

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

FICC does not believe that the proposed rule change would have any impact or impose any burden on competition.

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

Written comments have not been solicited with respect to the proposed rule change, and none have been received. FICC will notify the Commission of any written comments it receives.

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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date 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 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, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments:*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FICC-2006-16 on the subject line.

*Paper Comments:*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-FICC-2006-16. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's

Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at <http://www.ficc.com/gov/gov.docs.jsp?NS-query>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FICC-2006-16 and should be submitted on or before January 17, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54969; File No. SR-FICC-2006-15]

**Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Modify its Rules To Diversify and Standardize Clearing Fund Collateral Requirements Across the Divisions To Improve Liquidity and Minimize Risk for Its Members**

December 19, 2006.

**I. Introduction**

On October 4, 2006, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-FICC-2006-15 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

**Federal Register** on November 9, 2006.<sup>2</sup> A correction and extension of the comment period was published in the **Federal Register** on November 22, 2006.<sup>3</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change as amended.

**II. Description**

FICC seeks to modify the rules of both of the Government Securities Division ("GSD") and the Mortgage-Backed Securities Division ("MBSD") (collectively, "Divisions") to diversify and standardize Clearing Fund<sup>4</sup> collateral requirements across the Divisions in order to improve liquidity and minimize risk for FICC and its members.

Presently, both GSD and MBSD members may satisfy their Clearing Fund requirements with cash deposits. Members may also satisfy a portion of their Clearing Fund requirements with an open account indebtedness fully secured by certain types of securities and/or letters of credit. FICC is modifying its rules to: (1) Expand the types of securities members may deposit to satisfy their Clearing Fund requirements ("Eligible Clearing Fund Securities"); (2) establish concentration limits with regard to members' use of Eligible Clearing Fund Securities; (3) create a correlating range of haircuts to be applied to the expanded types of Eligible Clearing Fund Securities; and (4) eliminate letters of credit as a generally acceptable form of collateral securing members' open account Clearing Fund indebtedness.

*A. Revised Clearing Fund Components*

## (1) Cash

Currently the rules of GSD require that the greater of \$100,000 or ten percent of a member's Clearing Fund requirement with a maximum of \$500,000 be made in the form of cash.<sup>5</sup> The rules of MBSD currently do not contain a minimum cash requirement. For both Divisions, the proposed new cash collateral component will be the lesser of \$5,000,000 or ten percent of a

<sup>2</sup> Securities Exchange Act Release No. 54682 (November 1, 2006), 71 FR 65855.

<sup>3</sup> Securities Exchange Act Release No. 54682A (November 17, 2006), 71 FR 67667. The correction addressed a typographical error in the original release.

<sup>4</sup> The GSD Rules refer to member collateral deposits as the "Clearing Fund" while the MBSD rules refer to these deposits as the "Participants Fund." The term "Clearing Fund" in this order will refer to both.

<sup>5</sup> GSD Rule 4, Section 2(b)(ii).

member's Clearing Fund requirement with a minimum of \$100,000.

## (2) Securities

Currently each Division of FICC accepts different types of securities as Clearing Fund collateral. For example, GSD accepts Agency securities but not mortgage-backed securities, and MBSB accepts mortgage-backed securities but not Agency securities. In addition, there are currently no concentration limits placed on securities deposited as Clearing Fund collateral at either Division. In an effort to standardize the securities that are eligible as Clearing Fund collateral across the Divisions, FICC is modifying the rules of both Divisions by adding a definition, "Eligible Clearing Fund Securities" (for GSD) and "Eligible Participants Fund Securities" (for MBSB) to each Division's rules.<sup>6</sup> As defined, Eligible Clearing Fund Securities and Eligible Participants Fund Securities will be unmatured bonds which are either an "Eligible Clearing Fund Agency Security," an "Eligible Clearing Fund Mortgage-Backed Security" or an "Eligible Clearing Fund Treasury Security."<sup>7</sup> "Eligible Clearing Fund Agency Security" would be defined as a direct obligation of those U.S. agencies or government sponsored enterprises as FICC may designate from time to time that satisfies the criteria set forth in notices issued by FICC from time to time. "Eligible Clearing Fund Mortgage-Backed Security" would be defined as a mortgage-backed pass through obligation issued by those U.S. agencies or government sponsored enterprises as FICC may designate from time to time that satisfies the criteria set forth in notices issued by FICC from time to time. "Eligible Clearing Fund Treasury Security" would be defined as a direct obligation of the U.S. government that satisfies the criteria set forth in notices issued by FICC from time to time.

