are described below.

(a) Proposed Movement of DRC Items to Cash Settlement

FICC does not believe that the movement of the DRC items to Cash Settlement would have a substantial economic impact on Clearing Members because the amounts that are currently imposed on Clearing Members for the DRC items and included in their Required Fund Deposit amounts would not change. However, pursuant to this proposed change such amounts would be effectuated as a cash pass-through—meaning that, those Clearing Members that are in a net debit position would be obligated to submit payments that are then used to pay Clearing Members in a net credit position, and the calculated amounts would reflect the difference between the contract value of a trade and the current market value of the security in a Clearing Member's portfolio. The movement would require any debits as a result of such components to be paid in cash through Cash Settlement rather than increasing the Required Fund Deposit amount. Clearing Members currently may pay a portion of the Required Fund Deposit in Eligible Clearing Fund Securities.[35] As a result of the proposed change to move the DRC items to Cash Settlement, Clearing Members would be required to fund any debits as a result of such items with cash, rather than through a mix of cash and Eligible Clearing Fund Securities as is permitted to satisfy Required Fund Deposit obligations.

FICC also believes that while the requirement to fund such adjustments with cash rather than Eligible Clearing Fund Securities may present some operational changes for Clearing Members, it does not believe such changes would have a substantial economic effect on such Clearing Members because the amounts that the Clearing Members are required to pay with respect to the DRC obligations would not change. Clearing Members would be paying the same amounts for the Mark-to-Market components following the movement of such components to Cash Settlement. The only impact on Clearing Members would be that the Clearing Members would be paying such debits as part of Cash Settlement rather than as part of the Required Fund Deposit.

Over the Impact Study period, 49 of the 102 Clearing Members had an overall average DRC debit balance.[36] Of those 49 Clearing Members, on average, 26 Clearing Members funded their Required Fund Deposit with only cash. Therefore, based on the Impact Study period data, these 26 Clearing Members would not have had to change the form of their payment whatsoever with respect to the DRC items if the proposed change to move these items to Cash Settlement had been in effect on those dates.

Of the remaining 23 Clearing Members with an average DRC debit balance, taking into consideration the average ratio of cash and Eligible Clearing Fund Securities on deposit in

[34] *See supra* note 29.

[35] *See* MBSD Rule 4, *supra* note 3.

[36] The data reflected in the impact study reflects only the Clearing Members who had average DRC debits over the study period.

the Required Fund Deposit for such Clearing Members, the amount of the DRC debit balance that had been paid in Eligible Clearing Fund Securities that would need to be paid in cash totaled on average $191 million in the aggregate for all such Clearing Members and approximately $8.3 million for each Clearing Member. These amounts represent approximately 1.4% of the total Clearing Fund collected on those dates and an average of 6.7% of those Clearing Members' Clearing Fund obligations.

(b) Changes To Revise the Intraday Mark-to-Market Charge

FICC believes that the changes to revise the definition of the Intraday Mark-to-Market Charge to remove the specific thresholds and provide a floor for the Dollar Threshold and the Percentage Threshold and to remove the Coverage Target from the definition, as described above, would not have a substantial impact on Clearing Members. As discussed above, the MBSD Rules currently provide the ability to waive or adjust such provisions under certain conditions and FICC believes that providing more flexibility with respect to setting the default thresholds would provide more transparency to the Clearing Members.

The proposal to remove the Coverage Target from the Intraday Mark-to-Market calculation would have resulted in approximately 353 additional Intraday Mark-to-Market Charges over the study period and such additional charges would have resulted in an average aggregate daily increase of total Intraday Mark-to-Market Charges collected by approximately $109,822,538. This amount represents approximately 0.8% of the total average Clearing Fund collected on those dates.

While FICC does not intend to change the Dollar Threshold ($1,000,000) or the Percentage Threshold (30%) that it is currently using upon implementation of the proposed changes, it has conducted an Impact Study of the results of the impact if it were to reduce the Percentage Threshold to the proposed 10% floor. As shown in the Impact Study from the period from July 1, 2020 to June 30, 2021, if FICC were to decrease the percentage threshold to 10% and remove the Coverage Target, the Intraday Mark-to-Market Charge would have resulted in approximately 2,522 additional Intraday Mark-to-Market Charges over that period, and such charges would have result in an average aggregate daily increase of total Intraday Mark-to-Market Charges collected by approximately $376,905,268. This amount represents approximately 2.8% of the total average Clearing Fund collected on those dates.

