SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93234; File No. SR–FICC–2021–007]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Remove the Early Unwind Intraday Charge, Change the Treatment of Short-Term Treasuries, and Make Other Changes

October 1, 2021.

On August 13, 2021, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] proposed rule change SR–FICC–2021–007 (the ''Proposed Rule Change'') to amend (1) the FICC Government Securities Division (''GSD'') Rulebook (''Rules'') [3] in order to remove the Early Unwind Intraday Charge (''EUIC''), (2) the GSD Methodology Document—GSD Initial Market Risk Margin Model (''QRM Methodology Document'') to change the treatment of U.S. Treasury (''Treasury'') securities with remaining time-to-maturities equal to or less than a year (''Short-Term Treasuries''), and (3) the Rules and the QRM Methodology Document to make certain technical changes, as described more fully below. The Proposed Rule Change was published for public comment in the **Federal Register** on August 31, 2021,[4] and the Commission received no comment letters regarding the changes proposed therein. For the reasons discussed below, the Commission is approving the Proposed Rule Change.

I. Description of the Proposed Rule Change

A. Elimination of the EUIC for the GCF Repo Service

The GCF Repo service allows members of FICC's Government Securities Division to trade general collateral finance repos (''GCF Repos'') [5] throughout the day without requiring intraday, trade-for-trade settlement on a delivery-versus-payment basis. A key tool that FICC uses to manage its respective credit exposures to its members is the daily collection of margin from each member. The aggregated amount of all members' margin constitutes the Clearing Fund, which FICC would access should a defaulted member's own margin be insufficient to satisfy losses to FICC caused by the liquidation of that member's portfolio. The EUIC was adopted as a component of margin in 2014 and is generally determined based on the risk posed by underlying collateral pertaining to GCF Repo positions in FICC's 12 p.m. intraday margin call. The purpose of the EUIC is to address the under-margined conditions that can occur in two situations in the GCF Repo service involving the substitution of securities with cash.[6] The first situation may occur when, on an intraday basis, a GCF Repo Member substitutes cash for the securities that had been used as collateral for a GCF Repo position the prior day. The second situation may occur when the GCF Clearing Agent Bank unwound the cash lending side of a GCF Repo Transaction that occurred on an interbank basis [7] at approximately 7:30 a.m.[8] FICC represents that both of these situations had the potential to result in higher cash balances in the underlying collateral of GCF Repo positions at 12:00 p.m. when FICC is calculating the intraday margin associated with GCF Repo positions.[9] These situations could cause an under-margined condition because there is no VaR Charge associated with cash collateral,[10] and the GCF Repo Member would likely replace the cash with securities (which would be subject to the VaR Charge) by end of day.

FICC represents that it can address the first situation described above by applying the Intraday Supplemental Fund Deposit, as updated in 2018,[11] instead of the EUIC.[12] The current EUIC is only applied based on a Netting Member's 12:00 p.m. GCF Repo positions, as the lesser of (i) the net reduction in the VaR Charge attributable to either cash substitutions, or (ii) the prior end of day VaR Charge minus the intraday VaR Charge.[13] On the other hand, FICC receives hourly intraday GCF Repo lockup files from 8:00 a.m. to 3:00 p.m. from The Bank of New York Mellon.[14] These hourly intraday GCF Repo lockup files provide FICC with information with respect to the GCF Repo Members' positions throughout the day that FICC can use to calculate an intraday VaR Charge. As such, throughout the day, FICC can use the information in these files to assess the exposure that arises from collateral substitution (in addition to any other position changes) and can charge an Intraday Supplemental Fund Deposit amount to the GCF Repo Member, if necessary, to address this exposure.

Regarding the second situation described above, the situation no longer exists because interbank services were suspended in 2016, and accordingly, the unwind of the cash lending side of a GCF Repo Transaction that occurred on an interbank basis does not take place.[15]

B. Treatment of Short-Term Treasuries

The confidentially filed QRM Methodology Document, which describes the current GSD margin methodology, does not reflect any special treatment for determining the margin for transactions in Short-Term Treasuries. Short-Term Treasuries are margined as part of the entire portfolio using the sensitivity VaR Charge methodology, and a haircut-based methodology is used as a backup for Short-Term Treasuries where sensitivity analytics data is not available. Specifically, Short-Term Treasuries that do not have sensitivity analytics data are subject to a single haircut rate calibrated to the volatility of the

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

[2] 17 CFR 240.19b–4.

