

Clearing Rules in March 2012 to reflect TMPG's recommendations.⁵ The fails charge for MBS transactions applies to certain trades settled in the MBSD central counterparty ("CCP") (*i.e.*, settlement of pools versus FICC involving failing agency MBS issued or guaranteed by Fannie Mae, Freddie Mac, and Ginnie Mae.) Consistent with the TMPG's initial recommendation, MBSD's Rule 12 did not impose a fails charge if delivery occurred on either of the two business days following the contractual settlement date. The two business days are sometimes referred to as the "resolution period."

However, on March 1, 2013, the TMPG issued a new recommendation to remove the two-day resolution period from the current practice.⁶ The TMPG has advised that the revised recommendation should apply to transactions in agency MBS transactions entered into on or after July 1, 2013, as well as to transactions that were entered into prior to but remain unsettled as of July 1, 2013. This rule change amends the existing fails charge rule to reflect TMPG's most recent recommendation by removing the two-day resolution period provision from the rule. Consequently, an agency MBS settlement fail will be subject to a fails charge for each calendar day that the fail is outstanding, even if the delivery occurs on either of the first two business days following the contractual settlement date. FICC is making the rule change effective as of July 1, 2013, in accordance with the TPMG's recommendation. All other provisions of the agency MBS fails charge rule, including the fails charge rate and trading practices, remain unchanged.

III. Discussion

Section 19(b)(2)(C) of the Act⁷ 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. Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to remove impediments to and perfect

the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.⁸ The Commission finds that FICC's rule change should facilitate the prompt and accurate clearance and settlement of securities transactions because the rule change will discourage persistent settlement fails in agency debt and MBS transactions and encourage market participants to resolve such fails promptly.

IV. Conclusion

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

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (File No. SR-FICC-2013-01) be and hereby is approved.¹⁰

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69709; File No. SR-FICC-2013-03]

Self-Regulatory Organizations; The Fixed Income Clearing Corporation; Order Granting Approval of a Proposed Rule Change To Amend Mortgage-Backed Securities Division Rules Relating To Allocation of an Indemnity Claim Made in Connection With the Use of the Federal Reserve's National Settlement Service

June 6, 2013.

I. Introduction

On April 15, 2013, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-FICC-2013-03 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder.² The proposed rule

change was published for comment in the **Federal Register** on April 29, 2013.³ The Commission received no comment letters. This order approves the proposed rule change.

II. Description

FICC's Government Securities Division ("GSD") and Mortgage-Backed Securities Division ("MBSD") each use the Board of Governors of the Federal Reserve's ("FRB") National Settlement Service ("NSS") for Funds-Only Settlement⁴ and Cash Settlement⁵ purposes, respectively. GSD's Rule 13 and MBSD's Rule 11 address the situation where the FRB makes an indemnity claim in connection with the use of the NSS service by FICC. Pursuant to the GSD and MBSD rules, if FICC receives an FRB indemnity claim, FICC will apportion the entire liability to the GSD netting members or MBSD clearing members, as applicable, for whom the settling bank was acting at the time.⁶ If such amounts are not sufficient to fully satisfy the FRB indemnity claim, each of the GSD and MBSD rules currently provide different directives as to how FICC should handle the remaining loss. The GSD rules state that FICC will treat the remaining loss as an "Other Loss," as defined in GSD Rule 4, and allocate accordingly.⁷ In contrast, MBSD Rule 11, Section 5(o), states that FICC will allocate the remaining loss among all MBSD clearing members in proportion to their relative use of the MBSD services (based on fees).

The purpose of the rule change is to correct MBSD's Rule 11 in order to accurately reflect the correct manner in which FICC should allocate an indemnity claim made in connection with the use of the FRB's NSS. The MBSD provision in Rule 11 was drafted prior to the MBSD becoming a central counterparty and adopting a loss mutualization process similar to the GSD process. When FICC filed its rule change to provide guaranteed settlement

³ Securities Exchange Act Release No. 69434 (April 23, 2013), 78 FR 25121 (April 29, 2013).

⁴ "Fund-Only Settlement Amount" is defined under Rule 1 of GSD's Rulebook as the net dollar amount of a netting member's obligation, calculated pursuant to GSD's Rule 13, either to make a funds-only payment to GSD or to receive a funds-only payment from GSD. See GSD Rule 13 for the rules related to funds-only settlement.

⁵ "Cash Settlement" is defined under Rule 1 of MBSD's Clearing Rules as the payment each business day by MBSD to a member or by a member to MBSD. See MBSD Rule 11 for the rules related to cash settlement.

⁶ See GSD's Rule 13 Section 5(o) and MBSD Rule 11, Section 5(o).

⁷ Rule 4(f) of GSD's Rulebook.

