SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69740; File No. SR–FICC–2013–04]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change to the Government Securities Division Rules and the Mortgage-Backed Securities Division Clearing Rules in Connection With the Implementation of the Foreign Account Tax Compliance Act (FATCA)

June 12, 2013.

On April 22, 2013, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–FICC–2013–04 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 May 8, 2013.[3] The Commission did not receive comments on the proposed rule change. This order approves the proposed rule change.

I. Description

FICC is amending various FICC rules in its Government Securities Division (''GSD'') Rulebook and its Mortgage-Backed Securities Division (''MBSD'') Clearing Rules ''in connection with implementation of sections 1471 through 1474 of the Internal Revenue Code of 1986, as amended, that were enacted as part of the Foreign Account Tax Compliance Act, and the Treasury Regulations or other official interpretations thereunder (collectively ''FATCA'').'' [4] In its filing with the Commission, FICC provided information concerning FATCA background, implementation, and FICC's proposed rule changes.

FICC's Background Statement

FATCA was enacted on March 18, 2010, as part of the Hiring Incentives to Restore Employment Act, and became effective, subject to transition rules, on January 1, 2013. The U.S. Treasury Department finalized and issued various implementing regulations (''FATCA Regulations'') on January 17, 2013. FATCA generally requires foreign financial institutions (''FFIs'') [5] to become ''participating FFIs'' by entering into agreements with the Internal Revenue Service (''IRS''). Under these agreements, FFIs are required to report to the IRS information on U.S. persons and entities that have (directly or indirectly) accounts with these FFIs. If an FFI does not enter into such an agreement with the IRS, FATCA will impose a 30% withholding tax on U.S.-source interest, dividends and other periodic amounts paid to such ''nonparticipating FFI'' (''Income Withholding''), as well as on the payment of gross proceeds arising from the sale, maturity, or redemption of securities or any instrument yielding U.S.-source interest and dividends (''Gross Proceeds Withholding,'' and, together with Income Withholding, ''FATCA Withholding''). The 30% FATCA Withholding taxes will apply to payments made to a nonparticipating FFI acting in any capacity, including payments made to a nonparticipating FFI that is not the beneficial owner of the amount paid and acting only as a custodian or other intermediary with respect to such payment. To the extent that U.S.-source interest, dividend, and other periodic amount or gross proceeds payments are due to a nonparticipating FFI in any capacity, a U.S. payor, such as FICC, transmitting such payments to the nonparticipating FFI will be liable to the IRS for any amounts of FATCA Withholding that the U.S. payor should, but does not, withhold and remit to the IRS.

According to FICC, under FATCA, a U.S. payor, such as FICC, could be required to deduct Income Withholding with regard to a *participating* FFI if either: (x) The participating FFI makes a statutory election to shift its withholding responsibility under FATCA to the U.S. payor; or (y) the U.S. payor is required to ignore the actual recipient and treat the payment as if made instead to certain owners, principals, customers, account holders or financial counterparties of the participating FFI. FICC believes it is not in a position to accept this burden shift and is implementing preventive measures to protect itself against such a burden through the rule changes contained herein.

According to FICC, as an alternative to FFIs entering into individual agreements with the IRS, the U.S. Treasury Department provided another means of complying with FATCA for FFIs which are resident in non-U.S. jurisdictions that enter into intergovernmental agreements (''IGA'') with the United States.[6] Generally, such a jurisdiction (''FATCA Partner'') would pass laws to eliminate the conflicts of law issues that would otherwise make it difficult for FFIs in its jurisdiction to collect the information required under FATCA and transfer this information, directly or indirectly, to the United States. An FFI resident in a FATCA Partner jurisdiction would either transmit FATCA reporting to its local competent tax authority, which in turn would transmit the information to the IRS, or the FFI would be authorized/required by FATCA Partner law to enter into an FFI agreement and transmit FATCA reporting directly to the IRS. Under both IGA models, payments to such FFIs would not be subject to FATCA Withholding so long as the FFI complies with the FATCA Partner's laws mandated in the IGA.

According to FICC, under the FATCA Regulations, (A) beginning January 1, 2014, FICC will be required to do Income Withholding on any payments made to any nonparticipating FFI approved for membership by FICC as of such date or thereafter, (B) beginning July 1, 2014, FICC will be required to do Income Withholding on any payments made to any nonparticipating FFI approved for membership by FICC prior to January 1, 2014 and (C) beginning January 1, 2017, FICC will be required to do Gross Proceeds Withholding on all nonparticipating FFIs, regardless when any such FFI's membership was approved.