[3] Capitalized terms used herein and not defined shall have the meaning assigned to such terms in the Rules, *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[4] Securities Exchange Act Release No. 92756 (August 25, 2021), 86 FR 48770 (August 31, 2021) (SR–FICC–2021–007) (''Notice'').

[5] A GCF Repo is one in which the lender of funds is willing to accept any of a class of U.S. Treasuries, U.S. government agency securities, and certain mortgage-backed securities as collateral for the repurchase obligation. This is in contrast to a specific collateral repo.

[6] Securities Exchange Act Release Nos. 73389 (October 17, 2014), 79 FR 63456 (October 23, 2014) (SR–FICC–2014–01) and 73388 (October 17, 2014), 79 FR 63458 (October 23, 2014) (SR–FICC–2014–801).

[7] At the time of the EUIC approval, the GCF Repo Service was operating on both an ''interbank'' and ''intrabank'' basis. ''Interbank'' means that the two GCF Repo Members which have been matched in a GCF Repo transaction each clear at a different clearing bank. ''Intrabank'' means that the two GCF Repo Members which have been matched in a GCF Repo transaction clear at the same clearing bank. The GCF Repo Service now operates on an intrabank basis only because the interbank service of the GCF Repo service is no longer available. *See* Securities Exchange Act Release No. 78206 (June 30, 2016), 81 FR 44388 (July 7, 2016) (SR–FICC–2016–002).

[8] All times herein are Eastern Time.

[9] Notice, *supra* note 4, at 48771.

[10] The value-at-risk (''VaR'') Charge is designed to capture the risks related to the movement of market prices associated with the securities in a member's portfolio, and calculate the potential losses on a portfolio over a three-day period of risk assumed necessary to liquidate the portfolio. *See* Securities Exchange Act Release No. 90182 (October 14, 2020), 85 FR 66630 (October 20, 2020) (SR–FICC–2020–009). There is no VaR Charge associated with cash collateral because there is no need for liquidation.

[11] *See* Securities Exchange Act Release No. 83362 (June 1, 2018), 83 FR 26514 (June 7, 2018) (SR–FICC–2018–001) and 83223 (May 1, 2018), 83 FR 23020 (May 17, 2018) (FICC–2018–801).

[12] Notice, *supra* note 4, at 48771.

[13] *Id.*

[14] *Id.*

[15] *See* Securities Exchange Act Release No. 78206 (June 30, 2016), 81 FR 44388 (July 7, 2016) (SR–FICC–2016–002).

Bloomberg/Barclays Index of Treasury securities with remaining time-to-maturities equal to or less than a year.

FICC represents that one concern with the current approach is related to the potentially large impact that market events can have on the yields of Short-Term Treasuries. Under the current approach, the VaR Charge calculated for portfolios with a high concentration of Short-Term Treasuries may not adequately cover the potentially large impact on the ''short-end'' of the Treasury yield curve.[16] FICC represents that another concern with the current approach is that it may not adequately address the volatility of certain portfolios of Short-Term Treasuries if the composition of those portfolios differs greatly from the composition of the Bloomberg/Barclays Index of Treasury securities described above. Using one haircut rate based on the volatility of the Bloomberg/Barclays index may not adequately cover the risk of securities with longer duration maturities in the equal to or less than one-year.[17]

In order to address the concerns above, FICC proposes to use a haircut methodology to margin all Short-Term Treasuries and not just for the Short-Term Treasuries without sensitivity analytics data. In addition, FICC proposes to use two different haircut rates depending on the time to maturity of the Short-Term Treasuries. The first rate would apply to Treasury securities with remaining time to maturity equal to or less than six months with a haircut floor set at 12.5 basis points. The second rate would apply to Treasury securities with remaining time to maturity greater than six months but equal to or less than one year with a haircut floor set at 25 basis points. The haircut charges would be applied to the absolute value of the net market value of the Treasury securities in the respective rates, and the correlation offset would not be applied.