⁵ See Securities Exchange Act Release No. 66550 (March 9, 2012), 77 FR 15155 (March 14, 2012) (File No. SR-FICC-2008-01).

⁶ Press Release, Federal Reserve Bank of New York, TMPG Revises Agency MBS Fails Charge Trading Practice (March 1, 2013) (available at www.newyorkfed.org/tmpg/03_01_2013_Fails_charges_press_release.pdf).

⁷ 15 U.S.C. 78s(b)(2)(C).

⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

and central counterparty services,⁸ which among other things established the loss mutualization process, the MBSN NSS indemnity provision requiring the current loss allocation process was inadvertently overlooked and therefore not updated during FICC's efforts to harmonize the GSD and MBSN rules. Accordingly, the rule change corrects this oversight by revising MBSN Rule 11, Section 5(o), to reflect that all remaining losses from a FRB indemnity claim should be treated as an "Other Loss" as defined in MBSN Rule 4 and allocated accordingly.

III. Discussion

Section 19(b)(2)(C) of the Act⁹ 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. Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.¹⁰ The Commission finds that FICC's rule change should facilitate the prompt and accurate clearance and settlement of securities transactions by correcting MBSN's rules to accurately reflect the loss allocation procedures in connection with NSS and to ensure that there is consistent treatment of such losses between the MBSN and GSD rules.

IV. Conclusion

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

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (File No. SR-FICC-2013-03) be and hereby is approved.¹²

⁸ Exchange Act Release No. 66550 (March 9, 2012), 77 FR 15155 (March 14, 2012) [File No. SR-FICC-2008-01] (order approving amended proposed rule change to allow MBSN to provide guaranteed settlement and central counterparty services).

⁹ 15 U.S.C. 78s(b)(2)(C).

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ 15 U.S.C. 78s(b)(2).

¹² In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹³

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69703; File No. SR-ICEEU-2013-09]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Amendment No. 2 to Proposed Rule Change To Clear Contracts Traded on the LIFFE Administration and Management Market

June 5, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder² notice is hereby given that on June 4, 2013, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") Amendment No. 2 to its previously submitted proposed rule changes to implement a clearing relationship in which ICE Clear Europe will clear contracts traded on the LIFFE Administration and Management ("LIFFE A&M") market (the "LIFFE Clearing Proposed Amendments").³ Amendment No. 2 is intended to elaborate on certain aspects of the proposed clearing activities as they relate to LIFFE securities products and make a partial amendment to certain rules and procedures that would clarify the considerations under which certain margin and risk management requirements would be established and modified from time to time, as described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. Except as described in this Amendment No. 2, the LIFFE

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On May 13, 2013, ICE Clear Europe initially filed the LIFFE Clearing Proposed Amendments. On May 22, 2013, ICE Clear Europe submitted Amendment No. 1 to the proposed rule change to, among other things, clarify the scope of products proposed to be cleared, add new Rule 207(f) prohibiting FCM/BD Clearing Members and other Clearing Members organized in the U.S. from clearing LIFFE Contracts that are futures or options on underlying U.S. securities, add additional clarification surrounding the operation of the combined F&O Guaranty Fund and the margining of LIFFE Contracts, and supplement the statutory basis for the proposed rule change. See Securities Exchange Act Release No. 69628 (May 23, 2013), 78 FR 32287 (May 29, 2013) (SR-ICEEU-2013-09) ("LIFFE Clearing Rule Notice").

Clearing Proposed Amendments, as described in the LIFFE Clearing Rule Notice, are unchanged. The Commission is publishing this notice to solicit comments on Amendment No. 2 to the proposed change from interested persons.

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

As described in the LIFFE Clearing Rule Notice, ICE Clear Europe has agreed to act as the clearing organization for futures and option contracts traded on LIFFE Administration and Management, a recognized investment exchange under the UK Financial Services and Markets Act of 2000. Capitalized terms used but not defined herein have the meanings specified in the LIFFE Clearing Rule Notice. In this Amendment No. 2, ICE Clear Europe submits revisions to Rule 502 and Sections 13.6 and 13.7 of the Finance Procedures that are intended to clarify the considerations under which ICE Clear Europe would establish and modify certain margin requirements that may be applicable to cleared LIFFE Contracts and energy contracts, including the assets eligible as Margin and Permitted Cover and related haircuts.

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

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the additional rule change in Amendment No. 2. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the significant aspects of these statements.

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

(a) Purpose

ICE Clear Europe submits revisions to its margin requirements under Rule 502 and Sections 13.6 and 13.7 of the Finance Procedures. As discussed in the LIFFE Clearing Rule Notice, Margin requirements for LIFFE Contracts will be calculated using the SPAN[®]1 v4 algorithm,⁴ with modifications for

⁴ SPAN is a registered trademark of Chicago Mercantile Exchange Inc. and used by ICE Clear