(c) Introduction of the Intraday VaR Charge

The proposed Intraday VaR Charge would formalize a charge that FICC is currently collecting under its authority to collect a special charge. Similar to the proposed change to Intraday Mark-to-Market Charge parameters and thresholds, this proposed change would align the Rules with FICC's current practice and would provide Clearing Members with greater transparency regarding this margin charge. However, the proposal would not implement substantive or material changes to the risk this charge is designed to mitigate or to the overall methodology or key components of the calculation of this charge.

As discussed above, FICC would begin charging the Intraday VaR Charge on both SIFMA designated settlement dates and non-SIFMA designated settlement dates if the thresholds are crossed regardless of whether the increase in VaR could lead to a backtesting deficiency or push a Clearing Member below 99% backtest coverage. As a result, the introduction of the Intraday VaR Charge would result in more consistent intraday VaR collections when compared to the current practice, on both SIFMA designated settlement dates and non-SIFMA designated settlement dates.

The Impact Study showed the Intraday VaR Charge would have resulted in approximately 126 Intraday VaR Charges collected over the Impact Study period, and such charges would have been an average of $11,663,204, which represents less than 0.1% of the total average Clearing Fund collected on those dates. The Impact Study did not indicate that the introduction of the Intraday VaR would have an impact on any specific Clearing Member type or Clearing Members that held particular portfolios.

(d) Clarifying Changes

The proposed clarifying changes would not have any substantive effect on the Clearing Members because such changes are clarifications and will not affect the rights or obligations of FICC or the Clearing Members.

(v) Implementation Timeframe

FICC would implement the proposed changes no later than 60 Business Days after the approval of the proposed rule change by the Commission and would announce the effective date of the proposed changes by Important Notice posted to its website. As proposed, a legend would be added to MBSD Rule 1, MBSD Rule 4, MBSD Rule 11 and the Interpretive Guidance With Respect to Watchlist Consequences in the MBSD Rules stating that the changes would be effective no later than 60 Business Days after the approval of the proposed rule change by the Commission, that FICC would announce the effective date of the proposed changes by Important Notice posted to its website and that once this proposal is implemented the legend would automatically be removed.

2. Statutory Basis

FICC believes that the proposed changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, FICC believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act,[37] and Rules 17Ad–22(e)(4)(i), (e)(6)(i) and (e)(6)(iii), each promulgated under the Act,[38] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[39] FICC believes the proposed changes are designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible because they are designed to enable FICC to better limit its exposure to Clearing Members in the event of a Clearing Member default, as described below. The proposal to move DRC items (Mark-to-Market items, cash obligation items and accrued principal and interest) from the Required Fund Deposit calculation to the MBSD Cash Settlement process would more closely align FICC's mark-to-market process to industry practice and better segregate the unrealized gains or losses associated with a Clearing Member's margin portfolio from the portion of the margin that measures potential future exposure and limit the build-up of systemic risk. Currently, the Required Fund Deposit may be reduced by credits relating to unrealized mark-to-market gains. During the time between the last margin collection and the close out of a Clearing Member's position such gains may reduce without a corresponding increase in the Required Fund Deposit leaving the Required Fund Deposit insufficient to cover the future exposure. Therefore, FICC believes that

[37] 15 U.S.C. 78q–1(b)(3)(F).

[38] 17 CFR 240.17Ad–22(e)(4)(i), (e)(6)(i) and (iii).

[39] 15 U.S.C. 78q–1(b)(3)(F).

moving such mark-to-market items to a cash pass-through adjustment is consistent with Section 17A(b)(3)(F) of the Act.[40] FICC believes that the changes to revise the definition of the Intraday Mark-to-Market Charge to (i) remove the specific thresholds and provide a floor for the Dollar Threshold and the Percentage Threshold and (ii) remove the Coverage Target from the definition, as described above, is designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible because the removal of the specific thresholds would provide the ability for FICC to adjust the Intraday Mark-to-Market Charge default thresholds more quickly and effectively in response to adverse changes in market conditions, consistent with Section 17A(b)(3)(F) of the Act.[41]

FICC believes the proposed change to implement an Intraday VaR Charge is designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible because it is designed to mitigate changes in volatility that could occur intraday and increase the risks to FICC related to liquidating a Clearing Member's portfolio following that Clearing Member's default. Specifically, the proposed Intraday VaR Charge would allow FICC to collect financial resources to cover its exposures that it may face due to increases in volatility that occur between collections of start-of-day Required Fund Deposits.