FICC examined the backtesting results of the current approach, as applied at a product level, for Short-Term Treasuries.[18] The results show that the current approach does not meet FICC's 99% confidence level standard.[19] FICC's backtesting results for the period between January and December 2020 showed that the Proposed Rule Change would improve the backtesting results from approximately 94.9% to 99.4%.[20]

C. Technical Changes

FICC proposes to make conforming technical changes to renumber the paragraphs in Section 1b of Rule 4. FICC also proposes to make technical changes to the QRM Methodology Document. Specifically, FICC proposes to make clarifying and grammatical changes to a sentence that describes the indices in a haircut used for short TIPS bonds.

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[21] 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. After careful consideration, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations applicable to FICC.[22] In particular, the Commission finds that the Proposed Rule Change is consistent with Section 17A(b)(3)(F)[23] of the Act and Rules 17Ad–22(e)(4)(i)[24] and 17Ad–22(e)(6)(i)[25] thereunder.

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F)[26] of the Act requires, in part, that the rules of a clearing agency, such as FICC, be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

As described in Section I.A. above, the proposed change to eliminate the EUIC is designed to provide more accurate coverage by avoiding potential under-margining due to the two situations described involving cash substitution. As stated above, the EUIC was established in 2014 to reduce this risk of potential under-margining. However, in 2018, FICC amended its methodology for determining the VaR Charge and clarified the nature of the Intraday Supplemental Fund Deposit to more effectively address market volatility. As described above, the EUIC is applied based on data produced once per day while the Intraday Supplemental Fund Deposit is based on hourly information. Accordingly, the Intraday Supplemental Fund Deposit can more accurately calculate margin the exposure presented. Furthermore, the second situation involving interbank transactions no longer exists because inter bank services were suspended in 2016.

As described in Section I.B. above, the proposed changes to the QRM Methodology Document are designed to mitigate the vulnerabilities of the current GSD margin methodology when it is applied to portfolios with a high concentration of Short-Term Treasuries. As stated above, the current GSD Margin methodology does not reflect any special treatment for determining the margin for Short-Term Treasuries. Currently, Short-Term Treasuries are margined as part of the entire portfolio using the sensitivity VaR Charge methodology, and a haircut-based methodology is used as a backup where sensitivity analytics data is not available. Pursuant to the Proposed Rule Change, a haircut methodology would be used to margin all Short-Term Treasuries and two different haircuts with floors would be used depending on the time to maturity of the Short-Term Treasuries. The proposed changes would help FICC to calculate and collect adequate margin for Short-Term Treasuries from members. Moreover, the backtesting results show that the Proposed Rule Change would help FICC achieve its backtesting standards, which is a 99 percent coverage target with 3-days of margin period of risk.

As described in Section I.C. above, the proposed technical changes to the QRM Methodology Document would enhance the clarity of the document for FICC. As the QRM Methodology Document is used by FICC's risk management personnel regarding the calculation of margin requirements, the proposed changes would help ensure that FICC's personnel understand and apply the calculation of the GSD margin methodology.

Taken together, the Commission believes that the Proposed Rule Change would allow FICC to more accurately calculate each member's margin. This enhancement, in turn, would help FICC to produce margin levels more commensurate with the risks associated with its members' portfolios, and more effectively cover its credit exposure to its members. FICC's collection of margin

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[16] Notice, *supra* note 4, at 48772.

[17] *Id.*

[18] FICC filed the backtesting results as a confidential Exhibit 3 to the Proposed Rule Change pursuant to 17 CFR 240.24b–2. Backtesting is an ex-post comparison of actual outcomes with expected outcomes derived from the use of margin methodology.

[19] Notice, *supra* note 4, at 48772.

[20] *Id.*

[21] 15 U.S.C. 78s(b)(2)(C).

[22] The Commission's findings are based on its review of the Proposed Rule Change, including its analysis of the backtesting results, which are summarized in Section I.B. above. *See supra* note 18 and accompanying text.

[23] 15 U.S.C. 78q–1(b)(3)(F).

[24] 17 CFR 240.17Ad–22(e)(4)(i).

[25] 17 CFR 240.17Ad–22(e)(6)(i).