## (3) Security Concentration Provisions

FICC is also establishing security concentration limits for Clearing Fund deposits. A minimum of forty percent of a member's required Clearing Fund deposit will have to be in cash or

<sup>6</sup>Initial eligibility criteria for each type of Eligible Clearing Fund Securities and Eligible Participants Fund Securities will be announced to members through an Important Notice prior to the effective date of this proposed rule change. Any future changes to the eligibility criteria will also be announced to members through Important Notices in advance of such changes becoming effective.

<sup>7</sup>In the MBSB Rules, these terms would be as follows: "Eligible Participants Fund Agency Security," "Eligible Participants Fund Mortgage-Backed Security," and "Eligible Participants Fund Treasury Security."

Eligible Clearing Fund Treasury Securities. The remainder of a member's deposit can be secured by cash or the pledge of Eligible Clearing Fund Securities. However any deposits of Eligible Clearing Fund Agency Securities or Eligible Clearing Fund Mortgage-Backed Securities in excess of twenty-five percent of a member's required Clearing Fund deposit will be subject to an additional haircut equal to twice the percentage specified in the haircut schedule. Furthermore, no more than twenty percent of a member's required Clearing Fund deposit can be secured by pledged Eligible Clearing Fund Agency Securities of a single issuer. Lastly, no member will be permitted to post as Clearing Fund collateral Eligible Clearing Fund Agency Securities for which it is the issuer.<sup>8</sup>

## (4) Letters of Credit and Other Adequate Assurances

The provisions in the Divisions' Rules that pertain to Letter of Credit Issuers are being modified to reflect that letters of credit are no longer a generally accepted form of Clearing Fund collateral.<sup>9</sup> Effective April 1, 2007 (the regular expiration date of letters of credit), members that have letters of credit posted as collateral (other than members, if any, that have been required to post letters of credit for legal risk), will be required to replace the portion of the Clearing Fund collateralized by letters of credit with either cash or Eligible Clearing Fund Securities.

## (5) Implementation Timeframes

The foregoing rule changes will become effective thirty days after an Important Notice is issued to members informing them that FICC's systems are ready to accommodate such changes. The corresponding changes to FICC's rules will be made at that time. On April 1, 2007, changes pertaining to letters of credit will be made to FICC's rules.

<sup>8</sup>However, a member will be permitted to pledge Eligible Clearing Fund Mortgage-Backed Securities for which it is the issuer subject to a haircut specified in the haircut schedule. Initially the haircut will be fourteen percent. If the member exceeded the twenty-five percent concentration limit, the haircut initially will be twenty-one percent.

<sup>9</sup>FICC has found that in practice letters of credit are not as liquid as cash and securities and therefore pose more risk to FICC and its members when pledged as Clearing Fund collateral. FICC is, however, reserving the right to require letters of credit from members in those instances where a particular member has been found, by FICC in its discretion, to present legal risk. GSD Rule 4, Section 2(o) and MBSB Rule 2, Section 4 of Article IV.

## (6) Alternative Proportions of Eligible Collateral

As is currently the case under FICC's rules, FICC continues to reserve the right to require different proportions of the Clearing Fund collateral components as necessary to address any heightened legal or insolvency risks presented by a member.<sup>10</sup>

## III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.<sup>11</sup> Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.<sup>12</sup> The Commission finds that FICC's rule change is consistent with these requirements because by revising its rules governing the acceptable forms of Clearing Fund collateral deposits to increase the liquidity of its Clearing Fund and to minimize risk to FICC and its members, the proposed rule change should better enable FICC to assure the safeguarding of securities and funds in its custody or control or for which it is responsible.<sup>13</sup>

## IV. Conclusion

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

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>14</sup> that the proposed rule change (File No. SR-FICC-2006-15) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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<sup>10</sup>GSD Rule 4, Section 2(o) and MBSB Rule 2, Section 4 of Article IV.

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

<sup>12</sup>15 U.S.C. 78q-1(b)(3)(F).

<sup>13</sup>In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>14</sup>15 U.S.C. 78s(b)(2).

<sup>15</sup>17 CFR 200.30-3(a)(12).