The Clearing Fund is a key tool that FICC uses to mitigate potential losses to FICC associated with liquidating a Clearing Member's portfolio in the event of Clearing Member default. The proposed Intraday VaR Charge would formalize a charge that FICC is currently collecting under its authority to collect a special charge. Similar to the proposed change to Intraday Mark-to-Market Charge parameters and thresholds, this proposed change would align the Rules with FICC's current practice and would provide Clearing Member's with greater transparency regarding this margin charge. While the proposed changes are not expected to materially change the overall methodology or key components of the calculation of this charge, the changes would result in more consistency in the application of this charge on SIFMA designated settlement dates and non-SIFMA designated settlement dates. As discussed above, FICC would begin charging the Intraday VaR Charge on both SIFMA designated settlement dates and non-SIFMA designated settlement dates if the thresholds are crossed regardless of whether the increase in VaR could lead to a backtesting deficiency or push a Clearing Member below 99% backtest coverage. As a result, the introduction of the Intraday VaR Charge would result in more consistent intraday VaR collections when compared to the current practice, on both SIFMA designated settlement dates and non-SIFMA designated settlement dates.

Therefore, the proposed change to include an Intraday VaR Charge among the Clearing Fund components, when applicable, would enable FICC to better address any changes to market price volatility or the size of a Clearing Member's portfolio that occur intraday, such that, in the event of Clearing Member default, FICC's operations would not be disrupted, and non-defaulting Members would not be exposed to losses they cannot anticipate or control. In this way, the proposed change to implement the Intraday VaR Charge is designed to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[42]

Section 17A(b)(3)(F) of the Act also requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[43] FICC believes that the proposed changes to the Parameter Breaks for the Intraday Mark-to-Market Charge and removal of the Coverage Target and Surveillance Threshold Provision would provide greater transparency and improve Clearing Members' understanding of the application of the Intraday Market-to-Market Charge by providing that the default thresholds could be adjusted, subject to a floor, and providing that the Coverage Target would no longer be a Parameter Break and that the Surveillance Threshold Provision, which is not currently being applied by FICC, would no longer be applicable. FICC also believes that the proposal to introduce the Intraday VaR Charge, which would formalize the intraday VaR charge that FICC is currently collecting under its authority to collect a special charge, would also align the MBSD Rules to FICC's current practices and bring greater transparency to Clearing Members. In addition, FICC believes that the proposal to make certain clarifying changes in the MBSD Rules and the QRM Methodology are consistent with Section 17(A)(b)(3)(F) of the Act because such changes would enhance the clarity and transparency of the MBSD Rules. By enhancing the clarity and transparency of the MBSD Rules, the proposed changes would allow Clearing Members to more efficiently and effectively conduct their business in accordance with the MBSD Rules, which FICC believes would promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.[44]

Rule 17Ad–22(e)(4)(i) under the Act[45] requires a covered clearing agency to 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 exposures 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.

FICC believes that the proposed changes to move the DRC items to Cash Settlement are consistent with Rule 17Ad–22(e)(4)(i) under the Act because the changes would help to ensure that FICC maintains sufficient financial resources to cover its credit exposure to each Clearing Member with a high degree of confidence by better segregating the unrealized gains or losses associated with a Clearing Member's margin portfolio from the portion of the margin that measures potential future exposure and by limiting the build-up of systemic risk. By better segregating the unrealized gains or losses from the Required Fund Deposit and moving the mark-to market adjustments to a cash-pass through adjustment, FICC believes that the proposed changes would help ensure that FICC maintains sufficient financial resources by calculating and collecting margin to cover its credit exposure to each Clearing Member with a high degree of confidence, consistent with Rule 17Ad–22(e)(4)(i) under the Act.[46]

FICC believes the proposed change to add the Intraday VaR Charge would enable it to better identify, measure, monitor, and, through the collection of Clearing Members' Required Fund Deposits, manage its credit exposures to Clearing Members by maintaining sufficient resources to cover those credit exposures fully with a high degree of confidence. Specifically, FICC believes that the proposed Intraday VaR Charge would effectively mitigate the risks

[40] *Id.*

[41] 15 U.S.C. 78q–1(b)(3)(F).

[42] *Id.*

[43] 15 U.S.C. 78q–1(b)(3)(F).