[26] 15 U.S.C. 78q–1(b)(3)(F).

amount in a manner that fully manages FICC's applicable credit exposures should help ensure that, in the event of a member default, FICC's operations would not be disrupted and non-defaulting members would not be exposed to losses that they cannot anticipate or control. Accordingly, the Commission finds that NSCC's Proposed Rule Change is designed to help promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.[27] Moreover, FICC's collection of margin amounts that better limit FICC's credit exposure to members would help ensure that FICC maintains adequate funds necessary to manage the risks associated with performing its clearance and settlement functions, which could, in turn, help reduce the amount of credit losses that would be distributed to non-defaulting members in the event of a default. Accordingly, the Commission finds that FICC's Proposed Rule Change is designed to help promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding or securities and funds that are in FICC's custody or control. Therefore, the Commission believes that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act.[28]

B. Consistency With Rule 17Ad–22(e)(4)(i)

Rule 17Ad–22(e)(4)(i) under the Act[29] 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.

The proposed change to eliminate the EUIC is designed to more accurately address the potential under-margining situations described above. The EUIC is charged once a day, while FICC may charge an Intraday Supplemental Fund Deposit amount, if necessary, throughout the day, based on the hourly information that FICC receives regarding GCF Repo Members' positions. As such, because FICC can continuously assess its exposure and charge additional margin throughout the day with the Intraday Supplemental Fund Deposit rather than at one point in time, the proposed changes would help FICC better measure and monitor its credit exposures to members.

The proposed changes to the QRM Methodology Document are designed to allow FICC to use the haircut methodology to determine the margin for all Short-Term Treasuries and not just for the Short-Term Treasuries without sensitivity analytics data, as is the current case. In addition, FICC would differentiate Short-Term Treasuries based on the time to maturity, and apply two haircuts. This proposed approach would address the deficienties with the current approach when it is applied to portfolios with a high concentration of Short-Term Treasuries as described above and thereby better enable FICC to limit its credit exposures to members.

Therefore, for the reasons discussed above, the Commission believes that the Proposed Rule Change is consistent with the requirements of Rule 17Ad–22(e)(4)(i) under the Act.[30]

C. Consistency With Rule 17Ad–22(e)(6)(i)

Rule 17Ad–22(e)(6)(i) under the Act[31] requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, 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.

The proposed change to eliminate the EUIC and thus relying on Intraday Supplemental Fund Deposit to calculate and collect margins is designed to cover FICC's credit exposures to its members. As described above, Intraday Supplemental Fund Deposit would better enable FICC to consider and produce margin levels commensurate with the risk and particular attributes of a GCF Repo Member's portfolio and is able to be more precisely tailored to the risks presented by a particular portfolio because it allows for more frequent consideration of the appropriate charge, as opposed to at one point during the day under the EUIC.

The proposed changes to the QRM Methodology Document are designed to cover FICC's credit exposures to its members, especially those members who have a high concentration of Short-Term Treasuries in their portfolios because, as described above, this proposed approach would address two vulnerabilities associated with the current approach when it is applied to portfolios with a high concentration of Short-Term Treasuries. By providing targeted margin methodologies for Short-Term Treasuries and addressing two vulnerabilities, the proposed changes would enhance NSCC's ability to cover its credit exposures to its members and produce margin levels commensurate with the risks and particular attributes of Short-Term Treasuries.

Therefore, for the reasons discussed above, the Commission believes that the Proposed Rule Change is consistent with the requiremens of Rule 17Ad–22(e)(6)(i) under the Act.[32]

III. 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 with the requirements of Section17A of the Act[33] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[34] that Proposed Rule Change SR–FICC–2021–007, be, and hereby is, *approved*.[35]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–21863 Filed 10–6–21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93231; File No. SR–NYSECHX–2021–14]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Related to the Market-Wide Circuit Breaker in Rule 7.12

October 1, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the

[27] *Id.*

[28] *Id.*

[29] 17 CFR 240.17Ad–22(e)(4)(i).

[30] *Id.*

[31] 17 CFR 240.17Ad–22(e)(6)(i).

[32] *Id.*

[33] 15 U.S.C. 78q–1.

[34] 15 U.S.C. 78s(b)(2).

[35] In approving the Proposed Rule Change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[36] 17 CFR 200.30–3(a)(12).

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