FICC's Statement on FATCA Implementation

According to FICC, in preparation for FATCA's implementation, FFIs are being asked to identify their expected FATCA status as a condition of continuing to do business. Customary legal agreements in the financial services industry already contain provisions allocating the risk of any FATCA Withholding tax that will need to be collected, and requiring that, upon FATCA's effectiveness, foreign counterparties must certify (and periodically recertify) their FATCA status using the relevant tax forms that the IRS has announced it will provide.[7]

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

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 69495 (May 2, 2013), 78 FR 26832 (May 8, 2013) (SR–FICC–2013–04).

[4] *Id.* at 26832.

[5] According to FICC, non-U.S. financial institutions are referred to as ''foreign financial institutions'' or ''FFIs'' in the FATCA Regulations.

[6] FICC states that as of the date of this proposed rule change filing, the United Kingdom, Mexico, Ireland, Switzerland, Spain, Norway Denmark, Italy and Germany have signed or initialed an IGA with the United States. The U.S. Treasury Department has announced that it is engaged in negotiations with more than 50 countries and jurisdictions regarding entering into an IGA.

[7] For example, credit agreements now routinely require foreign lenders to agree to provide certifications of their FATCA status under approved

Advance disclosure by an FFI client or counterparty would permit a withholding agent to readily determine whether it must, under FATCA, withhold on payments it makes to the FFI. If an FFI fails to provide appropriate compliance documentation to a withholding agent, such FFI would be presumed to be a nonparticipating FFI and the withholding agent will be obligated to withhold on certain payments.

FICC states that FATCA will require FICC to deduct FATCA Withholding on payments to certain members arising from certain transactions processed by FICC on behalf of such members.[8] Because FATCA treats any entity holding financial assets for the account of others as a ''financial institution,'' FICC believes that almost all of its members which are treated as non-U.S. entities for federal income tax purposes, including those members that are U.S. branches of non-U.S. entities, will likely be FFIs under FATCA (collectively, ''FFI Members'').[9] FICC says that as a result, it will be liable to the IRS for any failures to withhold correctly under FATCA on payments made to its FFI Members.

In light of this, FICC has evaluated its existing systems and services to determine whether and how it may comply with its FATCA obligations. As a result of this evaluation, FICC has determined that its existing systems currently cannot process the new FATCA Withholding obligations with regard to the securities transactions processed by it, as no similar withholding obligation of this magnitude has ever been imposed upon it to date, and FICC has therefore not built its systems to support such an obligation.

Further, FICC states that the vast majority of the transactions that are processed at FICC are processed through its netting and settlement systems at its GSD and MBSD divisions (the ''Systems''). At GSD, the netting and settlement system service provides centralized, automated clearance and guaranteed settlement of eligible U.S. Treasury bills, notes, bonds, strips and book-entry non-mortgage-backed agency securities. Through netting, the GSD establishes a single net long or short position for each participant's daily trading activity in a given security. The participant's net position is the difference between all long and all short positions in a given security.

At MBSD, the mortgage-backed securities trades entering the MBSD clearing and settlement systems are settled using either the Settlement Balance Order system (SBO) or the Trade-for-Trade system (TFTD). The SBO settlement system is MBSD's trade netting system, which nets by automatically pairing off settlement obligations with like terms, such as MBS product, coupon rate, maturity and settlement date, on a multilateral basis, *i.e.,* regardless of contra party identity, resulting in the fewest possible number of receive/deliver obligations. Through the Trade-for-Trade settlement system, members are given the opportunity to settle individual trades on a gross basis, as originally executed, following matching and comparison of each trade. Further netting is accomplished through MBSD's CCP Pool Netting service (''Pool Netting''). Members submit pool details (''Pool Instructs'') into the Pool Netting system for bilateral matching versus their counterparties' submissions. As many of the matched Pool Instructs as possible are then netted by the Pool Netting system. For pools that meet all the criteria, FICC steps in as the central counter-party to settle the net pool obligations with its members.