[44] *Id.*

[45] *See* 17 CFR 240.17Ad–22(e)(4)(i).

[46] *Id.*

related to intraday increases in volatility and would address the increased risks FICC may face related to liquidating a Clearing Member's portfolio following that Clearing Member's default.

The proposed Intraday VaR Charge would formalize a charge that FICC is currently collecting under its authority to collect a special charge. This proposed change would align the Rules with FICC's current practice and would provide Clearing Member's with greater transparency regarding this margin charge. While the proposed changes are not expected to materially change the overall methodology or key components of the calculation of this charge, the changes would result in more consistency in the application of this charge on SIFMA designated settlement dates and non-SIFMA designated settlement dates. As discussed above, FICC would begin charging the Intraday VaR Charge on both SIFMA designated settlement dates and non-SIFMA designated settlement dates if the thresholds are crossed regardless of whether the increase in VaR could lead to a backtesting deficiency or push a Clearing Member below 99% backtest coverage. As a result, the introduction of the Intraday VaR Charge would result in more consistent intraday VaR collections when compared to the current practice, on both SIFMA designated settlement dates and non-SIFMA designated settlement dates.

Therefore, FICC believes the proposal would enhance FICC's ability to effectively identify, measure and monitor its credit exposures and would enhance its ability to maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence, consistent with Rule 17Ad–22(e)(4)(i) under the Act.[47]

Rule 17Ad–22(e)(6)(i) under the Act requires, in part, that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing 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.[48]

The Required Fund Deposits are made up of risk-based components (as margin) that are calculated and assessed daily to limit FICC's credit exposures to Clearing Members. FICC believes that the proposed changes to move the DRC items to Cash Settlement are consistent with Rule 17Ad–22(e)(6)(i) under the Act because the changes would help to ensure that FICC produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market by better segregating the unrealized gains or losses associated with a Clearing Member's margin portfolio from the portion of the margin that measures potential future exposure and by limiting the build-up of systemic risk. By better segregating the unrealized mark-to-market gains that currently reduce Required Fund Deposits, FICC believes that the proposed changes would help ensure that FICC maintains a risk-based margin system that considers, and produces margin levels commensurate with, the risks of portfolios that experience significant mark-to-market volatility on an intraday basis, consistent with Rule 17Ad–22(e)(6)(i) under the Act.[49]

FICC's proposed change to introduce an Intraday VaR Charge is designed to more effectively address the risks presented by significant intraday changes to market price volatility or a Clearing Member's portfolio. The proposed Intraday VaR Charge would formalize a charge that FICC is currently collecting under its authority to collect a special charge. This proposed change would align the Rules with FICC's current practice and would provide Clearing Member's with greater transparency regarding this margin charge. While the proposed changes are not expected to materially change the overall methodology or key components of the calculation of this charge, the changes would result in more consistency in the application of this charge on SIFMA designated settlement dates and non-SIFMA designated settlement dates. As discussed above, FICC would begin charging the Intraday VaR Charge on both SIFMA designated settlement dates and non-SIFMA designated settlement dates if the thresholds are crossed regardless of whether the increase in VaR could lead to a backtesting deficiency or push a Clearing Member below 99% backtest coverage. As a result, the introduction of the Intraday VaR Charge would result in more consistent intraday VaR collections when compared to the current practice, on both SIFMA designated settlement dates and non-SIFMA designated settlement dates.

FICC believes the addition of the Intraday VaR Charge would enable FICC to assess a more appropriate level of margin that accounts for increases in these volatility risks that may occur intraday. This proposed change is designed to assist FICC in maintaining a risk-based margin system that considers, and produces margin levels commensurate with, the risks of portfolios that experience significant volatility on an intraday basis. Therefore, FICC believes the proposed change is consistent with Rule 17Ad–22(e)(6)(i) under the Act.[50]

Rule 17Ad–22(e)(6)(iii) under the Act[51] requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default.