FICC believes that each division's net settlement functionality could make FATCA Withholding virtually impossible, or, at the very least, would create onerous efficiency and liquidity issues for both FICC and its membership. FICC believes that undertaking FATCA Withholding, given FICC's settlement functionality, could require FICC in certain circumstances to resort to a draw on FICC's clearing fund for GSD or MBSD, as applicable (''Clearing Fund'') in order to fund FATCA Withholding taxes with regard to nonparticipating FFI Members in non-FATCA Partner jurisdictions whenever the net credit owed to such FFI Member is less than the 30% FATCA tax. For example, if a nonparticipating FFI (in a non-FATCA Partner jurisdiction) is owed a $100M payment from the sale of U.S. securities, but such nonparticipating FFI is in a net debit position at the end of that day because of FICC's net settlement functionality, there would be no payment to this FFI Member from which FICC can withhold. In this example, FICC would likely need to fund the $30M FATCA Withholding tax until such time as the FFI Member can reimburse FICC and, as FICC has no funds for this purpose, it would likely require a draw on the Clearing Fund.[10] FICC would need to consider an increase in the amount of cash required to be deposited into the Clearing Fund, either by FFI Members or perhaps all of its members, which would reduce such member's liquidity and could have significant systemic effects. The amount of the FATCA Withholding taxes would be removed from market liquidity, which could lead to increased risk of member failure and increased financial instability.

For the reasons explained above and the following additional reasons, FICC is amending its rules to implement preventive measures that would generally require all of FICC's (i) existing members that are treated as non-U.S. entities for federal income tax purposes and (ii) any applicants applying to become members that are treated as non-U.S. entities for federal income tax purposes to be participating FFIs because FICC believes that:

- Undertaking FATCA Withholding by FICC (even if possible) would make it economically unfeasible for affected FFI Members to engage in transactions involving U.S. securities. It would likely also quickly cause a significant negative impact on such FFI Members' liquidity because such withholding taxes would be imposed on the very large sums that FICC pays to such FFI Members. Furthermore, members would be burdened with extra costs and the negative impact on liquidity caused by the likely need to substantially increase the amount of cash required to be deposited into the Clearing Fund.
- The cost of implementing a FATCA Withholding system for a small number of nonparticipating FFI Members would be substantial and disproportionate to the related benefit. Under the Model I IGA form and its executed versions with various FATCA Partners, FICC would not be required to withhold with regard to FFI residents in such FATCA Partner jurisdictions. Accordingly, FICC's withholding obligations under FATCA would effectively be limited to nonparticipating FFI Members in non-FATCA Partner jurisdictions. Since the

IRS forms to U.S. borrowers, and subscription agreements for alternative investment funds that are anticipated to earn U.S.-source income are routinely requiring similar covenants.

[8] According to FICC, FFI Members resident in IGA countries, that are compliant with the terms of applicable IGAs, should not be subject to FATCA Withholding.

[9] Currently, only a small percentage of the FICC's members are treated as non-U.S. entities for federal income tax purposes.

[10] FICC notes that the FATCA Regulations provide that ''clearing organizations'', which settle money on a net basis, may withhold on a similar net basis for FATCA purposes. However, it is unclear whether certain amounts being netted at FICC would qualify for the special FATCA netting rule. Even if the end of day net settlement amount would qualify as the correct amount to do FATCA Withholding on, the liquidity risks described herein are still present. This is because the sheer volume of FICC's net daily payments among FICC and members means that withholding FATCA tax from such net settlement payments, in any material proportion, would likely reduce liquidity and thus increase financial instability.

cost of developing and maintaining a complex FATCA Withholding system would be passed on to FICC's members at large, it may burden members that otherwise comply with, or are not subject to, FATCA Withholding.

• As briefly noted above, absent this current action and in order to avoid counterparty credit risk, FICC would likely require each of the nonparticipating FFI Members in non-FATCA Partner jurisdictions to make initial or additional cash deposits to the Clearing Fund as collateral for the approximate potential FATCA tax liability of such nonparticipating FFI Member or otherwise adjust required deposits to the Clearing Fund. The amount of such deposits, which could amount to billions of dollars, would be removed from market liquidity.

• From the nonparticipating FFI Member's perspective, having 30% of its payments withheld and sent to the IRS would have a severe negative impact on such nonparticipating FFI Member's financial status. In many cases, the gross receipts would be for client accounts, and the nonparticipating FFI Member would need to make such accounts whole. Without receipt of full payment for its dispositions, the nonparticipating FFI Member would not have sufficient assets to fund its client accounts.

• These rule changes should not create business issues or be onerous to FICC's membership because requiring FFIs to certify (and to periodically recertify) their FATCA status, and imposing the costs of non-compliance on them, are becoming standard market practice in the United States, separate and apart from membership in FICC.

Rule Changes

FICC states that managing the risks inherent in executing securities transactions is a key component of FICC's business. FICC's ''risk tolerances'' (*i.e.,* the levels of risk FICC is prepared to confront, under a range of possible scenarios, in carrying out its business functions) are determined by the Board of Directors, in consultation with the Group Chief Risk Officer. FICC uses a combination of risk management tools, including strict criteria for membership, to mitigate the risks inherent in its business.

In line with its risk management focus, FICC has determined that compliance with FATCA, so that FICC shall not be responsible for FATCA Withholding, should be a general membership requirement (A) for all applicants seeking membership at GSD or MBSD, as applicable, that are treated as non-U.S. entities for federal income tax purposes, and (B) for all existing FFI Members.[11] FICC is amending its rules as follows:

• Amend GSD Rule 1 and MBSD Rule 1 to add ''FATCA'', ''FATCA Certification'', ''FATCA Compliance Date'' [12], ''FATCA Compliant'' and ''FFI Member'', as defined terms;

• Amend GSD Rule 2A, Section 2(a)(v) and MBSD Rule 2A, Section 1 to (1) require foreign members to certify to FICC that they are FATCA Compliant and (2) add FATCA Compliance as a qualification requirement for any applicant that will be an FFI Member;

• Amend GSD Rule 2A Section 5 and MBSD Rule 2A Section 3 to add that each applicant must complete and deliver a FATCA Certification to FICC as part of its membership application unless FICC has waived this requirement with regard to membership type;

• Amend GSD Rule 2A Section 6 and MBSD Rule 2A Section 4 to add FATCA Compliance as a qualification requirement for any applicant that will be an FFI Member;

• Amend GSD Rule 3, Section 7 and MBSD Rule 3, Section 6 to specify that failure to be FATCA Compliant creates a duty upon an FFI Member (both new and existing) to inform FICC;

• Amend GSD Rule 3, Section 9 and MBSD Rule 3, Section 8 to require that all FFI Members (both new and existing), in general: (i) Agree not to conduct any transaction or activity through FICC if such FFI Member is not FATCA Compliant, (ii) certify and, as required under the timelines set forth under FATCA, periodically recertify, to FICC that they are FATCA Compliant; and (iii) indemnify FICC for any losses sustained by FICC resulting from such FFI Member's failure to be FATCA Compliant.

• FICC believes the proposed rule changes are consistent with the requirements of the Act. In particular, the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act [13] because they promote the prompt and accurate clearing and settlement of securities transactions by eliminating an uncertainty in payment settlement that would arise if FICC were subject to FATCA Withholding obligations under FATCA. The proposed rule changes are also consistent with Section 17A(b)(3)(D) of the Act [14] because they provide for the equitable allocation of reasonable dues, fees, and other charges among FICC's members. Specifically, the proposed rule changes allow FICC to comply with FATCA Regulations without developing and maintaining a complex FATCA Withholding system, the cost of which, as discussed above, would be would be passed on to FICC's members at large for the benefit of a small number of nonparticipating FFI Members.

II. Discussion

Section 19(b)(2)(C) of the Act [15] 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 rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act [16] requires the rules of a clearing agency to be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and protect investors and the public interest. The Commission finds that FICC's proposed rule change is consistent with these requirements because it is designed to comply with FATCA while eliminating uncertainty in funds settlement. Specifically, based on FICC's representations, the Commission understands that the proposed rule change is designed codify FICC's rules in a way that will allow FICC to comply with FACTA without developing and maintaining a complex FATCA Withholding system and, as a result, it will eliminate uncertainty in funds settlement that FICC believes will arise if FICC is subject to FATCA Withholding.[17]

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the

[11] FICC may grant a waiver under certain circumstances, provided, however, that FICC will not grant a waiver if it causes FICC to be obligated to withhold under FATCA on gross proceeds from the sale or other disposition of any property.

[12] Although Income Withholding with regard to FFI Members approved for membership by FICC prior to January 1, 2014 is first required under FATCA beginning July1, 2014, the proposed amendments to the GSD rules and MBSD rules would require such existing FFI Members to be FATCA compliant approximately 60 days prior to July 1, 2014 in order for FICC to comply with its disciplinary and notice processes as set forth in FICC.

[13] 12 U.S.C. 78q–1(b)(3)(F).

[14] 12 U.S.C. 78q–1(b)(3)(D).

[15] 15 U.S.C. 78s(b)(2)(C).

[16] 12 U.S.C. 78q–1(b)(3)(F).

[17] In approving this proposed rule change, the Commission is mindful of the IRS's jurisdiction respecting FATCA. This Order does not interpret FATCA. The Commission's approval of the proposed rule change in no way constitutes a determination or finding by the Commission that the proposed rule change complies with FATCA, which is under the purview of the IRS.