FICC believes that the proposed changes are consistent with Rule 17Ad–22(e)(6)(iii) under the Act cited above because moving the DRC items to Cash Settlement would better segregate the unrealized gains or losses associated with a Clearing Member's margin portfolio from the portion of the margin that measures potential future exposure and limit the build-up of systemic risk. Currently, the Required Fund Deposit may be reduced by credits relating to unrealized mark-to-market gains. During the time between the last margin collection and the close out of a Clearing Member's position such gains may reduce without a corresponding increase in the Required Fund Deposit leaving the Required Fund Deposit insufficient to cover the future exposure. As such, by segregating the unrealized mark-to-market gains and losses from the Required Fund Deposit FICC believes that the proposed changes are designed to allow FICC to calculate amounts that are sufficient to cover FICC's potential future exposure to Clearing Members in the interval between the last margin collection and the close out of positions following a participant default, consistent with Rule 17Ad–22(e)(6)(iii) under the Act.[52]

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

FICC does not believe that the proposed rule changes would impose any burden on competition that is not necessary or appropriate in furtherance of the Act.[53]

[47] *Id.*

[48] 17 CFR 240.17Ad–22(e)(6)(i).

[49] 17 CFR 240.17Ad–22(e)(6)(i).

[50] *Id.*

[51] *See* 17 CFR 240.17Ad–22(e)(6)(iii).

[52] *Id.*

[53] *See* 15 U.S.C. 78q–1(b)(3)(I).

FICC believes that the proposal to move the DRC items to Cash Settlement could impose a burden on competition because the proposed change could require a Clearing Member to fund debits relating to such items with cash rather than have the ability to fund all or a portion of such debits with Eligible Clearing Fund Securities. FICC also believes that while the requirement to fund such adjustments with cash rather than Eligible Clearing Fund Securities would present some operational changes for Clearing Members it does not believe such changes would have a substantial economic effect on such Clearing Members or otherwise be a significant burden on competition because the amounts that the Clearing Members are required to pay with respect to the DRC obligations would not change. Clearing Members would be paying the same amounts for the Mark-to-Market components following the movement of such components to Cash Settlement. The only impact on Clearing Members would be that the Clearing Members would be paying such debits as part of Cash Settlement rather than as part of the Required Fund Deposit.

FICC believes that the changes to the Parameter Breaks for the Intraday Mark-to-Market Charge could have an impact on competition. Specifically, the removal of the Coverage Target Parameter Break and setting a floor for the Percentage Threshold that is lower than the current default threshold could result in the Intraday Mark-to-Market Charge being applied more often on Clearing Members. However, FICC has the ability to waive the Coverage Target and lower the Percentage Threshold currently under certain conditions.[54] In addition, the use of the Intraday Mark-to-Market Charge would be in direct relation to the specific risks presented by each Clearing Members' portfolio, and each Clearing Member's Required Fund Deposit would continue to be calculated with the same parameters and at the same confidence level for each Clearing Member. Therefore, because the impact of the proposal on a Clearing Member is related to the specific risks presented by that Clearing Member's clearing activity and not on the type or size of a Clearing Member, FICC believes that any burden on competition imposed by the proposed change would be both necessary and appropriate in furtherance of FICC's efforts to mitigate risks and meet the requirements of the Act, as described in this filing and further below.

FICC believes that the proposed change to introduce the Intraday VaR Charge could have an impact on competition. Specifically, FICC believes the proposed change could burden competition because it would result in larger Required Fund Deposit amounts for Clearing Members when the Intraday VaR Charge is applicable and result in a Required Fund Deposit that is greater than the amount calculated pursuant to the current methodology.

The impacts of this proposal on a particular Clearing Member with respect to the Intraday VaR Charge would depend on the size and composition of the Clearing Member's portfolio and the potential market volatility of positions in that portfolio and would not be due to the type of legal entity or size of a Clearing Member. Therefore, Clearing Members that present similar adjusted intraday portfolios, regardless of the type or size of Clearing Member, would have similar impacts on their Required Fund Deposit amounts.

When the Intraday VaR Charge results in a larger Required Fund Deposit, the proposed change could burden competition for Clearing Members that have lower operating margins or higher costs of capital compared to other Clearing Members. However, the increase in Required Fund Deposit would be in direct relation to the specific risks presented by each Clearing Member's adjusted intraday positions, and each Clearing Member's Required Fund Deposit would continue to be calculated with the same parameters and at the same confidence level for each Clearing Member. Therefore, because the impact of the proposal on a Clearing Member is related to the specific risks presented by that Clearing Member's clearing activity and not on the type or size of a Clearing Member, FICC believes that any burden on competition imposed by the proposed change would be both necessary and appropriate in furtherance of FICC's efforts to mitigate risks and meet the requirements of the Act, as described in this filing and further below.