Act and in particular with the requirements of Section 17A of the Act[18] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–FICC–2013–04) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69751; File No. SR–NYSE–2013–29]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change Deleting NYSE Rule 476(a)(8), Which Addresses Wash Sales, in Order To Harmonize the Exchange's Rules With the Rules of the Financial Industry Regulatory Authority

June 13, 2013.

I. Introduction

On April 10, 2013, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to delete NYSE Rule 476(a)(8) to harmonize the Exchange's rules with the rules of the Financial Industry Regulatory Authority, Inc. (''FINRA''). The proposed rule change was published for comment in the **Federal Register** on April 30, 2013.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

On July 30, 2007, FINRA's predecessor, the National Association of Securities Dealers, Inc. (''NASD''), and NYSE Regulation, Inc. (''NYSER'') consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d–2 under the Act, NYSE, NYSER and FINRA entered into an agreement (the ''Agreement'') to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for certain NYSE rules and rule interpretations (''FINRA Incorporated NYSE Rules''). NYSE MKT LLC (''NYSE MKT'') became a party to the Agreement effective December 15, 2008.[4]

As part of its effort to reduce regulatory duplication and relieve firms that are members of FINRA, NYSE, and NYSE MKT of conflicting or unnecessary regulatory burdens, FINRA is now engaged in the process of reviewing and amending the NASD and FINRA Incorporated NYSE rules in order to create a consolidated FINRA rulebook.[5] In this proposal, the Exchange has proposed to delete NYSE Rule 476(a)(8) in order to harmonize the NYSE's rules with the rules of FINRA.

Proposed Rule Change

NYSE Rule 476(a)(8) prohibits a member, member organization, principal executive, approved person, registered or non-registered employee of a member or member organization, or person otherwise subject to the jurisdiction of the Exchange from making a fictitious bid, offer, or transaction; or giving an order for the purchase or sale of securities the execution of which would involve no change of beneficial ownership; or executing such an order with knowledge of its character.

In 2009, the Exchange adopted NYSE Rule 6140(a)–(b),[6] which is substantially the same as FINRA Rule 6140(a)–(b) and which also addresses wash sale activity. NYSE Rule 6140(a) provides that no member or member organization shall execute or cause to be executed or participate in an account for which there are executed purchases of any NMS stock as defined in Rule 600(b)(47) of Regulation NMS[7] (''designated security'') at successively higher prices, or sales of any such security at successively lower prices, for the purpose of creating or inducing a false, misleading or artificial appearance of activity in such security or for the purpose of unduly or improperly influencing the market price for such security or for the purpose of establishing a price that does not reflect the true state of the market in such security.

NYSE Rule 6140(b) prohibits a member or member organization, for the purpose of creating or inducing a false or misleading appearance of activity in a designated security or creating or inducing a false or misleading appearance with respect to the market in such security, from (1) executing any transaction in such security which involves no change in the beneficial ownership thereof; (2) entering any order or orders for the purchase of such security with the knowledge that an order or orders of substantially the same size, and at substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties; or (3) entering any order or orders for the sale of any such security with the knowledge that an order or orders of substantially the same size, and at substantially the same price, for the purchase of such security, has been or will be entered by or for the same or different parties.

In the filing, the Exchange represented that NYSE Rule 476(a)(8), which was adopted at a time when the Exchange was operating in a manual, on-floor trading environment, differs from NYSE Rule 6140 and FINRA Rule 6140 in that the second prong of NYSE Rule 476(a)(8), which prohibits giving an order for the purchase or sale of securities the execution of which would involve no change of beneficial ownership, can be read as having no scienter standard. On the other hand, NYSE Rule 6140 and FINRA Rule 6140 provide that a market participant is prohibited from engaging in wash sales that have the purpose of creating or inducing a false or misleading appearance of activity in a designated security.

The Exchange stated that it believes that the scienter requirement in NYSE Rule 6140 and FINRA Rule 6140 recognizes that in today's markets there can be certain instances of trading

[18] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 69441 (April 24, 2013), 78 FR 25327 (''Notice'').

[4] *See* Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR–NASD–2007–054) (order approving the incorporation of certain NYSE Rules as ''Common Rules''); and 60409 (July 30, 2009), 74 FR 39353 (August 6, 2009) (order approving the amended and restated Agreement, adding NYSE MKT LLC as a party). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by FINRA, NYSE or NYSE MKT to the substance of any of the Common Rules.

[5] FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, *see* FINRA Information Notice, March 12, 2008.

[6] *See* Securities Exchange Act Release No. 59965 (May 21, 2009), 74 FR 25783 (May 29, 2009) (SR–NYSE–2009–25).

[7] 17 CFR 242.600(b)(47).