FICC believes the above-described burden on competition that may be created by the proposed changes would be necessary in furtherance of the Act, specifically Section 17A(b)(3)(F) of the Act.[55]

As discussed above, the proposal to move DRC items (Mark-to-Market items, cash obligation items and accrued principal and interest) from the Required Fund Deposit calculation to the MBSD Cash Settlement process would more closely align FICC's mark-to-market process to industry practice and better segregate the unrealized gains or losses associated with a Clearing Member's margin portfolio from the portion of the margin that measures potential future exposure and limit the build-up of systemic risk consistent with Section 17A(b)(3)(F) of the Act.[56]

As discussed above, FICC believes that the changes to revise the definition of the Intraday Mark-to-Market Charge to remove the specific thresholds and provide a floor for the Dollar Threshold and the Percentage Threshold and to remove the Coverage Target from the definition, as described above, are designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible because they would provide the ability for FICC to adjust the Intraday Mark-to-Market Charge default thresholds more quickly and effectively in response to adverse changes in market conditions consistent with Section 17A(b)(3)(F) of the Act.[57] In addition, FICC believes that the proposed changes to the Parameter Breaks for the Intraday Mark-to-Market Charge and removal of the Surveillance Threshold Provision would also align the MBSD Rules to FICC's current practice in certain circumstances and provide greater transparency and improve Clearing Members' understanding of the application of the Intraday Market-to-Market Charge, which is also consistent with Section 17A(b)(3)(F) of the Act, as described above.[58]

In addition, as stated above, the proposed Intraday VaR Charge is designed to address the risks of increases in market price volatility or other changes to a Clearing Member's portfolio on an intraday basis that could increase the costs to FICC of liquidating a Member portfolio in the event of the Clearing Member's default. Specifically, the proposed intraday volatility charge would allow FICC to collect sufficient financial resources to cover its exposure that it may face increased costs in liquidating positions that experience intraday volatility that is not captured by the start of day VaR Charge. The proposed Intraday VaR Charge would formalize a charge that FICC is currently

[54] FICC exercises its ability to waive the Coverage Target and lower the Percentage Threshold consistently across Clearing Member types based on its model risk management governance procedures set forth in the Clearing Agency Model Risk Management Framework. *See supra* note 29. For instance, FICC may waive the Coverage Target for all Clearing Members during volatile market conditions if backtesting indicates that such change is necessary to ensure its models are accurately accessing risk.

[55] 15 U.S.C. 78q–1(b)(3)(F).

[56] *Id.*

[57] *Id.*

[58] 15 U.S.C. 78q–1(b)(3)(F).

collecting under its authority to collect a special charge. As discussed above, the change would align the Rules with FICC's current practice and would provide Clearing Member's with greater transparency regarding this margin charge. While the proposed changes are not expected to materially change the overall methodology or key components of the calculation of this charge, the changes would result in more consistency in the application of this charge on SIFMA designated settlement dates and non-SIFMA designated settlement dates.

Therefore, FICC believes this proposed change is necessary and appropriate in furtherance of the requirements of Section 17A(b)(3)(F) of the Act, which requires that the MBSD Rules be designed to assure the safeguarding of securities and funds that are in FICC's custody or control or which it is responsible.[59]

FICC believes these proposed changes would also support FICC's compliance with Rules 17Ad–22(e)(4)(i), (e)(6)(i) and (e)(6)(iii) under the Act,[60] which require FICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to (x) effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence; (y) cover its credit exposures to its participants by establishing 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 (z) cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default.

As described above, FICC believes that moving the DRC items to Cash Settlement would better address the increased risks FICC may face when intraday mark-to-market adjustments are necessary for a Clearing Member's portfolio. FICC believes that moving such mark-to-market adjustments as cash pass-through adjustments will segregate the unrealized gains or losses associated with a Clearing Member's margin portfolio from the portion of the margin that measures potential future exposure and limit the build-up of systemic risk. Currently, the Required Fund Deposit may be reduced by credits relating to unrealized mark-to-market gains. During the time between the last margin collection and the close out of a Clearing Member's position such gains may reduce without a corresponding increase in the Required Fund Deposit leaving the Required Fund Deposit insufficient to cover the future exposure. Therefore, removing such mark-to-market adjustments from the Required Fund Deposit would better limit FICC's credit exposures to Clearing Members, necessary and appropriate in furtherance of the requirements of Rules 17Ad–22(e)(4)(i), (e)(6)(i) and (e)(6)(iii) under the Act.[61]

As described above, FICC believes the introduction of the Intraday VaR Charge would allow FICC to employ a risk-based methodology that would address the increased risks FICC may face when intraday volatility changes a Clearing Member's portfolio such that the VaR Charge collected at the start of the day no longer addresses the risks these positions present to FICC. The proposed Intraday VaR Charge would formalize a charge that FICC is currently collecting under its authority to collect a special charge. As discussed above, the change would align the Rules with FICC's current practice and would provide Clearing Member's with greater transparency regarding this margin charge. While the proposed changes are not expected to materially change the overall methodology or key components of the calculation of this charge, the changes would result in more consistency in the application of this charge on SIFMA designated settlement dates and non-SIFMA designated settlement dates. Therefore, the proposed change would better limit FICC's credit exposures to Clearing Members, necessary and appropriate in furtherance of the requirements of Rules 17Ad–22(e)(4)(i) and Rule 17Ad–22(e)(6)(i) under the Act.[62]

FICC believes that the above-described burden on competition that could be created by the proposed change would be appropriate in furtherance of the Act because such changes have been appropriately designed to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, as described in detail above. The proposed movement of the DRC items to Cash Settlement and the proposed Intraday VaR Charge would also enable FICC to produce margin levels more commensurate with the risks and particular attributes of each Clearing Member's portfolio.

The proposed changes would do this by segregating the unrealized gains in Clearing Member's portfolios as discussed above with respect to the movement of the DRC items to Cash Settlement and by measuring the change in volatility that impacts Clearing Members' portfolios and could occur intraday with respect to the Intraday VaR Charge. Therefore, because the proposed changes are designed to provide FICC with an appropriate measure of the volatility risks presented by Clearing Members' portfolios, FICC believes the proposal is appropriately designed to meet its risk management goals and its regulatory obligations.

FICC believes it has designed the proposed changes in an appropriate way in order to meet compliance with its obligations under the Act. Specifically, the proposals would improve the risk-based margining methodology that FICC employs to set margin requirements and better limit FICC's credit exposures to its Clearing Members.

Therefore, FICC does not believe that the proposed changes would impose any burden on competition that is not necessary or appropriate in furtherance of the Act.[63]

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

In an effort to ensure that Clearing Members understand the proposed changes, FICC has invited all Clearing Members to participate in several informational sessions.

In addition, the FICC Product Management, FICC Risk Management and FICC Relationship Management teams have made themselves available to answer individual questions from Clearing Members. One Clearing Member has expressed concern regarding FICC's proposed change to move the Mark-to-Market amount to the Cash Settlement process. This Clearing Member has noted that the proposed change would create a significant burden because the change would require it to fund the mark-to-market differences with cash while under the current MBSD Rules, the amount could be funded with cash or securities. FICC believes that while the requirement to fund such adjustments with cash rather than Eligible Clearing Fund Securities would present some operational

[59] *Id.*

[60] 17 CFR 240.17Ad–22(e)(4)(i), (e)(6)(i) and (iii).

[61] *Id.*

[62] 17 CFR 240.17Ad–22(e)(4)(i) and (e)(6)(i).

[63] 15.U.S.C. 78q–1(b)(3)(I).

changes for Clearing Members it does not believe such changes would have a substantial economic effect on such Clearing Members or otherwise be a significant burden. Clearing Members would be paying the same amounts for the Mark-to-Market components following the movement of such components to Cash Settlement. The only impact on Clearing Members would be that the Clearing Members would be paying such debits as part of Cash Settlement rather than as part of the Required Fund Deposit.

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 *https://www.sec.gov/regulatory-actions/how-to-submit-comments*. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

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

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

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov*. Please include File Number SR–FICC–2022–002 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–2022–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2022–002 and should be submitted on or before May 16, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[64]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–08677 Filed 4–22–22; 8:45 am]

BILLING CODE 8011–01–P

[64] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94750; File No. SR–CboeEDGX–2022–024]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Current Pilot Program Related to EDGX Rule 11.15, Clearly Erroneous Executions, to the Close of Business on July 20, 2022

April 19, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 18, 2022, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Cboe EDGX Exchange, Inc. ("EDGX" or the "Exchange") is filing with the Securities and Exchange Commission (the "Commission") a proposed rule change to extend the current pilot program related to EDGX Rule 11.15, Clearly Erroneous Executions, to the close of business on July 20, 2022. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).